

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Spartanburg County

Honorable Paul M. Burch, Circuit Court Judge

DADRIN J. JOHNSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-001094

APPENDIX

JOANNA K. DELANY
Appellate Defender

ALAN WILSON
Attorney General

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

CHELSEY MARTO
Assistant Attorney General
Rembert Dennis Building
1000 Assembly St.
Columbia, SC 29201

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

3 The State,)
4 -vs-) TRANSCRIPT OF RECORD
5) 2010-GS-42-1059
6 Brandon Robbs-Tanner) 2010-GS-42-1052
7 and Dadrin Johnson,)
8 Defendants.) December 13 - 14, 2010
9) Spartanburg, South Carolina

10 B E F O R E:

11 HONORABLE J. DERHAM COLE, JUDGE; and a jury

12
13 A P P E A R A N C E S:

14 BARRY J. BARNETTE, ESQUIRE
15 AMANDA MORRIS GALLIVAN, ESQUIRE
16 Attorneys for the State

17 TANYA JONES, ESQUIRE
18 Attorney for Defendant Johnson

19 CHRISTOPHER P. THOMPSON, ESQUIRE
20 Attorney for Defendant Robbs

21 Linda D. Moffitt
22 Circuit Court Reporter
23
24
25

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1 (Proceedings December 13, 2010)

2 (Video marked State's Exhibit No. 1 for Identification;
3 map marked State's Exhibit No. 2 for Identification;
4 photographs marked State's Exhibit No. 3 through 28 for
5 Identification.)

6 THE COURT: All right. Everyone is present.

7 Do we have any matters we need to address before the
8 jury panel is brought around?

9 MR. THOMPSON: May it please the Court, Your Honor.
10 Chris Thompson here on behalf of defendant Brandon Robbs.

11 Your Honor, I would make a motion to sever the case.
12 He's charged with a codefendant, Dadrin Johnson, in this
13 matter. We feel like with both being charged at the same
14 time my client has --

15 (Pause.)

16 THE COURT: Okay.

17 MR. THOMPSON: Your Honor, my client has a fear, and I
18 believe it's a reasonable fear, that this jury can look at
19 the evidence presented. And he's afraid of a group
20 mentality, that the evidence may point toward one
21 codefendant. And he feels like he'll be treated the same
22 by the jury, Your Honor.

23 He feels like he would be better served to have this
24 matter tried separately from Mr. Johnson, Your Honor. And
25 that's just a motion to sever the cases and the defendants

1 one from the other.

2 THE COURT: All right. Mr. Barnette.

3 MR. BARNETTE: Your Honor, if you look at the evidence
4 of this case, we're not planning to use any of the
5 statements at this point.

6 As a matter of fact, Mr. Johnson did not give a
7 statement. Mr. Robbs did. But we're not planning to use
8 his statement. There's no Brewton issues.

9 If you watch the video tape, the theory of the case is
10 the hand of one is hand of all. Basically, looks like they
11 was working together from that standpoint. So we would ask
12 not to sever the cases based off the evidence in this case.

13 THE COURT: Ms. Jones, do you need to be heard?

14 MS. JONES: No, sir.

15 THE COURT: All right.

16 MR. THOMPSON: We would ask if you find that -- and I
17 know you'll do it -- but in the event you don't sever the
18 cases, my client does ask the Court to give a very explicit
19 jury charge to the jury that these are two separate
20 defendants here and that even though one could be found
21 guilty the other could be found not guilty.

22 THE COURT: Oh, I will be doing that. But the motion
23 to sever the matters is denied, sufficient prejudice not
24 having been shown.

25 All right. Anything else?

1 MR. THOMPSON: Your Honor, I would ask that my
2 client's record, prior record -- I want to go into that.
3 He has a prior conviction for a drug charge and a
4 common-law robbery.

5 I don't feel that either of those charges are related
6 to this matter at all, Your Honor. And I would ask that in
7 the event he decides to -- I know under the rule they do
8 carry over a year, and it will be fair game, but I don't
9 feel like they're related to this matter at all.

10 THE COURT: All right. We'll address that if and when
11 he makes a decision to testify.

12 MR. THOMPSON: Okay.

13 THE COURT: Okay.

14 MR. THOMPSON: And also, Your Honor, my client did
15 make a statement at one point. In that statement he
16 requested an attorney.

17 The tape goes on for quite some time after that, Your
18 Honor. And I'm asking for anything after that request for
19 an attorney to be omitted in the event he does decide to
20 testify.

21 THE COURT: All right. As I understand it, Mr.
22 Barnette has said he does not intend to offer any statement
23 into evidence. But if he should change his mind or it
24 otherwise becomes relevant we'll address that issue.

25 MR. THOMPSON: And redaction would be another issue

1 too.

2 THE COURT: All right.

3 MR. THOMPSON: Thank you, Your Honor.

4 THE COURT: All right.

5 MR. BARNETTE: Your Honor, just I don't think this has
6 to be dealt with before the jury is sworn, but we do have
7 some pretrial motions on third-party guilt and some motions
8 in limine I think can be dealt with before the jury is
9 sworn also.

10 THE COURT: Okay. All right. Bring the panel around,
11 please.

12 Do either of the defendants have any additional
13 witnesses besides those shown on the state's list?

14 MR. THOMPSON: My client may call Ms. Maggie Robbs,
15 and I don't know if that's -- we hadn't discussed that, but
16 that's a potential witness.

17 THE COURT: Maggie Robbs.

18 MR. THOMPSON: Robbs. The defendant's mother.

19 THE COURT: Okay. Any others?

20 MR. THOMPSON: None, Your Honor.

21 MS. JONES: No, sir, not at this time.

22 THE COURT: Where on Church Street is this convenience
23 store?

24 MR. BARNETTE: It's 496, Your Honor. You know where
25 the swim center is. It's right across from the swim

Jury qualification

1 center, right across South Church Street.

2 THE COURT: Is it next door to the lawnmower repair
3 place?

4 MR. BARNETTE: Ye, sir.

5 THE COURT: And employment office.

6 (The following takes place in the presence of the jury
7 venire.)

8 THE COURT: Good morning, ladies and gentlemen.

9 My name is Derham Cole. I'm a resident judge here in
10 the 7th Judicial Circuit. I'll be presiding over a term of
11 general sessions court this week, just as will be judges
12 Couch and Hayes who I think you've already been introduced
13 to -- at least Judge Couch.

14 The first case that we have that's going to require
15 some of your participation are the cases of the State vs.
16 Dadrin Johnson and the State vs. Brandon Robbs-Tanner.

17 Each of these individuals have been charged with the
18 crime of murder. And the state alleges by way of two
19 separate indictments that each did on or about October the
20 9th of 2009 wilfully and with malice aforethought, did kill
21 one Adrian D. Edwards by shooting Mr. Edwards with a
22 handgun and that he died as a proximate result of that
23 gunshot wound.

24 The state is alleging that these two defendants were
25 acting in concert, acting together, in the commission of

Jury qualification

1 the crime that is alleged in each of these indictments.

2 Now, as to the charges contained in these indictments
3 each of the defendants have entered a plea of not guilty.
4 And a plea of not guilty places upon the state because they
5 brought the charges to establish a defendant's guilt beyond
6 a reasonable doubt.

7 The state has the burden of proving the allegations
8 that they have set forth in the indictments; the state has
9 the burden of proving each of the essential elements of the
10 crime alleged against a defendant; and therefore the burden
11 is upon the state to establish each defendant's guilt to
12 the satisfaction of 12 jurors beyond a reasonable doubt
13 before a verdict of guilty could be returned as to that
14 particular defendant.

15 Now, as we begin with this jury selection process I've
16 got some questions I'm going to ask you. The purpose of
17 the questions is to determine whether or not there is any
18 juror who should not be selected for service in this
19 particular case. In other words, do you have some reason
20 why you could not be fair and impartial in this particular
21 case.

22 And so as these questions are asked should you need to
23 respond to them, I'm going to ask that you please stand.
24 And we'll address those matters with you individually in
25 the event that should become necessary.

Jury qualification

1 I will also be introducing some people to you. And
2 those people that I will introduce will be each of the
3 defendants. It will be the lawyers involved in the trial
4 of the case. You will be introduced to some members of Mr.
5 Edwards' family so that you can identify who he might be or
6 who he was. And you can determine if you happen to have
7 known him in some way.

8 I will also introduce the lawyers to you. And I will
9 also introduce each of the potential witnesses that might
10 be called during the trial.

11 And, again, the purpose of those introductions is to
12 find out if any juror knows any of these people, are you
13 connected to them by blood or by marriage, do you go to
14 church with them, do you work with them, do you go to
15 school with them, do you have any type of social or
16 professional or business connection with them, or have you
17 met them somewhere in some fashion.

18 And so when I recite the list and introduce the folks
19 to you, if you know anybody, if you know those persons,
20 just please stand as their name is called. And then once I
21 conclude the recitation of the witness list and the
22 introductions I'll determine if you are connected with any
23 person and what that connection is and whether it would
24 have any bearing upon your decision in the case.

25 Now, first of all, as I told you, the defendants in

Jury qualification

1 this case are Dadrin Johnson and Brandon Robbs-Tanner.

2 First I'm going to ask Mr. Johnson to please stand and
3 face the jury panel.

4 (Whereupon, Dadrin Johnson stood.)

5 THE COURT: All right. Be seated.

6 In this case Mr. Johnson is being represented by Tanya
7 Jones of the 7th Judicial Circuit Public Defender's Office.
8 She'll be assisting him during the course of the trial.

9 (Whereupon, Ms. Jones stood.)

10 THE COURT: The other defendant is Brandon
11 Robbs-Tanner.

12 Mr. Robbs-Tanner, if you will, stand and face the jury
13 panel.

14 (Whereupon, Brandon Robbs-Tanner stood.)

15 THE COURT: This defendant is represent by Chris
16 Thompson, and he'll be assisting Mr. Robbs-Tanner during
17 the course of the trial.

18 (Whereupon, Mr. Thompson stood.)

19 THE COURT: The person who is alleged to have been the
20 victim of this event is Adrian D. Edwards. And I think
21 some of Mr. Edwards' family members are present.

22 If you'll just simply please stand and allow the jury
23 to see who you are so that they may determine if they
24 happen to know or did know Mr. Edwards or some other
25 members of his family.

Jury qualification

1 (Whereupon, the victim's family members stood.)

2 THE COURT: And in this case the state's case will be
3 presented by Barry Barnette who is the Principal Deputy
4 Solicitor for the 7th Judicial Circuit and Mandy Gallivan
5 who is an Assistant Circuit Solicitor for the 7th Judicial
6 Circuit.

7 (Whereupon, Mr. Barnette and Ms. Gallivan stood.)

8 THE COURT: Potential witnesses to be called during
9 the trial of the case include the following. The first
10 dozen names that I'm going to call are all employed by the
11 Spartanburg Public Safety Department. They're all employed
12 by the Spartanburg Public Safety Department.

13 And they include Christopher Layton, Michael Morrow,
14 D. Willingham, Mark Hillers, Johan Cox, Derrick Canada, A.
15 T. Patton, Russell Porter, Reggie Spurgeon, Toby Bradley,
16 Jay Steadman and Ed Guthro.

17 All right. And these are additional potential
18 witnesses. They're not employed with the Spartanburg
19 Department of Public Safety.

20 But they include Kia White, Crystal Miller, Amber
21 Alease Ann Rice, Sanjaykumar Babubhai Patel, John David
22 Wren, the pathologist, Mike Shaw and Teri Carter employed
23 with?

24 MR. BARNETTE: Coroner's office, Your Honor.

25 THE COURT: With the coroner's office.

Jury qualification

1 John Roberts and Kenneth Whitler employed with the
2 state law enforcement division, Charles Gilbert employed
3 with Verizon Wireless, David Reeves and/or Mylnor Beech
4 employed with the --

5 MR. BARNETTE: Department of Public Safety, Your
6 Honor.

7 THE COURT: Department of Public Safety.

8 And Randall Johnson employed with the county detention
9 facility, and Maggie Robbs, the mother of Brandon
10 Robbs-Tanner.

11 All right. Does any member of the jury panel know any
12 person who has just been introduced to you or identified
13 for your benefit as potential witnesses? If so, please
14 stand.

15 JUROR NO. 203: I know Mylnor Beech.

16 THE COURT: All right. If you will, give me your name
17 and your juror number, please, sir.

18 JUROR NO. 203: William Ellisor, 203.

19 THE COURT: And you know Mr. Beech?

20 JUROR NO. 203: Yes, sir.

21 THE COURT: And how do you know him?

22 JUROR NO. 203: He's married to my cousin.

23 THE COURT: And would that have any bearing upon your
24 decision in the case?

25 JUROR NO. 203: I don't think so.

Jury qualification

1 THE COURT: All right. Thank you. Be seated.

2 Yes, sir.

3 JUROR NO. 168: Juror No. 168, Charles Turner. I know
4 Barry Barnette -- church.

5 THE COURT: All right. Would that have any bearing
6 upon your decision?

7 JUROR NO. 168: No, sir.

8 THE COURT: All right. Thank you. Be seated.

9 Yes, sir.

10 JUROR NO. 232: Juror No. 232, Jacob Looney. I know
11 Toby Bradley. I see him on a regular basis.

12 THE COURT: All right. What was your number again,
13 please?

14 JUROR NO. 232: 232.

15 THE COURT: All right. Would that have any bearing
16 upon your decision in the case?

17 JUROR NO. 232: No, sir.

18 THE COURT: Thank you. Be seated.

19 Yes, sir.

20 JUROR NO. 199: Juror No. 199, Dave Demarest. I know
21 Dr. David Wren. He worked with my wife at Mary Black.

22 THE COURT: And would that have any bearing upon your
23 decision in this case?

24 JUROR NO. 199: No, sir.

25 THE COURT: Thank you. Be seated.

Jury qualification

1 Yes, sir.

2 JUROR NO. 48: Juror No. 48, Kellen Fleming. I work
3 for Spartanburg E.M.S. I see a number of these people
4 occasionally, not associated with them at all outside of
5 work but...

6 THE COURT: Well, do you think that would have any
7 bearing upon your decision in this case if you were
8 selected as a juror?

9 JUROR NO. 48: No.

10 THE COURT: All right. Thank you. Be seated.

11 Now, this is a case which -- well, let me ask you
12 this.

13 Is there any member of the jury panel who knows
14 anybody who is employed with the 7th Judicial Circuit
15 Solicitor's Office or the 7th Judicial Circuit Public
16 Defender's Office in addition to those who are present
17 here? Do you know anybody else employed in either of those
18 offices? If so, please stand.

19 All right, sir.

20 JUROR NO. 199: Trey Gowdy. Juror No. 199, Dave
21 Demarest. Trey Gowdy and Derrick Bulsa.

22 THE COURT: And would either of those facts have any
23 bearing upon your decision?

24 JUROR NO. 199: No, sir.

25 THE COURT: Okay. Thank you. Be seated.

Jury qualification

1 JUROR NO. 90: Juror No. 90, Michael Lawter. My son
2 goes to school with one of the solicitor's daughters. I
3 don't even know his name. But it has no bearing upon my
4 decision.

5 THE COURT: Okay. Thank you. Be seated.

6 Yes, ma'am.

7 JUROR NO. 80: Audrey Johnston, No. 80. Doug Brannon.
8 Have no bearing on.

9 THE COURT: Okay. Thank you. Be seated.

10 Yes, ma'am.

11 JUROR NO. 34: Juror No. 34, Shannon Decken. Trey
12 Gowdy.

13 THE COURT: Would that have any bearing upon your
14 decision?

15 JUROR NO. 34: No, sir.

16 THE COURT: Thank you. Be seated.

17 Yes, sir.

18 JUROR NO. 75: Charles Jackson, No. 75. Trey Gowdy.
19 And Hope Blakley is a member of my church -- clerk of
20 court.

21 THE COURT: Would either of those facts have any
22 bearing upon your decision?

23 JUROR NO. 75: No, sir.

24 THE COURT: Thank you. Be seated.

25 As I told you, this is an event which the state

Jury qualification

1 alleges occurred back on October the 9th of 2009. And it
2 is alleged to have occurred at the Quick Stop, which is a
3 convenience store located on South Church Street down going
4 south from the post office, main post office, which is
5 located at Church and Daniel Morgan Avenue, I mean, East
6 Henry Street. And it is alleged, as I say, to have
7 occurred back in October of 2009.

8 Is there any member of the jury panel that thinks you
9 may have seen, heard or read something that relates to this
10 particular case from some source, whether it be television
11 or radio or newspapers or just some individuals talking
12 about the case? Do you think you have been exposed to any
13 information that relates to this particular case? If so,
14 please stand.

15 (No response.)

16 THE COURT: Is there any juror or any members of your
17 immediate family who have ever been the victim of or have
18 ever been accused of having committed any type of crime
19 that might be characterized as a violent crime?

20 And those violent crimes would include murder,
21 manslaughter, armed robbery, burglary, criminal domestic
22 violence of a high and aggravated nature, criminal sexual
23 conduct or rape, assault and battery with intent to kill,
24 common-law robbery or any other similar type of an offense.

25 I need to know if you or a family member has ever been

Jury qualification

1 the victim of any type of an offense, or you or a family
2 member has ever been accused of having committed any of
3 those types of offenses. If so, please stand.

4 All right. I'll start over here to my right, and I
5 will work across the room if you'll give me your name and
6 your number, please. And then tell me how the question
7 relates to you.

8 And if you prefer not to answer the question from
9 where you are feel free to step down here, and I'll discuss
10 it with you privately.

11 JUROR NO. 131: I'm Carol Pridmore, Juror 131. About
12 15 years ago my father was robbed at gunpoint in front of
13 our income tax office, and beaten, but okay now. And just
14 he's been a victim of a crime in that respect.

15 THE COURT: All right. And that case has been
16 resolved?

17 JUROR NO. 131: Yes.

18 THE COURT: No pending case. Would that fact have any
19 bearing upon your decision in this case?

20 JUROR NO. 131: I don't believe so.

21 THE COURT: Okay. Thank you. Be seated.

22 Yes, ma'am.

23 JUROR NO. 83: My sister was just sentenced. She was
24 asked to do a robbery three months ago.

25 THE COURT: All right. And your name, please?

Jury qualification

1 JUROR NO. 83: Christina Kiser.

2 THE COURT: And your number, please?

3 JUROR NO. 83: Eighty-three.

4 THE COURT: And would that have any bearing upon your
5 decision in this case?

6 JUROR NO. 83: No.

7 THE COURT: Was that a case that was here in
8 Spartanburg?

9 JUROR NO. 83: Yes.

10 THE COURT: Ma'am?

11 JUROR NO. 83: Yes.

12 THE COURT: Was it prosecuted by the solicitor here?

13 JUROR NO. 83: Yes, sir.

14 THE COURT: All right. Thank you. Be seated.

15 Yes, ma'am.

16 JUROR NO. 163: Ruby Thomas, 163. My son has been in
17 prison for assault and battery high and aggravated, but
18 he's out now.

19 THE COURT: And would that have any bearing upon your
20 decision in this case?

21 JUROR NO. 163: No, sir.

22 THE COURT: Thank you. Be seated.

23 Yes, sir.

24 JUROR NO. 29: I'm Byron Corbitt. I'm Juror No. 29.

25 I've had a first cousin to be shot and killed.

Jury qualification

1 THE COURT: And would that have any bearing upon your
2 decision in this case?

3 JUROR NO. 29: I don't think so, but it's hard to
4 say -- to be subjected.

5 THE COURT: Well, do you think there is any reasonable
6 probability that it would influence your decision in this
7 case?

8 JUROR NO. 29: No, sir.

9 THE COURT: All right. Thank you. Be seated.

10 I'll just start on the next row. Yes, sir.

11 JUROR NO. 110: My name is Kennedy Moore, Juror 110.
12 I had an uncle that served time for possession
13 of illegal -- illegal possession of a firearm and killed
14 two people -- three people.

15 THE COURT: And was that a case that occurred here in
16 Spartanburg?

17 JUROR NO. 110: No, sir. It happened in New York.

18 THE COURT: All right. Would that have any bearing
19 upon your decision in this case?

20 JUROR NO. 110: No, sir.

21 THE COURT: Thank you. Be seated.

22 Yes, ma'am.

23 JUROR NO. 80: Audrey Johnston, Juror No. 80. My
24 grandfather, 25 years ago, 30 years ago, was shot, walked
25 into a convenience store. He lived. I have no -- that

Jury qualification

1 would have no bearing on this case.

2 THE COURT: So it would not influence your decision
3 here?

4 JUROR NO. 80: No, sir.

5 THE COURT: Okay. Thank you. You may be seated.

6 Yes, ma'am.

7 Let me start over here. She didn't stand up, but she
8 is now, so I'll take her.

9 JUROR NO. 241: Benita Morrison, Juror 241. My
10 stepmother's grandson murdered two people in Union County.

11 THE COURT: And would have any bearing upon your
12 decision if you were selected?

13 JUROR NO. 241: No, sir.

14 THE COURT: Thank you. Be seated.

15 Okay. Yes, ma'am.

16 JUROR NO. 260: My name Monique Smith. My number is
17 260. Me and my son was at home, and it was like three
18 stray guys from somewhere else came to our house. One guy
19 was in an altercation with my son, and the other had a
20 firearm and he pointed it at us. But that's been resolved
21 now.

22 THE COURT: All right. And would that experience have
23 any bearing upon your decision in this case if you were
24 selected?

25 JUROR NO. 260: No.

Jury qualification

1 THE COURT: Thank you. Be seated.

2 Yes, ma'am.

3 JUROR NO. 34: Shannon Decken, Juror 34. My father
4 was a victim of a robbery with intent to kill on
5 December 22nd of 2008.

6 THE COURT: And has that matter been resolved?

7 JUROR NO. 34: Yes.

8 THE COURT: Was it a case here in Spartanburg?

9 JUROR NO. 34: Yes, sir.

10 THE COURT: Did the solicitor's office handle it?

11 JUROR NO. 34: Yes, sir.

12 THE COURT: All right. And would it have any bearing
13 upon your decision in this case?

14 JUROR NO. 34: No, sir.

15 THE COURT: All right. Thank you. Be seated.

16 Anyone else need to respond to that question?

17 (No response.)

18 THE COURT: Is there any member of the jury panel or
19 any members of your immediate family -- and let me define
20 an immediate family member as a parent, spouse, a child or
21 sibling -- have you or any members of your immediate family
22 ever been employed as a law enforcement officer?

23 Whether you or they are now or have previously, I need
24 to know if you or some family member as I defined it have
25 ever been employed as any type of law enforcement officer,

Jury qualification

1 whether it be civilian or military police agencies -- any
2 type of law enforcement officer.

3 That includes probation officers and detention
4 officers, as well as police officers and sheriff's deputies
5 and the like.

6 All right. So if you or they have, please stand, and
7 I will get your name and number.

8 Yes, ma'am.

9 JUROR NO. 42: Susan Eilders, No. 42. My husband was
10 an M.P. in the military.

11 THE COURT: All right. Thank you. Be seated.

12 Yes, ma'am.

13 JUROR NO. 242: Kathy Mulkey, No. 242. My husband is
14 a sheriff's deputy with Spartanburg County.

15 THE COURT: Thank you. Be seated.

16 Yes, sir.

17 JUROR NO. 29: Byron Corbitt, Juror 29. My youngest
18 sister worked in the detention center years ago for like a
19 few months.

20 THE COURT: Thank you. Be seated.

21 Yes, ma'am.

22 JUROR NO. 260: My name is Monique Smith, Juror
23 No. 260. I have a cousin that's an officer in Cowpens.

24 THE COURT: Thank you. Be seated.

25 Yes, sir.

Jury qualification

1 JUROR NO. 244: Michael Nelson, 244. My father is a
2 correctional facility officer.

3 THE COURT: All right. Thank you. You may be seated.

4 Is there any member of the jury panel who is a member
5 of, or do you contribute time or money to, any types of
6 organizations that might be characterized or described as
7 law enforcement support types of organizations or victims'
8 rights or victims' advocacy groups?

9 And included in that description might be Mothers
10 Against Drunk Drivers, Citizens Against Violent Crime, the
11 honorary sheriffs' association, the fraternal order of
12 police, the troopers' association, the South Carolina Law
13 Enforcement Officers Association, a neighborhood watch
14 organization or any other similar type of organization.

15 Do you belong to any such groups or do you contribute
16 or volunteer time to those groups or money to any of those
17 types of groups? If so, please stand.

18 All right. Yes, ma'am.

19 JUROR NO. 42: Susan Eilders, No. 42. We contribute
20 to the state troopers -- state -- and also the Spartanburg
21 County.

22 THE COURT: Okay. Thank you. Be seated.

23 Yes, ma'am.

24 JUROR NO. 242: Cathie Mulkey, 242. I'm a member of
25 the sheriff's spouse association.

Jury qualification

1 THE COURT: All right. Thank you, ma'am. You may be
2 seated.

3 Has any member of the jury panel ever been involved in
4 a criminal case where you were called to come to court
5 either by the state or by a defendant as a witness? Anyone
6 been involved in a case as a witness where you came to
7 court and were called upon to testify in the case from
8 either side? If so, please stand.

9 (No response.)

10 THE COURT: All right. I've told you basically what
11 the case is about. What I have told you is not intended to
12 be a detailed recitation of the facts of the case.
13 Obviously, that'll be developed during the course of the
14 trial.

15 But I did want to give you a brief understanding of
16 what the case is about, who the participants are, who the
17 witnesses or potential witnesses are and who the lawyers
18 are so that you'd have an understanding of what the case is
19 about.

20 And having knowledge of all of that does any member of
21 jury panel know of any reason whatsoever why you think you
22 could not be fair and impartial to both sides in this case
23 if you were called upon to serve as a juror? If so, please
24 stand, if you know of any reason whatsoever why you think
25 you cannot be fair to both sides in this particular case.

Jury qualification

1 (No response.)

2 THE COURT: All right. None responding.

3 Any other questions requested by the state?

4 MR. BARNETTE: Your Honor, No. 4 and No. 8 on our
5 list.

6 THE COURT: You're talking about anyone know anybody
7 in the public defender's office or Mr. Thompson?

8 MR. BARNETTE: Just somebody in their office or been
9 represented by them.

10 THE COURT: I asked that question.

11 MR. BARNETTE: Okay. I'm sorry. I didn't --

12 THE COURT: Anyone know anybody in the public
13 defender's office or Mr. Thompson's office?

14 (No response.)

15 THE COURT: Okay. Any others?

16 MR. BARNETTE: No, sir.

17 THE COURT: Any other questions requested by defendant
18 Johnson?

19 MS. JONES: No, sir.

20 THE COURT: Defendant -- is it Tanner-Robbs or
21 Robbs-Tanner?

22 MR. THOMPSON: Robbs-Tanner, Your Honor.

23 THE COURT: All right. Any additional questions
24 requested by Robbs-Tanner?

25 MR. THOMPSON: None, Your Honor.

Jury qualification

1 THE COURT: All right. We're going to draw a jury.

2 Now, your names are selected and put in random order
3 by a computer. That's why you're here.

4 Your names will be called individually, and you'll be
5 asked to come forward.

6 If you're towards the wall you can come around the
7 desks where the parties are seated. If you're towards the
8 center aisle, just come up the center aisle.

9 But you'll see between those two desks where the
10 lawyers are seated there's a microphone. If you'll come
11 where that microphone is, but I want you to step towards me
12 or towards the back of the courtroom, or the front
13 depending on how you look at it, but towards me -- about
14 two steps.

15 Each side has an opportunity to have you excused from
16 service in the case, or they may both agree to have you
17 seated for service in the case.

18 If either side asks that you be excused from serving
19 simply go back and have a seat where you are now. If both
20 agree to have you seated for service in the case you'll be
21 having a seat in the jury box to your right and to my left.

22 So if you'll simply come forward as your name is
23 called you'll be instructed if you've been selected for
24 service in the case or excused from service in the case.

25 THE CLERK: Juror No. 204, Otis Ettson.

Jury qualification

1 What say the state?

2 MR. BARNETTE: Please excuse this juror from service,
3 please.

4 THE CLERK: Juror No. 45, Brian Evans.

5 What say the state?

6 MR. BARNETTE: Please present the juror.

7 THE CLERK: What say the defense?

8 MS. JONES: Please excuse this juror.

9 THE CLERK: Juror No. 32, Jason Davis.

10 What say the state?

11 MR. BARNETTE: Please excuse this juror from service.

12 THE CLERK: Juror No. 163, Ruby Thomas.

13 What say the state?

14 MR. BARNETTE: Please excuse this juror from service.

15 THE CLERK: Juror No. 15, Stephen Bosak.

16 What say the state?

17 MR. BARNETTE: Please present the juror.

18 THE CLERK: What say the defense?

19 MS. JONES: Please excuse this juror.

20 THE CLERK: Juror No. 171, Pamela Ward.

21 What say the state?

22 MR. BARNETTE: Please present the juror.

23 THE CLERK: What say the defense?

24 MS. JONES: Please excuse this juror.

25 THE CLERK: Juror No. 26, Geoffrey Chapman.

Jury qualification

1 What say the state?

2 MR. BARNETTE: Please present the juror.

3 THE CLERK: What say the defense?

4 MS. JONES: Please present this juror.

5 THE CLERK: Juror 179, Jonathan Barham.

6 MR. BARNETTE: What's the --

7 THE CLERK: Juror 179, Jonathan Barham.

8 What say the state?

9 MR. BARNETTE: Please present the juror.

10 THE CLERK: What say the defense?

11 MS. JONES: Please present this juror.

12 THE CLERK: Juror 149, Debra Shaw.

13 What say the state?

14 MR. BARNETTE: Please present the juror.

15 THE CLERK: What say the defense?

16 MS. JONES: Please present this juror.

17 THE CLERK: Juror 17, Katina Brannon.

18 What say the state?

19 MR. BARNETTE: Please excuse this juror from service.

20 THE CLERK: Juror No. 18, Vanessa Brantley.

21 MS. JONES: I'm sorry. What number?

22 THE CLERK: Eighteen.

23 What say the state?

24 MR. BARNETTE: Please present the juror.

25 THE CLERK: What say the defense?

Jury qualification

1 MS. JONES: Please present this juror.

2 THE CLERK: Juror No. 215, Joyce Griffin.

3 What say the state?

4 MR. BARNETTE: Please present the juror.

5 THE CLERK: What say the defense?

6 MS. JONES: Please excuse this juror.

7 THE CLERK: Juror No. 169, Stephen Voyles.

8 What say the state?

9 MR. BARNETTE: Please present the juror.

10 THE CLERK: What say the defense?

11 MS. JONES: Please excuse this juror.

12 THE CLERK: Juror No. 203, William Ellisor.

13 What say the state?

14 MR. BARNETTE: Please present the juror.

15 THE CLERK: What say the defense?

16 MS. JONES: Please excuse this juror.

17 THE CLERK: Juror No. 83, Christina Kiser.

18 What say the state?

19 MR. BARNETTE: Please excuse this juror from service.

20 THE CLERK: Juror No. 241, Benita Morrison.

21 What say the state?

22 MR. BARNETTE: Please excuse this juror from service.

23 THE CLERK: Juror No. 42, Susan Eilders.

24 MR. BARNETTE: What was that name again?

25 THE CLERK: Susan Eilders, No. 42.

Jury qualification

1 What say the state?

2 MR. BARNETTE: Please present the juror.

3 THE CLERK: What say the defense?

4 MS. JONES: Please excuse this juror.

5 THE CLERK: Juror No. 222, Johnny Henderson.

6 What say the state?

7 MR. BARNETTE: Please present the juror.

8 THE CLERK: What say the defense?

9 MS. JONES: Please present this juror.

10 THE CLERK: Juror No. 20, Kathy Bruce.

11 What say the state?

12 MR. BARNETTE: Please present the juror.

13 THE CLERK: What say the defense?

14 MS. JONES: Please present this juror.

15 THE CLERK: Juror No. 201, Kechia Edwards.

16 What say the state?

17 MR. BARNETTE: Please present the juror.

18 THE CLERK: What say the defense?

19 MS. JONES: Please present this juror.

20 THE CLERK: Juror No. 212, Rachel Geter.

21 What say the state?

22 MR. BARNETTE: What was that number again, please?

23 THE CLERK: 212.

24 MR. BARNETTE: Geter with a G.

25 THE CLERK: Yes, sir.

Jury qualification

1 MR. BARNETTE: Please excuse the juror from service in
2 this case.

3 THE CLERK: Juror No. 134, Timothy Ragsdale.
4 What say the state?

5 MR. BARNETTE: Please present the juror.

6 THE CLERK: What say the defense?

7 MS. JONES: Please present this juror.

8 THE CLERK: Juror No. 262, Jedidiah Threadgill.
9 What say the state?

10 MR. BARNETTE: Present the juror.

11 THE CLERK: What say the defense?

12 MS. JONES: Please excuse this juror.

13 THE CLERK: Juror No. 223, Paul Huffstickler.
14 What say the state?

15 MR. BARNETTE: Please present the juror.

16 THE CLERK: What say the defense?

17 MS. JONES: Please present this juror.

18 THE CLERK: Juror No. 258, Diane Smith.
19 What say the state?

20 MR. BARNETTE: Please present the juror.

21 THE CLERK: What say the defense?

22 MS. JONES: Please excuse this juror.

23 THE CLERK: Juror No. 75, Charles Jackson.
24 What say the state?

25 MR. BARNETTE: Please present the juror.

Jury qualification

1 THE CLERK: What say the defense?

2 MS. JONES: Please excuse this juror.

3 THE CLERK: Juror No. 213, Joe Gist.

4 What say the state?

5 MR. BARNETTE: Please excuse this juror from service.

6 THE CLERK: Juror No. 100, Lauren McCarter.

7 What say the state?

8 MR. BARNETTE: Please present the juror.

9 THE CLERK: What say the defense?

10 MS. JONES: Please present this juror.

11 THE CLERK: Juror No. 139, Vimicci Robinson.

12 What say the state?

13 MR. BARNETTE: Please excuse this juror from service.

14 THE CLERK: Juror No. 86, Shehnaz Lelani.

15 What say the state?

16 MR. BARNETTE: Please present the juror.

17 THE CLERK: What say the defense?

18 MS. JONES: Please excuse this juror.

19 THE CLERK: Juror No. 131, Carol Pridmore.

20 What say the state?

21 MR. BARNETTE: Please present the juror.

22 THE CLERK: What say the defense?

23 MS. JONES: Please excuse this juror.

24 THE CLERK: Juror No. 173, Cheryl Wingo.

25 What say the state?

Jury qualification

1 MR. BARNETTE: Please present the juror.
2 THE CLERK: What say the defense?
3 MS. JONES: Please present this juror.
4 THE CLERK: Juror No. 49, Detra Foster.
5 What say the state?
6 MR. BARNETTE: Please excuse this juror from service.
7 THE CLERK: Juror No. 110, Kennedy Moore.
8 What say the state?
9 MR. BARNETTE: Please present the juror.
10 THE CLERK: What say the defense?
11 MS. JONES: Please present this juror.
12 THE CLERK: This will be for the alternate.
13 Juror No. 90, Michael Lawter.
14 What say the state?
15 MR. BARNETTE: Please present the juror.
16 THE CLERK: What say the defense?
17 MS. JONES: Please excuse this juror.
18 THE CLERK: Juror No. 7, Crystal Barron.
19 What say the state?
20 MR. BARNETTE: Please present the juror.
21 THE CLERK: What say the defense?
22 MS. JONES: Please present this juror.
23 THE COURT: Let's have one more alternate.
24 THE CLERK: Juror No. 80, Audrey Johnston.
25 What say the state?

Jury qualification

1 MR. BARNETTE: Please present the juror.

2 THE CLERK: What say the defense?

3 MS. JONES: Please excuse this juror.

4 THE CLERK: Juror No. 176, John Guyton.

5 What say the state?

6 MR. BARNETTE: Please present the juror.

7 THE CLERK: What say the defense?

8 MS. JONES: Please excuse this juror.

9 THE CLERK: Juror No. 232, Jacob Looney.

10 What say the state?

11 MR. BARNETTE: Please present the juror.

12 THE CLERK: What say the defense?

13 MS. JONES: Please excuse this juror.

14 THE COURT: Are you challenging for cause? Just a
15 minute, just a minute. Are you challenging for cause?
16 You've exercised two strikes.

17 MR. THOMPSON: He did mention that he was friends with
18 a lot of police officers, Your Honor.

19 THE COURT: But he said he could be fair.
20 Are you challenging for cause?

21 MS. JONES: No, sir.

22 THE COURT: Okay. You can have a seat in the jury
23 box.

24 (Whereupon, a jury was impaneled.)

25 THE COURT: All right. Those jurors who have been

1 selected, I'll ask you to please go with the bailiff to a
2 jury room. And I'll bring you back in just a few minutes
3 to excuse you for lunch.

4 (The following takes place outside the presence of the
5 jury.)

6 THE COURT: Are there any matters that need to be
7 addressed regarding jury selection by the state?

8 MR. BARNETTE: None from the state, Your Honor.

9 THE COURT: By defendant Johnson?

10 MS. JONES: Yes, Your Honor. We would make a motion
11 Batson motion in regard to Jurors 204, 17, 83, 212 and 49.

12 THE COURT: All right. Let me see y'all up here,
13 please.

14 (Bench conference held off the record.)

15 THE COURT: All right. Are there any other matters
16 that need to be addressed regarding jury selection by
17 either defendant Johnson or defendant Robbs-Tanner?

18 MS. JONES: No, sir.

19 MR. THOMPSON: None from defendant Robbs, Your Honor.

20 (Whereupon, the remaining members of the jury venire
21 were excused.)

22 THE COURT: All right. The defense has moved to quash
23 the panel based upon the state's exercise of peremptory
24 challenges in regards to Jurors Nos. 204, 17, 83, 212 and
25 49.

1 Mr. Barnette, tell me your reasons for exercising
2 those peremptory strikes.

3 MR. BARNETTE: Thank you, Your Honor.

4 On 204, Your Honor, he had a record for drug, drugs,
5 according to the information we had.

6 No. 17, Your Honor, I sat in jury selection. I was
7 with defense counsel too in there.

8 She wore a hat the whole time. Her whole attitude
9 about the whole system going through when Judge Couch was
10 asking them the questions and so forth, I felt like she
11 would not be a good juror just the way she appeared in that
12 situation. None of the other jurors we seated had a hat or
13 had that kind of attitude from there.

14 No. 83 was a -- her sister was convicted of robbery in
15 that case, Your Honor.

16 Is it 212 or 213?

17 THE COURT: 212.

18 MR. BARNETTE: 212 was the area, Your Honor. The area
19 where this crime occurred is on South Church Street from
20 there, the area of that this person -- was near that area.
21 I don't want anybody to really have any information
22 concerning that area if I could help it from the strikes.

23 And then to No. 49, Your Honor, was the same attitude.
24 When she showed up she had the streaks in her hair, the red
25 hair. From that standpoint her attitude while she was on

1 jury selection, standing up and answering the questions
2 from the judge and from the clerk's office in that case in
3 that case, Your Honor, I felt like she would not be a good
4 juror from that standpoint.

5 THE COURT: All right. Ms. Jones, do you wish to be
6 heard?

7 MS. JONES: Your Honor, we would just say in regard to
8 Juror No. 49, regardless of whether she streaks her hair or
9 not, that is not a, a good reason to cut somebody.

10 Again, she was an African-American person. We have an
11 African-American client, Your Honor. Therefore we do
12 believe that it was race motivated.

13 THE COURT: Mr. Thompson.

14 MR. THOMPSON: I agree too.

15 Also, as far as Juror 212 living in proximity of that
16 crime scene, he has no -- you know, he lives where he
17 lives. He has no, no control over where the crime was
18 created.

19 And he was during qualification asked if he had any
20 knowledge about the crime, Your Honor. He did not stand up
21 and come forward with anything. So I would say he doesn't
22 have any knowledge of the crime. And I don't think we
23 should strike a juror just based upon their, their
24 residency.

25 THE COURT: Well, you can actually. You can strike a

1 juror for any reason other than the fact you can't base it
2 upon race or gender.

3 It can't be exercised in an unconstitutional fashion,
4 and you can't invidiously discriminate against individuals
5 based upon their gender or race. But you can give other
6 reasons for striking jurors. And in this case the state
7 has given several.

8 You know, whether they're good reasons or bad reasons
9 for striking jurors, it's not what I have to determine. I
10 have to determine whether or not the state has practiced
11 invidious discrimination or exercised challenges based upon
12 racial reasons, as in this case all of the jurors that were
13 struck that are being challenged were black.

14 Based upon what's been presented I do not find that
15 the state's reasons given for exercising those challenges
16 are a pretext to exercising challenges in an
17 unconstitutional fashion based upon race. And the reasons
18 as given do constitute a race neutral reason for exercising
19 those challenges; and therefore the motion to quash the
20 panel is denied. All shall remain.

21 All right. Bring me the jury back, please, sir.

22 (The following takes place in the presence of the
23 jury.)

24 THE COURT: All right. Ladies and gentlemen, we're
25 going to break for lunch. We'll resume this afternoon at

1 2:30 with the beginning of the trial.

2 So before I let you go let me caution you on certain
3 things.

4 No. 1, now that you've been selected in a case you are
5 not permitted to discuss this case in any fashion
6 whatsoever with any person whatsoever. That includes
7 family members, friends.

8 It also includes your fellow jurors. You're not
9 permitted to discuss the case until the case has been
10 submitted to you and you've been directed by the Court to
11 begin your deliberations at the trial's conclusion.

12 So from now until when that time comes, that is when I
13 tell you to begin jury deliberations, you are not to talk
14 about the case with any person whatsoever in any fashion
15 whatsoever, as I say, including your fellow jurors.

16 Also, you have to base your decision upon what's
17 presented during the trial of the case and what occurs here
18 in the courtroom. You're not to be influenced by any
19 outside or extraneous information.

20 So during the course of the trial do not conduct any
21 outside research, don't do your own investigation into any
22 issue, don't consult any informational sources about the
23 case, don't conduct any internet research, don't talk to
24 anybody about the case.

25 As I say, you've got to base your decision upon what's

1 presented during the trial. You're not permitted to be
2 influenced by any outside information.

3 And I think that -- oh, and don't allow yourselves to
4 be exposed any type of media coverage that might relate to
5 the case. In other words, avoid television, radio or
6 newspaper coverage that might relate to the case.

7 Okay. With those cautions in mind, do have a good
8 lunch. Please report to your jury room at 2:30, at
9 2:30 this afternoon. And you'll be reporting to that jury
10 room that you've just been introduced to.

11 If you're not sure how to get back to that jury room
12 talk to the bailiffs. They'll provide you with those
13 directions. Okay. Have a good lunch. We'll see you at
14 2:30.

15 (The following takes place outside the presence of the
16 jury.)

17 THE COURT: All right. Court is in recess until 2:30.

18 (Whereupon, a recess was taken.)

19 THE COURT: All right. Are we ready for the jury?

20 MR. BARNETTE: The state is ready, Your Honor. Your
21 Honor, we did have some pretrial motions.

22 THE COURT: Okay.

23 MR. BARNETTE: Motions. I gave copies, I believe, to
24 both counsel and to -- one of them was on third-party
25 guilt. I don't think they're going to offer any

1 third-party guilt in this case, but I just made that motion
2 to make sure that was clear.

3 THE COURT: Is anybody intending to offer any
4 third-party-guilt evidence?

5 MS. JONES: No, sir.

6 MR. THOMPSON: Your Honor, I don't think it goes to
7 what his argument is on third-party guilt, but I may make a
8 case that there were other people involved with this case
9 that aren't charged with it. The video -- that'll be on
10 video, and I'll use the video as the basis for that.

11 THE COURT: Well -- well, you can talk about other
12 people, but what's the relevance of whether they're charged
13 or not?

14 MR. THOMPSON: There's no relevance to it. It's just
15 their --

16 THE COURT: Well, that's why -- that's why it doesn't
17 come in. It's not relevant.

18 MR. THOMPSON: I'm just -- there's -- the state's
19 making a case that there's evidently some cohesion between
20 my client and the codefendant. I think the co -- the
21 cohesion may be between the codefendant and other folks
22 involved on the video.

23 THE COURT: Well, you are permitted to comment upon
24 anything that's introduced into evidence.

25 MR. THOMPSON: That's, that's what --

1 THE COURT: But what I'm saying is if there were a
2 hundred people charged or not charged it's not relevant.

3 The jury's obligation and duty is to determine whether
4 or not the two people in this courtroom standing trial are
5 guilty of the crime, not whether somebody else might be.

6 MR. THOMPSON: Okay.

7 THE COURT: Because it's not relevant to their
8 decision if somebody is just as guilty as the one present.
9 Do you see what I'm saying?

10 MR. THOMPSON: I do. I didn't want -- I wanted to
11 just kind of lay a foundation. I may go there and not
12 tread on what he was arguing.

13 THE COURT: Okay. All right. What's the other
14 motion?

15 MR. BARNETTE: Your Honor, there's a motion in limine
16 that's on four points, Your Honor. One, the victim had
17 body tattoos. I do not think those tattoos are relevant to
18 this case. There was pictures taken during the autopsy and
19 everything.

20 THE COURT: Is anybody going to introduce evidence of
21 tattoos?

22 MS. JONES: I was not, Your Honor.

23 MR. THOMPSON: I didn't intend to, Your Honor.

24 THE COURT: Okay. There is not going to be any tattoo
25 evidence.

1 MR. BARNETTE: There was a bag of marijuana that was
2 found in the pump area near this scene. There is no
3 connection. That marijuana has no connection. We don't
4 know where it came from. I don't know if it came from the
5 victim, the defendant or was there previously in the area
6 it was. Obviously, we feel like that's not relevant to
7 this case.

8 THE COURT: Does either defendant intend to offer
9 evidence of marijuana found at the scene?

10 MS. JONES: Your Honor, initially before I got this
11 motion probably was not, but in looking over the state's
12 exhibit list, as well as receiving the motion, I do note
13 that they intend to introduce crime scene placards and
14 pictures. There were 14 placards placed, and they're only
15 going to introduce 13, is my understanding, Your Honor.

16 We just reserve the right if we believe that there is
17 some type of investigation issue that we're going to
18 potentially bring up if they're excluding one piece of
19 evidence in regard to the crime scene photo.

20 I mean, the crime scene is the crime scene, and what
21 they decided was relevant and what wasn't relevant, I think
22 it's going to be germane to just the whole picture as it
23 was at the time res gestae.

24 THE COURT: Well, it has still got to be relevant to
25 some issue. Do you perceive there to be some relevance in

1 the marijuana?

2 MS. JONES: I don't at this particular time, Your
3 Honor.

4 THE COURT: Okay.

5 MS. JONES: But if we go into the sufficiency of the
6 police investigation --

7 THE COURT: Well, what -- you see, I don't know
8 anything about the case. So you'll have to tell me what
9 that has to do with the -- with the marijuana.

10 MS. JONES: We're just reserving the right to bring it
11 up potentially if we -- something becomes an issue, sir.

12 THE COURT: All right. Well, if you do you'll have to
13 do it outside the presence of the jury. You'll have to
14 address it with me before the jury can be exposed to it.

15 MS. JONES: I understand, sir.

16 THE COURT: All right. Anything else?

17 MR. BARNETTE: Yes, sir.

18 There was a toxicology report done on the victim.
19 There was marijuana found in his system, Your Honor. We
20 feel like it's not relevant to this case. Obviously, we
21 would make a motion in limine concerning any results
22 concerning his toxicology, Your Honor.

23 THE COURT: All right. Does either defendant intend
24 to offer evidence of the toxicology results or the analysis
25 of a blood sample provided by the victim or taken from the

1 victim?

2 MS. JONES: I do not on behalf of my client, sir.

3 MR. THOMPSON: Not from defendant Robbs.

4 THE COURT: Okay.

5 MR. BARNETTE: And the fourth part of that motion,

6 Your Honor, I don't know if this is going to be --

7 obviously, I don't know what their defense is. So I don't

8 know what the situation's going to be about any prior

9 instances between the two defendants and the victim.

10 I don't know of any. Obviously, I make a motion in
11 limine if there is any that they're going to plan to bring
12 up, I don't think it'd be relevant to this case. And if it
13 is relevant, obviously it'd be highly prejudicial unless
14 it's related directly to the night of this incident.

15 THE COURT: What kind of incidents are you referring
16 to?

17 MR. BARNETTE: I don't know. I don't know of any
18 instances between them. I don't know what their defense
19 is, so I can't even think -- obviously, happened days ago,
20 weeks ago. I don't know if they know each other. I do not
21 know.

22 So I was just going to make a motion in limine about
23 any prior instances they possibly could bring up that
24 they've had any involvement between the victim and the two
25 defendants or either one of the defendants.

1 MS. JONES: I'm not introducing any prior incidents,
2 Your Honor.

3 THE COURT: Okay.

4 MR. THOMPSON: None from Mr. Robbs either.

5 THE COURT: Okay. Anything else?

6 MR. BARNETTE: That's it, Your Honor. Thank you.

7 MR. THOMPSON: Your Honor, the state has six videos,
8 and I would like to know what he intends to offer, because
9 I may need -- I would like to offer the videos as well.

10 I think there's some exculpatory evidence in there for
11 my client. And at the time that witness comes to
12 authenticate those if I may -- if he's not going to
13 introduce all six, then I would need to use that witness as
14 well to authenticate any remaining that he does not
15 introduce.

16 THE COURT: Well, you have six videos?

17 MR. BARNETTE: Your Honor, what it is is six different
18 cameras of the same incident at different parts of the
19 store.

20 THE COURT: There are separate discs?

21 MR. BARNETTE: There's two cameras on each disc, I
22 think is they way they did it, Your Honor. I have -- I
23 personally don't have any problem. I'm not probably going
24 to show all six. I don't have any problem with introducing
25 them but --

1 THE COURT: The point being they don't need to
2 authenticate them. You know what they are.

3 MR. BARNETTE: Yes, sir.

4 THE COURT: Okay.

5 MR. BARNETTE: I don't know if Ms. Jones shares the
6 same position as Mr. Thompson. I don't have a problem with
7 it because all six of them --

8 THE COURT: Well, what, what Mr. Thompson is
9 addressing is whether or not he's going to need a witness
10 to authenticate the video.

11 As I understand it, they're your videos. So whether
12 you introduce them or not you don't have any objection to
13 him introducing them without laying a proper foundation of
14 authenticity.

15 MR. BARNETTE: That's correct. And he told me he had
16 no problem with us doing that also, Your Honor.

17 THE COURT: Okay.

18 MR. BARNETTE: But, like I said, I talked with
19 Ms. Jones. I think Ms. Jones takes a different position
20 than we do.

21 THE COURT: On the authentication of the videos?

22 MR. BARNETTE: I think she -- I just wanted to make
23 sure the Court knew that ahead of time. That's the reason
24 why. I talked to them ahead of time. I think she takes
25 for a different reason, takes a different position. I

1 don't have any problem with it. I don't think Mr.
2 Thompson -- we both agree we've got to authenticate, and
3 I'm not going to object to his, but I don't know what her
4 position would be.

5 MR. THOMPSON: I think in the chain he's bringing
6 someone from the store. And my, my fear is that if she
7 authenticates two, then I don't get the other four in. I
8 was just going to use that witness to authenticate the
9 remaining --

10 THE COURT: Well, you can cross-examine on that and
11 have them -- you can mark them for identification without
12 even introducing them so long as they address it and
13 identify what they are.

14 MR. THOMPSON: Thank you, Your Honor.

15 THE COURT: Bring the jury in, and ask Mr. Chapman to
16 take the foreperson's seat.

17 (The following takes place in the presence of the
18 jury.)

19 THE COURT: Let's do this to be sure that everybody
20 can see the screen.

21 Let me ask the front row to move down one seat to your
22 right. And let me ask the lady on the back row in the last
23 seat if you'll come down to the front. If everybody on the
24 back row will move one seat to your left, that way
25 everybody has an equal opportunity to observe the screen

1 more or less.

2 Good afternoon, ladies and gentlemen. We are now
3 ready to begin with the trial of the case for which each of
4 you have been selected.

5 And, Mr. Chapman, I'm going to ask you to serve as the
6 foreperson of this jury. And as the foreperson you're
7 going to have three specific duties that none of the other
8 jurors will have.

9 No. 1, you'll be asked to serve as the spokesperson
10 for the jury. And so if during the trial of this case
11 something arises that needs to be brought to my attention,
12 that is you or one of your fellow jurors has some
13 difficulty, problem or question, you'll be the person to
14 let me know or let the bailiff know that you have that
15 issue. And I'll address it.

16 Secondly, it will be you who will preside over the
17 jury deliberations when the time comes for those
18 deliberations.

19 That of course won't be until after all of the
20 evidence has been received and I have instructed you on the
21 law that's applicable in this case. But when the time does
22 come for jury deliberations at the trial's conclusion it
23 will be you who will preside over that process in the jury
24 room simply to ensure that those deliberations are carried
25 out in some orderly fashion.

1 And, thirdly, it will be you who will actually write
2 the verdicts or the decisions of the jury. And you'll
3 indicate those decisions on verdict forms that I'll provide
4 you at the trial's conclusion on which you will indicate
5 the jury's unanimous decision as it relates to each of the
6 separate indictments.

7 Now, the foreperson has those specific duties that
8 I've just indicated. That does not however mean that he is
9 any more important than any of you other jurors, because
10 the decision of a jury is the unanimous consensus opinion
11 of all 12 jurors. And all 12 of you will have an equal say
12 and an equal vote in what the ultimate decisions will be in
13 this case.

14 Someone simply has to be delegated those
15 responsibilities that I have just indicated, and I have
16 delegated those to Mr. Chapman in appointing him as the
17 foreperson. But all of you jurors are equally important so
18 far as the ultimate decisions in this case are concerned,
19 because as I've already stated, the verdicts have to be
20 unanimous. All 12 of you must be in agreement.

21 Now, Ms. Barron and Mr. Looney, each of you have been
22 selected as alternate jurors. And the function of an
23 alternate juror is for one or both of you to take the place
24 of one or two jurors that may be unable to continue to
25 serve during the course of this trial.

1 And so if one of the original 12 jurors becomes ill or
2 some emergency arises and it prevents that juror from being
3 able to continue to serve as a juror, then one or both of
4 you would be called upon to take those jurors' places.

5 In that event you would become the 12th juror. And in
6 that event you would participate throughout the course of
7 the trial including in the jury deliberations at the
8 trial's conclusion.

9 If however when the time does come for jury
10 deliberations the original 12 are able to participate in
11 those deliberations, then the service of an alternate juror
12 ends, and you don't participate any further. And that's
13 because the decision of a jury is that of 12. No more than
14 12 jurors are permitted to engage in that deliberation
15 process.

16 But it is important that you pay just as careful
17 attention as we ask of all of the jurors selected in this
18 case because it does occur from time to time for one reason
19 or another one of the original 12 -- or one or two -- may
20 be unable to continue. In that event one or both of you
21 would be called upon to become the 12th.

22 So we to appreciate your participation as alternate
23 jurors, just as we appreciate the participation of each of
24 you jurors who have been selected for the purpose of
25 deciding the verdicts in this particular case.

Jury sworn

1 You may swear the panel.

2 (Whereupon, the jury was duly sworn.)

3 THE COURT: All right. Ladies and gentlemen, as you
4 know, you have been selected to decide the verdicts in two
5 cases that have been brought to trial. Those two cases are
6 the State vs. Dadrin Johnson and the State vs. Brandon
7 Robbs-Tanner.

8 Each of those defendants have been accused of the
9 crime of murder. I explained to you the charge that has
10 been brought against each of those defendants by reading
11 the allegations set forth in the indictments prior to your
12 selection.

13 But there are two separate cases; there are two
14 separate defendants. And the evidence will be relating to
15 the two separate cases and the two separate charges and the
16 two separate defendants.

17 And so when you go back to begin with your
18 deliberations in the case you're going to be called upon to
19 render two separate and distinct verdicts. And that's
20 because you have two defendants.

21 And depending upon your determination of fact based
22 upon your consideration of the evidence in the case your
23 verdicts may be the same as it relates to both defendants,
24 or it may be different. That of course will depend upon
25 your determination of fact as it relates to that defendant

1 and the law that's applicable as I will provide it to you
2 at the trial's conclusion.

3 These are criminal cases, as you know. And persons
4 are brought into this court by way of those documents that
5 I referred to being indictments.

6 The indictments however are not evidence of anything.
7 They don't establish anything. They are not proof of
8 anything. The indictments simply are the means by which
9 any person charged with a crime where the jurisdiction is
10 in this court is brought to this court for the purpose of
11 standing trial as to that charge.

12 The indictments will be in the jury room at the
13 trial's conclusion, and that's because, Mr. Foreman, it is
14 on the back of each of these indictments that you're going
15 to be called upon to indicate the jury's unanimous decision
16 as it relates to that particular defendant. But other than
17 serving as the verdict form the indictments serve no
18 purpose so far as you 12 jurors are concerned.

19 Now, as I've told you, as to each of the charges
20 contained in these indictments and against each defendant
21 those defendants have entered a plea of not guilty. And as
22 I told you, that plea of not guilty places upon the state
23 the burden of proving the allegations that they have set
24 forth in that indictment, the burden of proving each of the
25 essential elements that makes up the crime that they have

1 alleged against each defendant; and therefore the burden is
2 upon the state to establish a defendant's guilt to the
3 satisfaction of each of you 12 jurors beyond a reasonable
4 doubt before a verdict of guilty could be returned as to
5 that particular defendant.

6 Every person accused of a crime, and it doesn't matter
7 how serious the offense might be -- every person accused of
8 a crime is presumed to be innocent of that charge. That
9 presumption of innocence remains with any defendant as it
10 does with each of these defendants from the time that they
11 are placed under arrest and throughout the course of the
12 criminal process and even throughout the course of the
13 actual trial in the case that's getting ready to begin.

14 That presumption of innocence will be with each of
15 these defendants even as you go back into your jury room to
16 begin with your deliberations at this trial's conclusion.

17 And that presumption of innocence will be with each of
18 these defendants in that jury room, and it'll be with them
19 forever unless you 12 jurors determine that a defendant is
20 no longer entitled to that presumption of innocence.

21 In other words, after you've carefully considered all
22 of the evidence in the case, and after considering that
23 evidence you determine what you believe to be the true
24 facts as they relate to a particular defendant, and upon
25 deciding those facts after you apply the law that I will

1 provided you, if you 12 jurors unanimously determine that a
2 defendant has been proven guilty beyond a reasonable doubt,
3 then that defendant would no longer be entitled to that
4 presumption of innocence.

5 But it's only if, unless and until you are satisfied
6 of a defendant's guilt beyond a reasonable doubt that the
7 presumption of innocence would no longer be applicable as
8 to that particular defendant.

9 Now, the way the trial will proceed is that in a
10 moment the lawyers are going to address you in what are
11 called opening statements.

12 There are two occasions in the trial of a case where
13 lawyers are permitted to address the jury, and that is at
14 the beginning of the trial before any evidence has been
15 introduced, then again at the conclusion of the trial after
16 all of the evidence has been received.

17 Keep in mind, as I have just indicated, that evidence
18 comes in, that is the evidence upon which you will base
19 your decision comes in, between the opening and the closing
20 statements of the lawyers.

21 And therefore what the lawyers tell you in their
22 statements to you is not to be considered by you as
23 evidence in the case. You're not to consider their
24 statements as any assertion or proof of a fact.

25 And that's because the lawyers don't know anything

1 about this case of their only personal knowledge or
2 experience like a witness will be testifying to.

3 The lawyers aren't going to take the witness stand.
4 They're not going to be placed under oath. They're not
5 going to be subjected to cross-examination and direct
6 examination like each of the witnesses will be. And so
7 what the lawyers tell you in their statements is not to be
8 considered by you as any evidence upon which you will base
9 your decision.

10 You should however listen to what the lawyers have to
11 say because those statements do serve a purpose.

12 The opening statements will serve to provide you with
13 a basic understanding as to what this case is about from
14 both the perspective of the state and each of the
15 defendants so that you'll have some context in which to
16 place the evidence that we will be receiving shortly
17 thereafter.

18 The closing statements occur after all of the evidence
19 has been received. And keep in mind that while they will
20 be commenting upon evidence, their statements, again, are
21 not evidence. But it does afford the lawyers an
22 opportunity to discuss with you the evidence that you have
23 seen and heard during the trial of the case. And through
24 that discussion each will have an opportunity to try to
25 persuade you or to convince you that that evidence does or

1 does not support a particular decision.

2 And it's in between the opening and the closing
3 statements of the lawyers that we actually receive the
4 evidence upon which you will make your determination of
5 fact and base your decision.

6 The state, as I've told you, has the burden of proof.
7 They have the burden of establishing a defendant's guilt to
8 your satisfaction beyond a reasonable doubt. And therefore
9 the state has an obligation to call witnesses and to
10 present evidence, because if they don't, then there is no
11 evidence upon which you could base a decision of guilt and
12 your verdict would have to be not guilty.

13 So while the state does have the burden of putting
14 forth evidence in order to establish a defendant's guilt
15 beyond a reasonable doubt, a defendant does not have the
16 same obligation to present evidence or to even testify.
17 And that's because a defendant in a criminal trial does not
18 have to prove anything. The defendant does not have to
19 prove that he is not guilty or to prove that he is innocent
20 because in some cases that might not even be a possibility.

21 The burden is always upon the state because they've
22 brought the charge against the defendant to establish that
23 defendant's guilt beyond a reasonable doubt.

24 Now, a defendant in a criminal trial may testify, may
25 call witnesses, may produce evidence if he or she wished to

1 do so, but they're not required to do so. They're not
2 obligated to do so.

3 And if a defendant does not testify or does not call
4 any witness or produce any evidence that is not a fact or a
5 circumstance that may be considered by the jury in any way
6 whatsoever in your deliberations or in your determination
7 as to whether or not that defendant's guilt has been proven
8 beyond a reasonable doubt. However, any defendant is
9 always afforded an opportunity to present evidence in the
10 event he or she wished to do so.

11 Now, after all of the evidence in the case has been
12 received and you hear the final summations of the lawyers,
13 I will then instruct you fully on the law as it relates to
14 the criminal law generally and as it relates to these
15 specific crimes particularly, after which you'll be asked
16 to go back and begin with your deliberations.

17 Through that process you will examine all of the
18 evidence. After examining all of the evidence you will
19 determine what you believed to be the true facts as they
20 relate to these allegations.

21 Upon deciding those facts you will then apply the law
22 that I will have provided you, and you will determine
23 whether or not a defendant's guilt has been proven beyond a
24 reasonable doubt.

25 And if a defendant has been proven beyond a reasonable

1 doubt, then your verdict would be guilty. If a defendant
2 has not been proven guilty beyond a reasonable doubt, then
3 your verdict would be not guilty as to that defendant.

4 So all that we ask for you to do is to pay careful
5 attention through the course of the trial. Give every
6 witness the same degree of attention as they testify. And
7 that's because one of your prerogatives in a case is to
8 assess and evaluate the credibility of witness testimony.

9 And you can accept everything that a witness testifies
10 to or you can reject everything that a witness testifies
11 to. You can even believe one portion of a witness'
12 testimony and reject some other portion of that same
13 witness' testimony. You can believe one witness as opposed
14 to several, or several as opposed to one.

15 But it's important that you give every witness the
16 same degree of attention as they testify so that when you
17 go back to begin with your deliberations in this case you
18 will be in a proper position to be able to fairly evaluate
19 each witness' testimony in light of not just that
20 particular witness' testimony but in light of all of the
21 testimony and all of the evidence received during the
22 trial.

23 And of course it's always important that you keep an
24 open mind throughout the course of the trial. And that
25 simply means that you are not to begin making up your minds

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1 or formulating your opinions as to what you think the
2 ultimate decisions in this case ought to be until all of
3 the evidence has been presented, until I've instructed you
4 on the law and until you've been asked to go back and begin
5 your deliberations in arriving at that decision.

6 So I do want to thank you in advance for your
7 participation, as well as for your careful attention. I
8 would ask that you please give the lawyers your attention
9 now as they give their opening statements.

10 Ms. Gallivan.

11 MS. GALLIVAN: May it please the Court, Your Honor.

12 THE COURT: Yes, ma'am.

13 MS. GALLIVAN: Good afternoon, ladies and gentlemen.

14 My name is Mandy Gallivan, and I along with Mr. Barry
15 Barnette will be before you to present the facts of this
16 case on behalf of the state.

17 I also want to introduce the mother and sisters of the
18 victim in this case, Adrian Edwards.

19 We are before you today because on October 9th of 2009
20 Adrian Edwards was viciously murdered at the Quick Stop gas
21 station on South Church Street as you heard here in
22 Spartanburg County.

23 The two individuals responsible for taking the life of
24 Mr. Edwards are seated at the table over here. We know
25 that these two defendants cooperated to commit the murder

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1 of Adrian Edwards because the whole incident was captured
2 on video surveillance by the Quick Stop that night.

3 The evening of October 9th Dadrin Johnson rode to the
4 Quick Stop with females, Crystal Miller and Amber Rice, in
5 a gold, goldish-colored, car. They pulled up to the gas
6 station, and Amber Rice got out of the car in the front
7 passenger seat and went inside the store. Crystal Miller
8 who was the driver of the car stayed in the car, as well as
9 Mr. Johnson. He remained in the back seat.

10 A moment or two goes by, and Adrian Edwards pulls up
11 in his car. He parks his car near a gas pump and gets out
12 of the car and goes inside the store.

13 Another moment or two goes by. And the codefendant,
14 Brandon Robbs, pulls up on a moped. He parks the moped
15 close to the store, immediately gets off the moped, walks
16 away from the store towards the gold colored car to speak
17 to Mr. Johnson.

18 Now, Mr. Johnson is known to a lot of people as Worm.
19 You might hear him referred to that nickname during the
20 course of this trial.

21 Mr. Robbs stood over at the gold colored car and spoke
22 to Worm for a while until Dadrin Johnson got out the car
23 and walked over to the store and peered inside the windows.

24 He saw that Adrian Edwards, the victim, was still
25 inside the store, and he walked back over to the gold

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1 colored car.

2 He stood there and talked to Mr. Robbs again until
3 Mr. Robbs gave him a hooded coat that he was wearing.
4 Mr. Johnson puts on the coat, goes over and gets on the
5 moped, pulls the moped around in front of where Adrian
6 Edwards' car was parked, and he waits. Meanwhile Brandon
7 Robbs walks into the store.

8 Another moment or two goes by and we see Adrian walk
9 out of the store towards his car followed closely by
10 Mr. Robbs leaving the store behind him.

11 When Adrian gets over to his car he sees or
12 acknowledges Mr. Johnson in some way.

13 Ladies and gentlemen, that's when Mr. Johnson pulls a
14 gun, and he opens fire on Adrian Edwards. Mr. Johnson was
15 shot not once, not twice, but five times.

16 Adrian wounded fell to the ground and began crawling
17 desperately trying to get away. Mr. Johnson followed him
18 and continued to shoot him over and over and over again.
19 And then Mr. Johnson on a moped fled the scene. Mr. Robbs
20 jumps in the gold colored car with the girls.

21 Now, you're going to hear the facts of this case in a
22 lot more detail as we present other witnesses to the events
23 that night.

24 I ask that you pay close attention to the testimony of
25 these witnesses. Carefully evaluate the evidence that's

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1 going to be presented to you and use your common sense.
2 And then we'll come back before you and we'll ask that you
3 hold these two defendants accountable for their actions
4 that night. We'll ask that you find Brandon Robbs and
5 Dadrin Johnson guilty of murder. Thank you for your time
6 and attention.

7 THE COURT: Ms. Jones.

8 MR. JONES: Thank you, Your Honor.

9 Good afternoon, ladies and gentlemen. My name is
10 Tanya Jones, and I represent Mr. Dadrin Johnson here today.

11 As the judge indicated to you, this is the state's
12 burden. They have to prove beyond a reasonable doubt that
13 my client shot Mr. Edwards.

14 I don't have to lift a finger, ladies and gentlemen.
15 I don't have to put on a defense. I don't have to question
16 any of the witnesses. I can just sit over here. That's
17 the great thing about our system. It is the state's
18 burden. They have to prove it. They have to put up the
19 witnesses.

20 Now, you heard the solicitor indicate that this was on
21 tape. Ladies and gentlemen, I believe that you're probably
22 going to see some surveillance video. And ultimately
23 you're going to have to decide whether the person you see
24 on that video is, in fact, my client.

25 It's the state's burden to prove that beyond a

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1 reasonable doubt. And if you are not convinced beyond a
2 reasonable doubt, then you have to find my client not
3 guilty.

4 Now, ladies and gentlemen, these types of cases are
5 very emotional. We have the victim's family over here.
6 They're going to be emotional. These are very, very
7 serious charges.

8 And I ask you standing before you on behalf of my
9 client, as well as on behalf of the other client, to try
10 and put those emotions aside and look solely on the facts.

11 This is not about feeling sorry for anybody or making
12 an emotional decision. This is about objective
13 fact-finding. And that is what I request you to do today
14 and probably tomorrow and to not make up your minds about
15 this particular case until you go back to the jury
16 deliberation room and the judge indicates that it's okay to
17 begin deliberations.

18 We believe that by the end of this trial, ladies and
19 gentlemen, that you're going to find that it is not my
20 client who shot Adrian Edwards. Thank you.

21 THE COURT: Mr. Thompson.

22 MR. THOMPSON: May it please the Court, Your Honor.

23 Ladies and gentlemen, I'm Chris Thompson, and I
24 represent Mr. Robbs in this case. As the judge instructed
25 you, you've got two separate defendants here, two separate

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1 cases.

2 And I'll tell you a little story. Yesterday I told my
3 kids I couldn't do something with them. I said I got the
4 trial of the century starting tomorrow morning. And my
5 13-year-old who's a little smarter than he ought to be
6 said, dad, isn't that your third trial of the century this
7 year. That's a silly little story about perception. And
8 that's what this case is built upon against Mr. Robbs.

9 The state's witnesses, the police, the city police
10 here, view a video, and they perceived what they want to
11 believe, that he's guilty of helping somebody commit a
12 murder.

13 Ladies and gentlemen, I'm going to ask you just to do
14 the same thing the state is going to do. Watch that tape,
15 look at that tape, and have an open mind.

16 He gives a guy a coat and lets him borrow a moped. If
17 that's against the law, then we're going to have a lot of
18 people going to jail. It's not against the law. There's
19 no concert here between these two people. There's no deal
20 worked out. There's no plan.

21 I'm yet to hear what a motive would be for the murder
22 of this young man that got killed. I'm yet to know what
23 the intent would be.

24 My client is innocent, and that's the hard thing about
25 this case. I've got to represent a guy that is not guilty.

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1 I want you to understand that.

2 Watch these tapes. I'm going to show you some tapes.
3 We'll show you tapes of the inside of the store. Watch the
4 people inside that store. Watch their actions. Watch my
5 client's actions. If he knows there's a gun going off why
6 does he jump back? Okay. Why does he almost get run over
7 by two cars when he hears gunshots go off? Because he's
8 not expecting it. He's not in on what's happening out
9 there. He's totally surprised.

10 Okay. I'm going to ask you to listen to what the
11 judge says. He's going to throw those legal terms at
12 you -- reasonable doubt, innocent until proven guilty.
13 Take those things serious.

14 I know you're being improvised. You're taken away
15 from work, taken away from your family this week. But take
16 this serious. And you evaluate every piece of evidence
17 that is put before you. And when you do that you'll find
18 out that my client's not guilty of murder. Think about
19 that.

20 There's a guy sitting over here that's not guilty of
21 murder, and it's your job to do that. And I know we're say
22 presumed innocent until guilty, but that's the legal
23 presumption. That's right. What about society's
24 presumption?

25 We've got Jail Birds. We've got WSPA and we've got

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1 the community watch dog for WSPA. We've got the internet.
2 Think about somebody that comes up and puts you in
3 handcuffs and says you're charged with a crime.

4 They've got vast resources at their disposal; they've
5 got videos at their disposal; they've got a witness list.
6 You heard the judge when you were qualified here, about 12
7 police officers that are going to sit up here and testify.

8 Think about what we've got to overcome over here. So
9 really if you think about that, innocent until proven
10 guilty, that's real serious stuff. And it's in the United
11 States Constitution. I ask you to take that serious.

12 This is about perception. Look at those tapes. These
13 two officers over here interviewed my client. They had
14 one -- they looked at it. They come to a conclusion. They
15 didn't look at it with an open mind. They didn't tell him
16 -- he didn't tell them what they wanted to hear. They
17 locked him up and charged him with this awful, awful crime.

18 He's not guilty of it, guys. Take that evidence and
19 look at it. Evaluate the evidence and come back with a
20 not-guilty for Brandon Robbs-Tanner. Thank you.

21 THE COURT: Mr. Barnette.

22 MR. BARNETTE: May it please the Court Your Honor. I
23 would like to call Crystal Miller to the stand please.

24

25

Crystal Vineta Miller
Direct examination by Mr. Barnette

1 CRYSTAL VINETA MILLER, having
2 been first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MR. BARNETTE

4 Q Ms. Miller, I'm going to need you to speak up for us,
5 okay, where any of these folks back here in the back row
6 can hear you. Okay. I know you're soft-spoken.

7 A Okay.

8 Q If you would, give me your full name for the record,
9 please.

10 A Crystal Vineta Miller.

11 Q Okay. Ms. Miller, do you live here in Spartanburg,
12 ma'am?

13 A Yes.

14 Q What kind of work do you do, ma'am?

15 A I'm a C.N.A.

16 Q And where are you a C.N.A. at, ma'am?

17 A White Oak Manor.

18 Q What is a C.N.A., ma'am?

19 A Certified nursing assistant.

20 Q Back on October 9th of 2009, was you at a party that
21 day, ma'am?

22 A Yes, I was.

23 Q And where was it at, ma'am?

24 A It was at -- up the street from [REDACTED] Ernest L. Collins
25 Avenue. It was over at Amber Rice's house on the corner.

Crystal Vineta Miller
Direct examination by Mr. Barnette

1 Q And about what time did you get to the party there,
2 ma'am?

3 A Around 8:30.

4 Q Okay. Was that at night or in the morning?

5 A At night.

6 Q When you arrived there was Amber there?

7 A Yes, she was.

8 Q Was Mr. Johnson there?

9 A Yes, he was.

10 Q And what's Mr. Johnson's nickname?

11 A Worm.

12 Q Do you see him here in the courtroom today, ma'am?

13 A Yes, I do.

14 Q Can you tell the jury where he's sitting at? Or point
15 at him, ma'am, if you would and say what he's wearing.

16 A He's sitting right there in the white shirt and the
17 tie.

18 Q Okay. At the party what happened, ma'am?

19 A At the party Amber came out of the house and told me
20 that she needed to go to Spurs gas station. That's what we
21 normally call it -- the Spurs. And she said that she
22 needed to pay her phone bill real quick before her phone
23 got cut off. And so I was like okay.

24 And then Worm proceeded to ask me could he get dropped
25 off also since I was going to take Amber to Spurs. And I

Crystal Vineta Miller
Direct examination by Mr. Barnette

1 was like sure.

2 So me, Amber and Worm got in the car. And I told Worm
3 that I was going to drop him off last because I wanted to
4 hurry up and let Amber pay her phone bill. And he was --
5 he said okay. So we went. We proceeded to go to Spurs.

6 Q Let me stop you. Spurs -- is that the Quick Stop?

7 A Yes. That's the Quick Stop.

8 Q And where is it located at, ma'am, so the jury can
9 know where it's at?

10 A It's located across from the swim center on North
11 Church Street.

12 Q So if you go like -- you go where the post office,
13 main post office, is?

14 A Yes.

15 Q You go down South Church Street that way.

16 A Yes, sir.

17 Q And you've got Mary Wright -- Carver Junior High or
18 middle school there.

19 A Yes, sir.

20 Q And you got the swim center on the left.

21 A Yes, sir.

22 Q It's the little store right there on the right.

23 A Yes, sir.

24 Q Okay. Go ahead, ma'am. Please tell the jury what
25 happened.

Crystal Vineta Miller
Direct examination by Mr. Barnette

1 A So as we pulled in Amber got out of the car first, and
2 then me and Worm just was talking, listening to music. And
3 I was on my cell phone.

4 And then a couple of minutes later I saw Brandon pull
5 up on a moped. He pulled up, and I yelled out the window.
6 I said, hey, Brandon. And Brandon came over to the car
7 where I was still sitting in. And we -- I asked him how he
8 was doing, and he asked me could he borrow a dollar because
9 he wanted to get some single cigarettes from the inside.
10 And he -- I said fine.

11 And so then after that not knowing that Worm had got
12 out of the car the first time, I just thought he had got
13 out of the car just for that one time. And so I saw him
14 and Brandon talking, Worm and Brandon talking.

15 And Brandon -- well, Worm asked Brandon could he
16 borrow his -- Worm asked Brandon could he borrow his coat
17 and moped. And Brandon was like, sure, not a problem, just
18 bring it back down to the house when you're done. And Worm
19 was like okay.

20 And so Brandon asked me could he catch a ride with me
21 back to -- so I could drop him off at home. And I was like
22 sure, that's fine.

23 And then I saw Worm put on the coat. And he pulled
24 around off to the far pump. And I'm thinking he's gone and
25 everything, but he isn't. And I saw. I looked back, and I

Crystal Vineta Miller
Direct examination by Mr. Barnette

1 saw Adrian walk over there by his car.

2 Q Is that Adrian Edwards, the victim, in this case?

3 A Yes.

4 Q So you knew him too?

5 A No, I didn't know him. I just saw him, and then when
6 I heard on the news his name was Adrian.

7 And so I saw Adrian extend out his hand to Worm, and
8 that's when I heard the shots. And then I looked back, and
9 I saw Worm on the moped still shooting.

10 And then he came -- Adrian was coming around the back
11 of his car running, trying to run, and Worm just kept on
12 shooting him. And then Adrian fell down to the ground and
13 was crawling. And Worm kept on shooting him.

14 And then Brandon in shock was jump-back. And he was
15 yelling call the police, call the ambulance. And Worm
16 had -- basically, he rode off into the night.

17 And that's when I was yelling at Brandon to get Amber.
18 We -- I said get Amber out of the store quick. And that's
19 when Brandon had got into the car. And I pulled off on the
20 side. And I told him we gotta get Amber out the store.

21 And he kept on trying to get her out, but Amber was
22 yelling that the store was locked, that they had locked the
23 door. And basically eventually she did come out. And just
24 out of fear we just left.

25 Q Let me ask you this. Who is the man you saw shoot --

Crystal Vineta Miller
Direct examination by Mr. Barnette

1 A I saw --

2 Q -- Adrian?

3 A I saw Worm shoot him.

4 Q And is this the gentleman right here on the end that
5 you described earlier?

6 A Yes.

7 Q And Mr. Robbs. Do you see him in the courtroom here
8 today?

9 A Yes, I do.

10 Q Can you say what he's wearing, where he's located at,
11 ma'am?

12 A He's wearing the plaid black and white shirt, and he's
13 sitting at the far corner.

14 MR. BARNETTE: Okay. Your Honor, I'd like the record
15 to reflect that she has identified both defendants.

16 THE COURT: It shall.

17 BY MR. BARNETTE

18 Q Ma'am, going back, Worm was in your car. You saw him
19 at the party.

20 A Yes.

21 Q Did you ever see him have a gun?

22 A No, I did not.

23 Q He was in the back seat, because it was your car, is
24 that right?

25 A Yes, it -- yes, it was.

Crystal Vineta Miller
Direct examination by Mr. Barnette

1 Q Okay. You saw Brandon give him a coat.

2 A Yes, I did.

3 Q And you saw him give him a moped.

4 A Yes, I did.

5 Q And did -- before the shooting occurred did Mr. Robbs
6 go back -- or Robbs-Tanner go back into the store?

7 A Just before the shooting?

8 Q Yes, ma'am. Before, before the shooting --

9 A No, no.

10 Q Okay. Did he go back? Did he go in the store at some
11 point?

12 A He was trying to go to the -- in the store after the
13 shooting to get Amber out.

14 Q Okay. Did he go in to get a cigarette?

15 A I didn't see that, no.

16 Q Okay. Let me ask you this question, ma'am.

17 Let me show you State's Exhibit 1. Have you seen the
18 video of the outdoor part where the pump area was where you
19 were parked?

20 A Yes, I did.

21 Q Did that video fairly represent what you saw that
22 night?

23 A Yes. It was.

24 MR. BARNETTE: Your Honor, I'd like to publish or
25 enter State's Exhibit 1 into evidence at this time we can

Crystal Vineta Miller
Direct examination by Mr. Barnette

1 consider as camera eight, the outdoor camera.

2 MR. THOMPSON: No objection.

3 MS. JONES: Your Honor, we would object to it being
4 entered into evidence without the proper foundation being
5 laid -- where the video was taken from, the store, whether
6 or not it was kept -- where it was kept, whether or not it
7 was the regular course of business.

8 THE COURT: Is someone from the store going to
9 authenticate these videos?

10 MR. BARNETTE: We're going to have the store owner or
11 store manager, as well as the police officer that actually
12 took it off their system, Your Honor. And they were
13 present for it.

14 THE COURT: Okay. Well, I'm going to allow it to be
15 played subject to that authentication.

16 MS. JONES: Thank you, Your Honor.

17 (Video marked State's Exhibit No. 1.)

18 MR. BARNETTE: And, like I said, she's verified that
19 this is a fair representation, what she saw on this camera,
20 which is the outdoor camera, Your Honor.

21 THE COURT: Well, I know. But she can't authenticate
22 that video. She can look at it.

23 MR. BARNETTE: I understand. Can I play the outdoor
24 video for the jury?

25 THE COURT: You can.

Crystal Vineta Miller
Direct examination by Mr. Barnette

1 BY MR. BARNETTE

2 Q Ma'am, if you would, come down.

3 (Whereupon, the witness left the stand.)

4 (Whereupon, State's Exhibit No. 1 was shown to the
5 jury.)

6 Q Okay. Ma'am, whose car was that? Whose car is that
7 pulling up right there, ma'am?

8 A That's my car.

9 Q And who is this getting out of the front passenger
10 seat?

11 A Amber Rice.

12 Q Is she going into the store?

13 A Yes, sir.

14 Q Who is in the car with you?

15 A Dadrin Johnson -- Worm.

16 Q Is he in the back seat?

17 A Yes, he is.

18 Q Is this the victim, his car, pulling in?

19 A Yes, it is.

20 Q This is Mr. Edwards right here?

21 A Yes, sir.

22 Q And who is this, ma'am?

23 A That's Brandon Robbs.

24 Q Is he talking with y'all? And who is this right here?

25 A That's Worm.

Crystal Vineta Miller
Direct examination by Mr. Barnette

- 1 Q Okay. Did worm get out?
- 2 A Yes.
- 3 Q And he didn't have a coat on.
- 4 A No.
- 5 Q And who is this going over to the moped?
- 6 A Worm.
- 7 Q And where does Brandon go?
- 8 A He goes inside the store.
- 9 Q And where does Worm go?
- 10 A He goes over to the far corner.
- 11 Q And are you just sitting in the driver's side?
- 12 A Yes.
- 13 Q And Worm's over here?
- 14 A Yes.
- 15 Q Just waiting there.
- 16 A Yes, sir.
- 17 Q Who is in this one?
- 18 A That's Adrian.
- 19 Q Hold on for a second. Who is this right here?
- 20 A That's Brandon.
- 21 Q Okay. Who's right here?
- 22 A That's Adrian. I mean that's Worm.
- 23 Q All right. And Adrian is somewhere in here.
- 24 A Adrian, yes.
- 25 Q What's going on right over here?

Crystal Vineta Miller
Direct examination by Mr. Barnette

1 A When I looked back I saw Worm over there by his car
2 and Adrian getting ready to walk over towards him, looked
3 like he was about to shake his hand as he extended his hand
4 out to him. And that's when shots were fired.

5 Q And this is Brandon here.

6 A Yes.

7 Q What's happening now, ma'am?

8 A That's when he's firing off there shooting him. And
9 Brandon is yelling out call the police, call the ambulance.

10 Q This is Adrian right here?

11 A Yes.

12 Q And Worm is still shooting him or had been shooting
13 him?

14 A Had been shooting him, yes.

15 Q Did Worm leave on a moped?

16 A Yes, he did.

17 Q And this is Adrian right here?

18 A Yes.

19 Q And Amber is still inside the store?

20 A Yes, she is.

21 Q And let's stop and go back. Let me stop it there.

22 Now, this is Worm going over to the door?

23 A Yes.

24 Q And Brandon's still talking to you at the car?

25 A Yes, he is.

Crystal Vineta Miller
Direct examination by Mr. Barnette

- 1 Q And that's where he looked in the doorway and came
2 back this way?
- 3 A Yes, sir.
- 4 Q Is this Brandon getting the coat?
- 5 A Yes.
- 6 Q And who is putting the coat on?
- 7 A Worm.
- 8 Q And Worm drives over in this area.
- 9 A Yes.
- 10 Q And Brandon went inside.
- 11 A Yes.
- 12 Q Is this you coming out?
- 13 A Yes.
- 14 Q This is Brandon coming out now?
- 15 A Yes.
- 16 Q Worm was there?
- 17 A Yes, sir.
- 18 Q That's where you saw Adrian extend his hand?
- 19 A Yes.
- 20 Q This is where he shoots him, right there?
- 21 A Yes.
- 22 Q And he follows him?
- 23 A Yes.
- 24 Q If you would, ma'am, please have a seat.
- 25 (Whereupon, the witness returned to the stand.)

Crystal Vineta Miller
Cross-examination by Ms. Jones

1 Q Ma'am, you never saw Worm have a gun when he was in
2 your car?

3 A No.

4 Q And no question in your mind Adrian Johnson, Worm, as
5 well as Brandon Robbs, was there that night.

6 A Yes.

7 Q And the man that actually did the shooting was this
8 gentleman right here?

9 A Yes.

10 MR. BARNETTE: One moment, Your Honor, please.

11 (Pause.)

12 Q If you would, ma'am, please answer any questions. I
13 don't know which defense attorney will go first. One of
14 the defense attorneys will actually question you. Thank
15 you very much.

16 THE COURT: Ms. Jones.

17 MS. JONES: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MS. JONES

20 Q You indicated you were at a barbecue on October 9th,
21 is that correct?

22 A Yes.

23 Q And you and Amber were there, correct?

24 A Yes.

25 Q How many other people were at this party?

Crystal Vineta Miller
Cross-examination by Ms. Jones

1 A It was me; Amber; my cousin, Kidrick Sims; my uncle,
2 Michael Roseberg; his girlfriend; Big D; and Worm.

3 Q So about ten people.

4 A About, yeah, ten or less.

5 Q Okay. And Ms. Rice indicated she needed to go to the
6 store, correct?

7 A Yes.

8 Q To pay a phone bill.

9 A Yes.

10 Q Okay. And your testimony is today that Worm asked you
11 for a ride, correct?

12 A Yes.

13 Q To Winsmith Avenue, is that correct?

14 A Yes.

15 Q He didn't ask to go to Spurs.

16 A No.

17 Q Okay. To Winsmith Avenue.

18 A Yes.

19 Q Okay. And prior to the police interviewing you, you
20 didn't even know Worm's real name, correct?

21 A Exactly. Yes.

22 Q So y'all go to Spurs, correct?

23 A Yes.

24 Q Okay. And you're actually in the driver's seat and
25 you're facing forward, correct?

Crystal Vineta Miller
Cross-examination by Ms. Jones

1 A Yes.

2 Q A lot of this action is going on behind you, correct?

3 A Yes.

4 Q So it's your testimony today that you actually
5 happened to look in your rear-view mirror at the -- just
6 the perfect time. Is that your testimony today?

7 A No. My -- it is when he was leaving -- I tend to look
8 at people leave. So I looked back. And then I saw him
9 there at the far pump. And I saw Adrian extend his hand
10 out. And then after that shots rang. And then I saw him
11 coming around the back of Adrian's car and shooting him
12 while he's on the ground crawling. And he's shooting him.

13 Q Okay. And you didn't get out of the car, correct?

14 A No.

15 Q Okay. And, in fact, you started to drive off,
16 correct?

17 A Yes.

18 Q And not only that. You asked Brandon Ross to get
19 Amber from the store, correct?

20 A Yes.

21 Q Okay. You had a cell phone, correct?

22 A Yes, I did.

23 Q You didn't call 9-1-1, did you?

24 A No.

25 Q Okay. You didn't call an ambulance, did you?

Crystal Vineta Miller
Cross-examination by Ms. Jones

- 1 A No.
- 2 Q You just got the heck out of there, correct?
- 3 A Yes.
- 4 Q You went home, correct?
- 5 A Yes.
- 6 Q Again, you didn't call the police.
- 7 A No.
- 8 Q Did you? In fact, you didn't call the police and say,
- 9 uh-huh, I know who that guy is, it's some guy I know as
- 10 Worm, did you?
- 11 A No.
- 12 Q Didn't do anything.
- 13 A No.
- 14 Q In fact, it was the police who had to come and find
- 15 you, correct?
- 16 A Yes.
- 17 Q And one of the reasons why they found you is because
- 18 they traced the car to you, correct?
- 19 A Yes.
- 20 Q You own that car.
- 21 A Yes.
- 22 Q Now of course they want to talk with you about a
- 23 murder, correct?
- 24 A Yes.
- 25 Q And what you knew about it, correct?

Crystal Vineta Miller
Cross-examination by Ms. Jones

1 A Yes.

2 Q Probably thought you were involved, correct?

3 A Yes.

4 Q Okay. And, in fact, hasn't there been some discussion
5 that you could have been charged in this crime?

6 A Yes.

7 Q Okay. And they said but if you testify today you
8 might not get charged, is that correct?

9 A No.

10 Q Okay. Never had that discussion with the solicitor?

11 A No.

12 Q Never the -- the solicitor never mentioned once that
13 you could have been an accessory.

14 A No.

15 Q But you didn't call the police, did you?

16 A No.

17 Q You didn't want to be involved, correct?

18 A No.

19 Q You allegedly saw somebody got shot numerous, numerous
20 times crawling around on the ground, evidently still being
21 shot. It didn't bother you because you didn't call the
22 police, isn't that correct?

23 A No.

24 Q Isn't it true you just told the police what they
25 wanted to hear, that Worm was involved, and you just

Crystal Vineta Miller
Cross-examination by Ms. Jones

1 confirmed it?

2 A No.

3 Q Okay. In fact, they said this Worm is actually Mr.
4 Johnson, he's the triggerman, and that's what you need to
5 confirm for us, correct?

6 A No.

7 Q And you didn't want to go to jail because they had you
8 at that scene and they had you leaving that scene without
9 offering any assistance or calling the police. You didn't
10 want anything to do with that, correct?

11 A Yes.

12 Q So then you just said yes, sir, yes, sir, yes, sir.
13 Worm was the shooter. Yes, sir. His name is Mr. Johnson.
14 Yes, sir. You picked him out of a lineup. Yes, sir.

15 MR. BARNETTE: Objection, Your Honor. That's not a
16 fact that -- may we approach the bench?

17 (Bench conference held off the record in the presence
18 of the jury but out of the hearing of the jury.)

19 BY MS. JONES

20 Q So you agree with what the police were telling you,
21 correct, that that was Worm? That's the man you saw,
22 correct?

23 A I told them that was who I saw.

24 MS. JONES: Nothing further, Your Honor.

25 THE COURT: Mr. Thompson.

Crystal Vineta Miller
Cross-examination by Mr. Thompson

1 MR. THOMPSON: May it please the Court, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. THOMPSON

4 Q Crystal, where did you say you live?

5 A [REDACTED] Ernest L. Collins Avenue.

6 Q And Brandon Robbs is practically a neighbor, right,
7 lives very close to you?

8 A Yes, sir.

9 Q So it's not out of the ordinary that he would ask you
10 for a ride home, correct?

11 A No, not out of the ordinary.

12 Q Okay. And when he pulled up, you testified that you
13 said, hey, Brandon. You called him over to the car, right?

14 A Yes.

15 Q And the solicitor, she misspoke in her opening, didn't
16 she? She said Brandon went straight to Worm, didn't she?
17 Put that wasn't the case, was it?

18 A No, sir.

19 Q He went straight to your passenger window to talk to
20 you, didn't he?

21 A Yes.

22 Q And would you -- and I've been through these tapes
23 5,000 times. And would you believe that he was over there
24 at least 34 seconds before he ever spoke to Worm? Does
25 that seem -- would that be about accurate for you?

Crystal Vineta Miller
Cross-examination by Mr. Thompson

1 A Yes.

2 Q Okay. And how close does he live? Does he live
3 within walking distance from your house?

4 A Yes.

5 Q Okay. And had you given him rides in the past?

6 A Just like to the store and then back.

7 Q Okay. And then Spur is the local community store,
8 correct?

9 A Yes.

10 Q Okay. So it's not unusual for Brandon to go to Spur,
11 correct?

12 A Not unusual, no, sir.

13 Q Okay. And everybody -- if you go to that store, you
14 know that store is wired with cameras everywhere, right?

15 A Yes, sir.

16 Q And anybody that frequents that store is going to know
17 that.

18 A Yes.

19 Q Okay. And you're familiar with that neighborhood. If
20 somebody's going to pass a moped and a coat and a gun,
21 they're going to do it right there in front of the light,
22 or are they going to do it somewhere else?

23 A Probably somewhere else.

24 MR. BARNETTE: Objection, Your Honor. Asks for
25 speculation of that witness.

Crystal Vineta Miller
Cross-examination by Mr. Thompson

1 THE COURT: Sustained.

2 BY MR. THOMPSON

3 Q Are there other areas in that -- in that neighborhood
4 not as well-lit as Spur?

5 A Probably. I don't know.

6 Q And then Crystal -- you stated that you were on the
7 phone when you pulled up, correct?

8 A Yes.

9 Q Were you talking or texting?

10 A Texting.

11 Q And you were talking to Worm, correct?

12 A Yes.

13 Q And you gave a statement to the police the next day,
14 right --

15 A Yes.

16 Q -- when this thing was fresh on your mind, correct?

17 A Yes.

18 Q And Worm asked you to take him where?

19 A He told me to take him to Winsmith.

20 Q To Winsmith, that's right. Correct?

21 A Yes.

22 Q Okay. And so did he ever tell you to go to Spur?

23 A No.

24 Q Okay. No further questions Crystal. Thank you.

25 MR. BRANNON: Your Honor, a couple on redirect.

Crystal Vineta Miller
Redirect examination by Mr. Barnette

1 THE COURT: Okay.

2 REDIRECT EXAMINATION

3 BY MR. BARNETTE

4 Q You may not know Mr. Johnson's name. Did you know
5 Worm?

6 A Yes.

7 Q How long had you known Worm?

8 A Probably up to maybe a year. But that's all I knew
9 him as, is Worm. I never knew his real name.

10 Q Okay. But you'd known him before, knowed who he was.

11 A Yes.

12 Q You wouldn't just give a ride to a complete stranger
13 in your car, would you?

14 A No.

15 Q As a matter of fact, Ms. Jones asked you about a
16 lineup. Did you pick both of these individuals out of
17 lineups?

18 A Yes, I did.

19 (Lineups marked State's Exhibits Nos. 36 and 37 for
20 Identification. State's Exhibit No. 36 later changed to
21 State's Exhibit No. 36-A.)

22 Q Let me show you these, Ms. Miller. Is these two
23 lineups that was shown to you by the department of public
24 safety or Spartanburg Public Safety, ma'am?

25 A Yes.

Crystal Vineta Miller
Redirect examination by Mr. Barnette

1 Q And in these lineups did you pick out in State's
2 Exhibit No. 36? Did you pick out Mr. Johnson as being the
3 shooter in this case -- or Worm?

4 A Yes, I did.

5 Q And State's Exhibit 37. Did you pick out Mr. Robbs as
6 being the man that gave him the moped and the jacket?

7 A Yes, I did.

8 MR. BARNETTE: Your Honor, I'd like to enter these
9 into evidence at this time.

10 MR. THOMPSON: Your Honor, I'm going to object to
11 Mr. Robbs' photo lineup coming in. He's been identified as
12 a neighbor. I think that's enough.

13 MR. BARNETTE: The only reason I'm offering these,
14 Your Honor, is the question came from the defense that
15 she'd never picked them out of a lineup and obviously --

16 THE COURT: Well, they came from Mr. Johnson's lawyer.
17 Let me see y'all just a minute.

18 (Bench conference held off the record in the presence
19 of the jury but out of the hearing of the jury.)

20 THE COURT: All right. Exhibit 36 is the lineup that
21 relates to Mr. Johnson, is that true?

22 MR. BARNETTE: That's correct, 36 is.

23 THE COURT: And 37 relates to Mr. Robbs.

24 MR. BARNETTE: And I'll withdraw it, Your Honor,
25 because they're -- they're not challenging that.

Crystal Vineta Miller
Redirect examination by Mr. Barnette

1 Thirty-seven I will withdraw, Your Honor. I'll just leave
2 that as an exhibit --

3 THE COURT: All right. Exhibit No. 36 is admitted
4 without objection; 37 is withdrawn.

5 (Lineup marked State's Exhibit No. 36.)

6 MR. BARNETTE: What I'll do, Your Honor, I'll make
7 that qualification.

8 THE COURT: All right, sir.

9 BY MR. BARNETTE

10 Q Ms. Miller, you picked out both people out of the
11 lineups, is that right?

12 A Yes.

13 Q And there's no question these two men was the men that
14 was there that night.

15 A Yes.

16 MR. BARNETTE: One moment, Your Honor, please.

17 (Pause.)

18 Q Thank you, ma'am.

19 THE COURT: Step down. Thank you.

20 MR. BARNETTE: We'd ask that this witness be excused,
21 Your Honor.

22 THE COURT: Any objection? She may be.

23 MS. JONES: No.

24 MR. THOMPSON: None from Robbs, Your Honor.

25 (Whereupon, the witness was excused.)

Amber Alease Ann Rice
Direct examination by Mr. Barnette

1 MR. BARNETTE: Your Honor, I'd like to call Amber Rice
2 to the stand please.

3 AMBER ALEASE ANN RICE, having
4 been first duly sworn, testified as follows:

5 DIRECT EXAMINATION BY MR. BARNETTE

6 Q If you will, ma'am, please state your full name for
7 the record.

8 A Amber Alease Ann Rice.

9 Q Ma'am, if you would, speak up --

10 A Amber Alease Ann Rice.

11 Q -- so they can all hear you. Okay. Make sure.

12 Where do you live at, Ms. Rice?

13 A [REDACTED] Anderson Drive.

14 Q Back on October 9th of 2009, where was you living at
15 that time?

16 A [REDACTED] South Converse Street on the corner of Ernest L.
17 Collins and South Converse.

18 Q Did you have a party that night, ma'am?

19 A Uh-huh.

20 Q And who was at your party, ma'am?

21 A A little bit of everybody -- me and my boyfriend, his
22 family, Worm, a couple of my friend-girls, a couple of
23 people from the neighborhood.

24 Q Okay. Was Crystal there too?

25 A Poo. I went down the street and got Poo myself, yeah.

Amber Alease Ann Rice
Direct examination by Mr. Barnette

- 1 Q Her nickname is Poo?
- 2 A Uh-huh.
- 3 Q Okay. And that's Crystal Miller.
- 4 A Uh-huh.
- 5 Q Okay. You said Worm.
- 6 A Uh-huh.
- 7 Q How long have you known Worm?
- 8 A Been knowing Worm for about five or six years. I went
- 9 to school with him and Brandon.
- 10 Q Okay. So you went to school with both of them. Where
- 11 did you go to school with them at?
- 12 A McCracken and Carver.
- 13 Q Okay. And you said Worm was at the party.
- 14 A Uh-huh.
- 15 Q Do you see him here in the courtroom, ma'am? Can you
- 16 point at him and describe what he's wearing, ma'am?
- 17 A White shirt and black tie.
- 18 Q Okay. Is he sitting -- which end of the table is he
- 19 sitting on? Would you point where he's at?
- 20 A Over there to my -- is it the right?
- 21 Q Be to your -- be the table, right. It's to your left,
- 22 is that right?
- 23 A Yeah.
- 24 Q And did y'all go somewhere that night?
- 25 A I asked Crystal to take me to Spur so I could pay my

Amber Alease Ann Rice
Direct examination by Mr. Barnette

1 phone bill before they closed, because my phone bill was
2 due on the 9th, and it was the 9th, and it had to be paid
3 that night. And they close at 10:00.

4 Q Okay. And did she drive her car?

5 A She walked down the street and got her car, but she
6 didn't drive her car up the street because she stay like
7 three houses down from me. So she walked and she got her
8 car.

9 So when she pulled up I got in the passenger seat. I
10 didn't know where I was riding. And worm opened up the
11 back door and he got in. I mean, that's normal, you know,
12 him getting a ride somewhere. It's, you know, not
13 abnormal.

14 Q Did you see him have a gun on him or anything?

15 A No. He just had on a t-shirt and jeans.

16 Q And did y'all go to, I guess, the Spur, the Quick
17 Stop?

18 A Uh-huh.

19 Q And can you tell the jury what happened once you got
20 there, ma'am, once y'all got there?

21 A We pulled up, and I got out the car and I went in the
22 store. And that's all I can tell you.

23 Q Okay. And who -- and Worm was in the back seat when
24 you went into the store?

25 A Uh-huh. Work was in there. It was just me. Poo was

Amber Alease Ann Rice
Direct examination by Mr. Barnette

1 driving and I was in the passenger seat and Worm was in the
2 back seat.

3 Q When you went into the store did you see Brandon Robbs
4 come in later --

5 A Yeah.

6 Q -- in the store?

7 A Yeah.

8 Q So he was there. You saw him there yourself.

9 A Uh-hum.

10 Q And then while you was in the store did you see Adrian
11 Edwards?

12 A Yes, sir.

13 Q Did you know him or saw him?

14 A Yes. I learned about Adrian because I worked at
15 Spurs. So he came in Spurs two or three times a day.

16 Q So that was a normal place for him to come.

17 A Yeah. For Worm, Brandon, Adrian, everybody. I mean,
18 I worked there for about six or seven months. And I would
19 see them two or three times a day at least, if not more.

20 Q So you'd see -- you saw all three. You saw Adrian
21 Edwards, the victim --

22 A Uh-huh.

23 Q -- in the store before when you worked there. And you
24 saw Worm in that store before where you worked at.

25 A Uh-huh.

Amber Alease Ann Rice
Direct examination by Mr. Barnette

1 Q And you also saw Brandon in there.

2 A Uh-huh.

3 Q So Brandon and Adrian came in the store while you was
4 in there.

5 A Uh-huh.

6 Q After they left the store, what happened then?

7 A We heard gunshots from inside the store.

8 Q And what did you do, ma'am?

9 A And Sonny -- that's the owner -- he walked over and he
10 locked the door, and he wouldn't let us out.

11 And when the -- and a man ran up to the door and told
12 me to open up the door and let his wife out. I told him
13 no. You see Poo and Brandon telling me to come on, and I'm
14 telling them no. I'm not running out because I didn't know
15 who was shooting or, you know, what was going on.

16 So when the police pulled up, that's when I finally
17 opened up the door, and I walked outside and I thought Poo
18 had left. I didn't know -- I didn't know that was Brandon
19 in the back seat. I thought that it was Worm in the back
20 seat, and Poo still, still telling me. I didn't know that
21 was Brandon in the back seat until we got like past the
22 swim center. And then I realized that that wasn't Brandon,
23 I mean, that that, that wasn't Worm, it was Brandon in the
24 back seat. And I got in the car, and we left.

25 Q But you definitely saw Brandon. And can you tell me

Amber Alease Ann Rice
Direct examination by Mr. Barnette

1 what Brandon's wearing today, the man you saw in the store?

2 A Black and white plaid shirt.

3 Q And where is he located at?

4 A Sitting on the -- right-hand side of the table.

5 MR. BARNETTE: Your Honor, I would let the reflect --
6 ask the record reflect both defendants have been
7 identified.

8 THE COURT: It shall.

9 Q And you didn't call the police.

10 A No. I didn't know exactly what had happened because I
11 was in the store. I heard. I heard a man. And now that I
12 seen the video, it was Brandon saying call the police
13 outside. And the man had came up to the door. He said
14 call the police, there's been a man shot out here.

15 At that time, that's when Kia -- she was the other
16 cashier -- she was already on the phone calling the police.
17 So the police, they were being called.

18 Q But the man that was in the back seat of the car when
19 you first got there was who?

20 A Was Worm, yes, sir.

21 Q And you didn't see a gun on him.

22 A No, sir.

23 Q And he was just wearing a t-shirt and jeans?

24 A T-shirt and jeans.

25 MR. BARNETTE: One moment, Your Honor, please.

Amber Alease Ann Rice
Cross-examination by Ms. Jones

1 (Pause.)

2 Q Please answer any questions the defense attorneys may
3 have for you, ma'am. Thank you.

4 CROSS-EXAMINATION

5 BY MS. JONES

6 Q You were having a barbecue at your house, is that
7 correct?

8 A Yes.

9 Q And had this barbecue already happened or were you
10 just -- it was still ongoing?

11 A It was in the process. We were still in the kitchen
12 cooking for it. We had two, two grills cooking food. It
13 was in the process of getting started.

14 Q Okay. So you left all of that food cooking while you
15 went to Spurs, is that correct?

16 A Yes. And actually I wasn't cooking food. I had
17 people in the kitchen cooking for me, and people on the
18 grill. So I didn't have to cook.

19 Q Okay. And your testimony today is that Worm was in
20 the back seat, is that correct?

21 A Uh-huh.

22 Q Did you ever hear anybody ask to go to Spurs other
23 than Crystal Miller?

24 A No. I was the one that had to go to Spurs.

25 Q I'm sorry. Yeah. Anybody else ask to go to Spurs?

Amber Alease Ann Rice
Cross-examination by Ms. Jones

1 A No.

2 Q Okay. So as far as you knew you were the one who had
3 to go and pay your phone bill, correct?

4 A Uh-huh.

5 Q Okay. You got out of the car, correct?

6 A Uh-huh.

7 Q You went in and paid your bill, correct?

8 A Uh-huh.

9 Q And then at some point you get locked in, in the
10 convenience store, correct?

11 A Uh-huh.

12 Q And at some point you get let out, is that correct?

13 A Uh-huh.

14 Q And, in fact, you don't get into Crystal Miller's car
15 right away, correct?

16 A Yes, I do. I leave out the store and go straight to
17 her car.

18 Q You don't recall kind of standing around --

19 A No.

20 Q -- on the side of the road?

21 A No.

22 Q Mr. Brandon Robbs-Taylor -- or he's standing there
23 with you. And I think Crystal Miller also gets out of the
24 car. And y'all stand there for a while before you get back
25 in the car and leave.

Amber Alease Ann Rice
Cross-examination by Ms. Jones

1 A When the police pulled up, yeah. The police were
2 outside, yeah. And, and it was a couple of more people
3 standing outside.

4 Q Okay. And, in fact, you and Brandon and Crystal were
5 all standing there for a few minutes before you got back
6 into the car and left.

7 A Yeah.

8 Q Okay. That's correct? Do you remember that now?

9 A Yeah, I remember that now, but I didn't realize that
10 was Brandon at the time standing over there. It was dark
11 over there. You really can't see on that side of the
12 building.

13 Q He's standing right next to you. You don't remember
14 that?

15 A He was -- I remember Poo standing right next to me.

16 Q You don't remember Brandon standing next to you?

17 A No. I realized Brandon was in the car when we got
18 half way down the street.

19 (Whereupon, the video was played for the jury.)

20 Q Ms. Rice, is that you in the green?

21 A Yeah.

22 Q So you're not getting in the car right away, isn't
23 that correct?

24 A Okay, yeah.

25 Q And is that Ms. Miller in the white?

Amber Alease Ann Rice
Cross-examination by Ms. Jones

1 A Uh-huh.

2 THE COURT: Excuse me just a minute.

3 Ms. Rice, when you respond to a question -- I know
4 you're looking at that video, and that's fine. You watch
5 the video. But when you respond to a question you need to
6 turn and speak into the microphone.

7 THE WITNESS: Yes, sir.

8 THE COURT: And if your answer is, yes, please say
9 yes. If your answer is no, please say no, rather than
10 uh-huh and uh-uh.

11 BY MS. JONES

12 Q At that point, is that when y'all get into the car --

13 A Yes.

14 Q -- and go?

15 A Yes.

16 Q And, again, you don't stop and try and offer any
17 assistance, talk with the police.

18 A No.

19 Q And you get back to your house. Again, you're not
20 calling the police, correct?

21 A No. The police were already there.

22 Q When you came, when you got home?

23 A When I got in the car, when I came out of the store.
24 I didn't come out of the store until the police arrived.

25 Q That's right. But, but you didn't stay on scene to

Amber Alease Ann Rice
Cross-examination by Ms. Jones

1 indicate what you'd saw or anything like that.

2 A I hadn't seen anything.

3 Q You and Crystal and Brandon got in the car and went
4 back to your house, isn't that correct?

5 A I hadn't seen anything. All I heard, that's the only,
6 that's the only thing I did. I heard gunshots.

7 Q But you three got into the car --

8 A Uh-huh.

9 Q -- and went to your house, correct?

10 A Uh-huh.

11 Q Okay. And, again, nobody's getting on their cell
12 phone and calling 9-1-1, correct?

13 A The police were there. I was in the store while she
14 was calling the police. I stayed at the store until the
15 police arrived, and then I left.

16 Q Okay. But you went home.

17 A Yeah.

18 Q Okay. You, Crystal and Brandon at some point arrived
19 at your house, correct?

20 A Yeah.

21 Q Okay. And at that point in time Crystal didn't call
22 the police, correct?

23 A Uh-uh.

24 Q And you certainly didn't pick up the phone and call
25 the police, correct? But people were already calling you,

Amber Alease Ann Rice
Cross-examination by Ms. Jones

1 isn't that correct?

2 A Uh-uh.

3 Q And at some point the police came to your house,
4 correct?

5 A Uh-huh.

6 Q And they took you down --

7 A Yes, ma'am.

8 Q And they took you down to the police station, correct?

9 A Yes.

10 Q Okay. And, again, did they tell you you could have
11 been an accessory to murder?

12 A No.

13 Q Okay. Were you aware that you could be charged with
14 potentially aiding and abetting or helping out in this
15 murder?

16 MR. BARNETTE: Your Honor, I'm going to object.
17 That's asking for pure speculation on that question.

18 THE COURT: Sustained.

19 BY MS. JONES

20 Q When you talked with the solicitor -- how many times
21 have you talked with the solicitor in preparing for this
22 case?

23 A Probably about twice.

24 Q Two times you've interviewed. And did they ever
25 indicate that you could be charged in this case?

Amber Alease Ann Rice
Cross-examination by Mr. Thompson

1 A No.

2 Q So you don't think that you could have been charged or
3 anything bad could have happened, correct?

4 A Yes, that's correct.

5 Q You didn't think you did anything wrong.

6 A No, I didn't.

7 MS. JONES: Nothing further.

8 THE COURT: Mr. Thompson.

9 MR. THOMPSON: May it please the Court, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. THOMPSON

12 Q Amber, I've got just a few questions.

13 You're the one that needed to go to Spur, correct?

14 A Yes, sir.

15 Q Did you ever hear Worm or Mr. Johnson indicate he
16 needed to go somewhere -- to Poo?

17 A No, sir. All I know is when Poo pulled up he got in
18 the back seat, and she said she was dropping him off on the
19 way.

20 Q Okay. And you went to Spur to pay your phone bill,
21 correct?

22 A Yes, sir.

23 Q Okay. And did you go there to buy anything else?

24 A I was going to get some fluid for the grill, but I
25 called my boyfriend, and he told me that we didn't need it.

Amber Alease Ann Rice
Cross-examination by Mr. Thompson

- 1 So I ended up putting that back.
- 2 Q Okay.
- 3 A And just paid my phone bill.
- 4 Q So when you were inside the store you did make a call.
- 5 A From the store phone.
- 6 Q Okay.
- 7 A Because I didn't have a cell phone. And I was going
- 8 to pay my house phone bill.
- 9 Q Okay. And where was your cell phone at that time?
- 10 A I didn't have one.
- 11 Q You didn't have one?
- 12 A No.
- 13 Q So you were just paying the house phone bill.
- 14 A Yeah.
- 15 Q Okay. And did, did you make a second call from that
- 16 store?
- 17 A No.
- 18 Q Just talked to your boyfriend that one time?
- 19 A Uh-huh.
- 20 Q Okay. And then -- now, Poo testified that Brandon
- 21 lives pretty close to her. Do you live in that -- were you
- 22 living in that same neighborhood at that time?
- 23 A Yes, sir.
- 24 Q And was she accurate that he did, in fact, live quite
- 25 close to her?

Amber Alease Ann Rice
Cross-examination by Mr. Thompson

1 A Yes, sir.

2 Q Okay. And you also testified that it was not uncommon
3 to see Brandon come to that store two or three times a day.

4 A Not at all.

5 Q Okay. And your testimony is that you never even saw
6 Brandon pull up on a moped, right?

7 A No, sir.

8 Q Okay. But to your recollection he had on a bright,
9 white t-shirt that night, correct?

10 A Yes, sir.

11 Q Okay. And do you recall at one point when you were in
12 that store when Brandon came in and bought cigarettes?

13 A Yeah.

14 Q Okay. And do you remember when he left that he kind
15 of clowned around with you? Do you recall that?

16 A I don't know, I mean, because me Brandon -- me and
17 Brandon were -- all of us are cool, you know. I mean, we
18 all play around and joke around. If he did, I mean, that's
19 not out of the norm for him, you know. We all, we just
20 joke and play and hit each other, got jokes. You know, if
21 he did that, would be okay, fine, with me.

22 Q That's something he had done before, right?

23 A Uh-huh.

24 Q Okay. And then at -- you said the -- someone in the
25 store had already called the police, right?

Amber Alease Ann Rice
Cross-examination by Mr. Thompson

- 1 A Kia.
- 2 Q And then the store owner ran over and locked the door,
3 correct?
- 4 A He had already locked the door, and then she called
5 the police.
- 6 Q And when you -- did you hear the gunshots?
- 7 A Uh-huh.
- 8 Q Did you have any idea what was going on?
- 9 A None.
- 10 Q Okay. On the way over there did you hear any talk
11 from Worm about anything like that?
- 12 A No, sir.
- 13 Q Okay. Well, did you -- did he get on the phone at any
14 time, do you recall?
- 15 A He didn't have his cell phone.
- 16 Q Didn't have a cell phone. Okay. And how do you know
17 that?
- 18 A Because Worm hadn't had his phone in like months.
- 19 Q Okay. And do you remember when you were interviewed
20 by the police the day after or that night, correct?
- 21 A Yes, I do.
- 22 Q And you made some statements about Worm never had a
23 phone, right?
- 24 A Uh-huh.
- 25 Q And he struggled, correct, as a lot of children?

Amber Alease Ann Rice
Redirect examination by Mr. Barnette

1 A Uh-huh, yes, sir.

2 Q Okay. And you don't recall him talking to anybody on
3 the way over to the Spur.

4 A No.

5 Q Calling.

6 A Or at the cookout.

7 Q Or at the cookout?

8 A He wasn't talking to nobody. I fixed him a plate. He
9 ate. Everybody started eating. But we were still cooking,
10 because I had like -- I had like ten more people coming and
11 stuff. And he was getting dropped off on Winsmith.

12 Q Okay.

13 MR. THOMPSON: I have no further questions.

14 MR. BARNETTE: Just one or two on redirect, Your
15 Honor.

16 REDIRECT EXAMINATION

17 BY MR. BARNETTE

18 Q You was in the store when this happened. So you don't
19 know what exactly happened out in the parking lot, do you?

20 A No, sir.

21 Q And you didn't have anything to tell the police
22 because you don't know who was involved at that time if you
23 was in the store.

24 A That's true.

25 Q And when the police came did you cooperate and tell

Christopher Michael Layton
Direct examination by Ms. Gallivan

1 them?

2 A Yes, sir.

3 Q Did they come and talk to you and you just told them
4 exactly what happened?

5 A Yes, sir.

6 MR. BARNETTE: No further questions, Your Honor.

7 THE COURT: You may step down.

8 MR. BARNETTE: We'd ask for this witness to be
9 excused, Your Honor.

10 THE COURT: She may be.

11 (Whereupon, the witness was excused.)

12 MS. GALLIVAN: The state calls Christopher Layton.

13 CHRISTOPHER MICHAEL LAYTON,
14 having been first duly sworn, testified as follows:

15 DIRECT EXAMINATION BY MS. GALLIVAN

16 Q Officer Layton, if you would, state your full name for
17 the record.

18 A Christopher Michael Layton.

19 Q Where are you currently employed?

20 A Spartanburg Public Safety Department.

21 Q How long have you been with the public safety?

22 A A little over four years.

23 Q Do you have any previous law enforcement experience?

24 A I do not.

25 Q Were you employed in your present capacity on

Christopher Michael Layton
Direct examination by Ms. Gallivan

1 October 9th of 2009?

2 A I was.

3 Q Can you describe your position?

4 A I am currently assigned to the violent crimes task
5 force, and we respond to any calls regarding shootings,
6 stabbings, anything violent against people.

7 Q Okay. On that day, October the 9th of 2009, did you
8 respond to a call at 496 South Church Street?

9 A I did.

10 Q What was that call in reference to?

11 A It was in reference to a shoots-fired at the gas
12 station.

13 Q Were -- how long did it take you to respond to that
14 call?

15 A Approximately two to three minutes, I would say.

16 Q Okay. So you were in the area?

17 A We were on South Hampton Drive.

18 Q Did you hear the shots that night?

19 A We did.

20 Q How -- is the location where you responded in
21 Spartanburg County?

22 A It is.

23 Q Can you describe what you observed once you arrived on
24 the scene?

25 A Once I arrived on the scene I observed an unknown

Christopher Michael Layton
Direct examination by Ms. Gallivan

1 individual laying face down on the ground. Myself and
2 Officer Morrow went to render aid. He told me to go back
3 to the car and get the first aid kit and to bring it to him
4 and then secure the area by roping it off.

5 Q Okay. So you did observe the victim?

6 A I did.

7 Q Did you -- can you describe his condition?

8 A He was unresponsive, unconscious.

9 Q Did you see any weapons or guns or anything of that
10 nature on or around the victim?

11 A I did not.

12 Q What were your general duties at the crime scene?

13 A I took the -- I roped off the crime scene, took the
14 initial report, and then I observed video inside the gas
15 station.

16 Q Okay. What did you observe on the video?

17 A I observed a gold in color car pull up to pump No. 2
18 with an unknown black female getting out and going inside
19 the store. Then I observed an unknown black male get out
20 of the back passenger seat of the vehicle.

21 A few minutes after that a black male on a black moped
22 pulled up, traded jackets. And the -- once they traded
23 jackets the one wearing the black jacket got back on the
24 moped, went around to the outside of the pumps and waited
25 on the victim to come out of the store and then began

Christopher Michael Layton
Direct examination by Ms. Gallivan

1 shooting.

2 Q Okay. Were you able to identify the owner of the gold
3 vehicle on the video?

4 A Amber Rice.

5 Q How were you able to identify the driver?

6 A The clerk that was working in the store told us who
7 the vehicle belonged or who -- that the girl used to work
8 at the store and she lived on South Converse.

9 Q So the store clerk identified one of the girls that
10 had been in the vehicle?

11 A Yes. That's correct.

12 Q Okay. Did you follow up on that lead?

13 A We did. We went back to city hall, ran the name
14 through N.C.I.C. And once I had got the name through
15 N.C.I.C. it gave me the driver's license number, which I
16 then ran through internet, and gave me an address of [REDACTED]
17 South Converse Street in Spartanburg.

18 Q Okay. And that was the address for Amber Rice.

19 A That's correct.

20 Q What did you do once you got that address?

21 A Myself and members from my team went to that address
22 to attempt to locate her and the vehicle.

23 Q Were you able to locate Amber Rice?

24 A Yes.

25 Q Were you able to locate the vehicle?

Christopher Michael Layton
Direct examination by Ms. Gallivan

1 A Yes.

2 Q What did you do once both Ms. Rice and the vehicle
3 were located?

4 A I secured the vehicle, along with Sergeant Hillers,
5 until Ace Towing came and got the vehicle and took it back
6 to the impound lot.

7 Q Okay.

8 A She was sent to city hall to speak with
9 investigations.

10 Q Ms. Rice was. Okay. What did else did you do to
11 assist in the investigation of this case?

12 A I also spoke to Mr. O'Neal Edwards and got a consent
13 to search form for the victim's vehicle and searched the
14 vehicle and identified anything inside of it.

15 Q Okay. So you didn't find anything of interest in the
16 vehicle?

17 A No, ma'am.

18 Q No weapons or guns of any kind found in the vehicle's
19 vehicle?

20 A Nothing.

21 Q Was that -- does that summarize your investigation and
22 involvement in this case?

23 A It does.

24 MS. GALLIVAN: Beg the Court's indulgence, Your Honor.

25 (Pause.)

Christopher Michael Layton
Cross-examination by Ms. Jones
Cross-examination by Mr. Thompson

1 Q Is the location where you responded in the city of
2 Spartanburg?

3 A It is.

4 Q Please answer any questions defense may have.

5 CROSS-EXAMINATION

6 BY MS. JONES

7 Q Just very briefly. The gold colored car that you
8 observed at the scene where Amber Rice got out of, were you
9 the officer who determined that that car, in fact, belonged
10 to Crystal Miller?

11 A No, ma'am.

12 Q Are you aware through the police investigation that
13 that car belonged to Crystal Miller?

14 A No, ma'am.

15 MS. JONES: Nothing further.

16 MR. THOMPSON: May it please the Court, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. THOMPSON

19 Q Officer Layton, you, you were one of the first
20 officers on the scene, correct?

21 A That's correct.

22 Q And you make out these police reports, right?

23 A Yes, sir.

24 Q You're looking at. I'll show you this one just to
25 refresh your memory.

Christopher Michael Layton
Cross-examination by Mr. Thompson

1 How many times did you view that tape?

2 A I viewed it at the store.

3 Q One time?

4 A Yes.

5 Q Okay. Is that your report there?

6 A It is.

7 Q Okay. And on your report you stated that -- on page
8 two, "Video shows an unknown black male wearing a black New
9 York Yankees' hat and white t-shirt get out of the back
10 seat and go into the store," right? Was that a person from
11 the gold Camry or from another car?

12 A Where do you see that again?

13 Q The, the last word here "the" and then the first
14 sentence. You stated that -- the last sentence on the last
15 line, you say, "The victim pulls up to pump three a short
16 time after and goes in the store." And then you said, "The
17 video shows an unknown black male wearing a black New York
18 Yankees' hat and white t-shirt get out of the back seat and
19 go into the store." What back seat did he get out of?

20 A I believe that was the back passenger seat.

21 Q Of the Camry or of the victim's car?

22 A The Camry.

23 Q Camry. Okay. And you said he had on a white t-shirt?

24 A Yes.

25 Q Okay. And then reading on, now, you state -- you

Christopher Michael Layton
Cross-examination by Mr. Thompson

1 state here another black male wearing a black shirt gets
2 out of the back passenger side of the vehicle. "He stayed
3 inside the parking lot until a black moped, unknown make or
4 model, pulls up with an unknown black male wearing a dark
5 hooded jacket, fur collar, pulls up and goes over to the
6 gold car and gets in, the unknown subject wearing the black
7 t-shirt and the black hooded jacket."

8 All right. It happened happen exactly that quick, did
9 it?

10 A I believe it took a few minutes.

11 Q Okay. Yeah. It took a little while, for the moped
12 pulls up. And, in fact, he goes and talks to the girl in
13 the car, right?

14 A I'm not sure.

15 Q He didn't go over there immediately and they switch
16 out a jacket and take off from there. Do they?

17 A I don't recall.

18 Q Okay. All right. And who, who do you give this
19 narrative to when you, when you fill this out?

20 A It gets submitted to, through R.M.S. or through
21 N.C.I.C. or R.M.S. to the supervisor to be approved.

22 Q Okay. And then with the ultimate goal of, of getting
23 a warrant signed hopefully, correct?

24 A With the goal of getting a warrant signed.

25 Q Okay. So you, you're -- you watched the tape one

Christopher Michael Layton
Cross-examination by Mr. Thompson

1 time, correct?

2 A Yes.

3 Q And, and then you went back and made this report based
4 on your memory of the events, correct?

5 A That's correct.

6 Q And-but you would agree that that's not totally
7 accurate, what you put in there, that there was some time
8 that went by between these folks interactions, correct?

9 A I believe there were a few minutes.

10 Q Okay, okay. And then you said you roped off the
11 scene, correct?

12 A That's correct.

13 Q Do you remember? You said it took you three minutes
14 to get there.

15 A Approximately.

16 Q Okay. And you heard the shots?

17 A We did.

18 Q Where were you at when you heard the shots?

19 A South Hampton Drive.

20 Q Where is that in proximity to --

21 A That's in the Hampton Heights neighborhood, probably
22 rough guessing another two to three hundred yards behind
23 the gas station.

24 Q That's behind it, back towards, I guess, the arts
25 center? Is that back there somewhere or --

Michael Shane Morrow
Direct examination by Mr. Barnette

1 A The arts center is off Spring Street.

2 Q Spring Street. Okay. It's back towards Spring
3 Street?

4 A Hampton Heights is a little bit closer to -- or South
5 Hampton Drive is a little bit closer to the same block.

6 Q I have no further questions. Thank you.

7 MS. GALLIVAN: No redirect, Your Honor.

8 THE COURT: You may step down.

9 MS. GALLIVAN: We ask that this witness be excused,
10 Your Honor.

11 THE COURT: He may be.

12 (Whereupon, the witness was excused.)

13 MR. BARNETTE: Your Honor, I'd like to call Officer
14 Morrow to the stand.

15 MICHAEL SHANE MORROW, having
16 been first duly sworn, testified as follows:

17 DIRECT EXAMINATION BY MR. BARNETTE

18 Q If you would, sir, please give your full name for the
19 record.

20 A My name is Michael Shane Morrow.

21 Q And where do you work at, sir?

22 A City of Spartanburg.

23 Q And how long have you been there, sir?

24 A Seven and a half years.

25 Q And what is your current position, sir?

Michael Shane Morrow
Direct examination by Mr. Barnette

1 A Assigned to the violent crime task force.

2 Q Was you on that task force back in October of 2009?

3 A Yes, sir.

4 Q Back in October of 2009, was you working that day,
5 that evening, sir?

6 A Yes.

7 Q Where was you working at, sir?

8 A I was working at the Hampton Heights area patrolling.

9 Q And was any other officer with you?

10 A Officer Layton.

11 Q As you was working that area did you hear something?

12 A Yes. I heard gunfire.

13 Q And shortly after that did y'all receive a call?

14 A Yes.

15 Q And where was that call located at, sir?

16 A 496 South Church Street, which is the Quick Stop.

17 Q And is that in the city of Spartanburg?

18 A It is.

19 Q And is that in Spartanburg County?

20 A Yes, sir.

21 Q Tell the jury. Once you arrived there what did you
22 see, sir?

23 A Pulled upon the scene. Dispatch of course advised
24 that there was a man down, been shot. Pulled up on the
25 scene. As soon as I pull up I see a gentleman laying face

Michael Shane Morrow
Direct examination by Mr. Barnette

1 down unconscious and unresponsive.

2 I told my officer head back, go back and get the first
3 aid kit and maybe I can render some aid. And then he went
4 and roped off the scene. And E.M.S. arrived and --
5 later -- and transported the victim.

6 Q Did you go down and look at the victim initially?

7 A I did.

8 Q And what was your opinion once you look at him closer?

9 A He was far gone. He was very unresponsive. After I
10 talked to him he wasn't responding. He -- I couldn't see
11 any life in his body.

12 Q And had he been shot?

13 A Yes.

14 Q Did you see a weapon around him anywhere?

15 A I did not see any kind of weapon around the body or in
16 the general area on the scene.

17 Q Through the investigation did other officers appear
18 there?

19 A Yes. The crime scene technicians showed up. Another
20 officer, another patrol officer, showed up to help us out.
21 Officer or Investigator Porter showed up.

22 Q And once y'all -- did y'all watch the video?

23 A Briefly, I did. I didn't see the whole video until
24 after the fact.

25 Q And based on -- did y'all receive some information to

Michael Shane Morrow
Direct examination by Mr. Barnette

1 follow up on, sir?

2 A Yes.

3 Q And what information did you receive, sir?

4 A Received the suspect vehicle was on [REDACTED] South Converse
5 Street. That was approximately 12:00 o'clock on the 10th,
6 same night, 12:00 o'clock, the 10th.

7 Q Is that the vehicle owned by Crystal Miller?

8 A Now that I know, yes, it's Crystal Miller.

9 Q That was the gold car that was seen in the video?

10 A The gold Camry, yes, sir.

11 Q And was later on, was Crystal Miller talked to?

12 A I did not talk with her. She was spoken to, but I did
13 not. I don't remember speaking to her.

14 Q Did you receive some information later about Dadrin
15 Johnson?

16 A Yes, sir.

17 Q And did y'all try to locate him?

18 A Yes, we did.

19 Q Did you go over Spartanburg and try to locate him?

20 A Yes, all over Spartanburg.

21 Q And was he a resident of Spartanburg as far as you
22 knew?

23 A Yes, sir.

24 Q And could you locate him in Spartanburg, sir?

25 A No. We could not.

Michael Shane Morrow
Direct examination by Mr. Barnette

1 Q Did y'all locate him somewhere else?

2 A Later located him in Columbia, South Carolina.

3 Q And did you go to Columbia, sir?

4 A Yes, I did.

5 Q Was there a search warrant obtained for an area of
6 Richland County?

7 A Yes, sir.

8 Q And did y'all go -- what location did y'all go, which
9 is Columbia, Richland County?

10 A It's going to be [REDACTED] Wilmette Road, Columbia. We had
11 the U.S. Marshal Task Force. They actually picked him up
12 right before we got there.

13 Q Okay. And what date was that, sir? Do you have the
14 date?

15 A That was on the 13th.

16 Q October the 13th?

17 A October the 13th.

18 Q And was he brought back to Spartanburg, sir?

19 A He was.

20 MR. BARNETTE: One moment, Your Honor, please.

21 (Pause.)

22 Q If you would, sir, please answer any questions the
23 defense may have for you, sir. Thank you.

24 MS. JONES: I have no questions, Your Honor.

25 MR. THOMPSON: None from defendant Robbs.

Johan Cox
Direct examination by Mr. Barnette

1 THE COURT: Okay. You may step down.

2 MR. BARNETTE: We would ask for this witness to be
3 excused, Your Honor.

4 THE COURT: He may be.

5 (Whereupon, the witness was excused.)

6 MR. BARNETTE: May I approach the bench for a second,
7 Your Honor?

8 (Bench conference held off the record in the presence
9 of the jury but out of the hearing of the jury.)

10 MR. BARNETTE: Your Honor, the state would call Johan
11 Cox.

12 JOHAN COX, having been first
13 duly sworn, testified as follows:

14 DIRECT EXAMINATION BY MR. BARNETTE

15 Q Mr. Cox, if you would, state your full name for the
16 record, please.

17 A Johan Lemman Cox.

18 Q And where do you work at, sir?

19 A The City of Spartanburg Public Safety Department.

20 Q And what do you do there, sir?

21 A I'm a computer analyst technician.

22 Q And how long have you been there, sir?

23 A Almost ten years as of February.

24 Q And do you do work on the side on videos and things in
25 other stores and things like that?

Johan Cox
Direct examination by Mr. Barnette

1 A Yes, sir, security systems.

2 Q And is part of your job looking at security systems
3 and videos on it, sir?

4 A As needed, sir.

5 Q Back on October 9th of 2009 -- I show you two
6 exhibits. Let me show you State's Exhibit No. 1 first.
7 Did you go to the Quick Stop at 496 South Church Street
8 here in the city of Spartanburg and take video, their
9 security cameras, there, sir?

10 A I did, sir.

11 Q And did you take it directly off their machine?

12 A Yes, sir.

13 Q And is that machine like, I guess, the cameras here
14 and there's like a little room back there with the video
15 equipment in the back with the computer system?

16 A Yes. It was.

17 Q And you directly took it from that night's video tape,
18 directly film to disk, is that right, sir?

19 A Yes, sir.

20 Q And there were several cameras of different video.

21 A Yes, sir.

22 Q This one here was cameras one and eight, is that
23 correct, sir?

24 A Yes, sir.

25 MR. BARNETTE: Your Honor, I'd enter State's Exhibit 1

Johan Cox
Direct examination by Mr. Barnette

1 in at this time.

2 THE COURT: Is that the same exhibit that's already
3 been shown?

4 MR. BARNETTE: Yes, sir, that's the one we've already
5 took out. I'm going to -- I'm pulling the other one, which
6 is video No. 4, Your Honor.

7 MS. JONES: Your Honor, subject to Mr. Patel
8 testifying, we have no objection.

9 MR. BARNETTE: And he is on his way, Your Honor.
10 He'll be here in a second.

11 MR. THOMPSON: No objection to one and eight.

12 THE COURT: All right. It's admitted.

13 (Video marked State's Exhibit No. 1; photograph marked
14 State's Exhibit No. 8.)

15 Q Let me show what what's been marked as State's
16 Exhibit -- showing you State's Exhibit No. 38.

17 (Video marked State's Exhibit No. 38 for
18 Identification.)

19 Q Is this a copy of the video from cameras four and
20 seven, sir?

21 A It is.

22 Q And was that tape also taken off of the videos at the
23 store also by you, sir?

24 A Yes, sir.

25 Q Okay.

Johan Cox
Cross-examination by Ms. Jones

1 MR. BARNETTE: Your Honor, I'd like to enter this in
2 evidence, or move into evidence subject to Mr. Patel
3 testifying to it, sir, the store owner or store manager.

4 THE COURT: What number is it?

5 MR. BARNETTE: It's No. 38.

6 MS. JONES: No objection.

7 MR. THOMPSON: No objection from defendant Robbs.

8 THE COURT: All right.

9 (Video marked State's Exhibit No. 38.)

10 MR. BARNETTE: Your Honor, may we approach for one
11 second?

12 THE COURT: Yes.

13 (Bench conference held off the record in the presence
14 of the jury but out of the hearing of the jury.)

15 Q If you would, sir, please answer any questions the
16 defense may have for you on this, sir. Thank you.

17 CROSS-EXAMINATION

18 BY MS. JONES

19 Q Mr. Cox, you indicated you removed the surveillance
20 video, is that correct?

21 A I removed a copy of it, yes.

22 Q Okay. So you actually took -- you made a copy of the
23 original, is that correct?

24 A Yes, pretty much.

25 Q Okay. What did you do then with that copy?

Johan Cox
Cross-examination by Mr. Thompson

1 A Placed in the hands of investigator on the scene.

2 Q Okay. And who was that?

3 A I believe I was working with Mr. Porter.

4 Q And is that your last involvement in the case?

5 A It's possible that I may have made a copy to put into
6 evidence so we can use them. But that is as far as I go
7 with it.

8 Q So you're just the tech guy, right?

9 A That's all.

10 MR. JONES: Nothing further.

11 MR. THOMPSON: May it please the Court, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. THOMPSON

14 Q Mr. Cox, you, you got a total of eight copies of
15 various camera film from that night, right?

16 A Only the ones that showed any kind of the area that
17 they were focused on.

18 Q But would it be -- you had the cameras one through
19 eight, which the state entered, correct?

20 A Yes.

21 Q And then they entered two through seven. So it stands
22 to reason three and six and four and five are out here
23 somewhere, correct?

24 A Potentially.

25 Q And they're probably on this tape here that I have.

Johan Cox
Cross-examination by Mr. Thompson

1 I'll probably have to go through the state's tapes.

2 MR. BARNETTE: Your Honor, I don't have no objection
3 to this, because this is -- he did get from eight different
4 cameras.

5 MR. THOMPSON: And this has all eight, Your Honor, and
6 I'm just asking to enter four -- I'm sorry -- three, four,
7 five and six in as defendant's exhibits.

8 THE COURT: All right, sir.

9 MR. BARNETTE: No objection. I don't know --

10 Q That is a total of eight, is that correct?

11 A Yes, sir.

12 Q And then subject to Mr. Patel clarifying that, that's
13 all you know about it, right?

14 A Yes, sir.

15 Q Okay.

16 MR. THOMPSON: No further questions. I would offer
17 this as Defendant's 1, Defendant Robbs 1.

18 MR. BARNETTE: No objection, Your Honor.

19 MS. JONES: I have no objection subject to, again, Mr.
20 Patel's linking it up.

21 MR. THOMPSON: Subject to, yeah, right.

22 THE COURT: It's admitted.

23 (CD marked Defendant's Exhibit No. 1.)

24 MR. THOMPSON: No further questions, Your Honor.

25 MR. BARNETTE: No further questions of this witness,

Johan Cox
Cross-examination by Mr. Thompson

1 Your Honor.

2 THE COURT: Okay. You may step down.

3 MR. BARNETTE: Ask he be excused.

4 (Whereupon, the witness was excused.)

5 MR. BARNETTE: All right. You may step down.

6 One moment, Your Honor, please.

7 May we approach for a second, Your Honor?

8 THE COURT: Yes.

9 (Bench conference held off the record in the presence
10 of the jury but out of the hearing of the jury.)

11 THE COURT: Ladies and gentlemen, we have got one
12 issue I need to take up, so I have got to leave by shortly
13 after 5:00 anyway. So this is a convenient time for us to
14 recess, so we'll do so today.

15 As you leave keep in mind the caution that I've
16 previously given you. No discussions about the case with
17 any spouses, children, friends, neighbors. Not even with
18 your fellow jurors. You can't discuss it until you're
19 instructed to begin deliberations. So no discussions about
20 the case during the overnight recess.

21 Also, do not permit yourselves to be exposed to any
22 type of media coverage relating to the case should there be
23 some, whether it be television, radio or newspaper. Simply
24 avoid any such exposure.

25 And do not conduct any research or do your own

Johan Cox
Cross-examination by Mr. Thompson

1 investigation into any issue that has arisen or that you
2 anticipate might arise during the course of the trial. So
3 no independent research, no internet investigation, no
4 nothing. You've got to base your decision solely upon the
5 evidence received during the trial.

6 Okay. With those cautions in mind have a good
7 evening. Please report to your jury room at 9:30 in the
8 morning, 9:30 in the morning. Have a good afternoon.

9 (The following takes place outside the presence of the
10 jury.)

11 THE COURT: Court is in recess until 9:30 in the
12 morning.

13 END OF PROCEEDINGS DECEMBER 13, 2010

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Sanjaykumar Babubhai Patel
Direct examination by Mr. Barnette

1 (Proceedings December 14, 2010)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: Are there any matters that need to be
5 addressed before the jury is brought in?

6 MR. BARNETTE: None from the state, Your Honor.

7 MS. JONES: No, sir.

8 MR. THOMPSON: None from the defense.

9 THE COURT: Okay. Bring them in, please.

10 (The following takes place in the presence of the
11 jury.)

12 THE COURT: Good morning, ladies and gentlemen.

13 As you know, when we recessed yesterday the state had
14 begun with their presentation of evidence. So we'll
15 continue with that presentation this morning.

16 Mr. Barnette.

17 MR. BARNETTE: May it please the Court, Your Honor.

18 I'd like to call Mr. Patel to the stand, please.

19 SANJAYKUMAR BABUBHAI PATEL,
20 having been first duly sworn, testified as follows:

21 THE COURT: All right. Mr. Patel, I understand that
22 you have a distinct and strong accent. So for the benefit
23 of the jury and the court reporter --

24 THE WITNESS: Okay.

25 THE COURT: -- when you testify you'll have to testify

Sanjaykumar Babubhai Patel
Direct examination by Mr. Barnette

1 slowly.

2 THE WITNESS: Okay.

3 THE COURT: And as distinctly as possible. Okay?

4 THE WITNESS: Okay.

5 THE COURT: All right. Have a seat in that chair
6 right there.

7 DIRECT EXAMINATION BY MR. BARNETTE

8 Q Mr. Patel, if you would, give us your full name for
9 the record, please.

10 A Sanjaykumar Patel.

11 Q Okay. Mr. Patel, do you work at the Quick Shop or do
12 you manage the Quick Shop on 496 South Church Street?

13 A Yes, sir.

14 Q Okay. And do y'all have a video camera system there?

15 A Yeah.

16 Q And does it videotape what's happened around the
17 store?

18 A Yeah.

19 Q Is there like eight different cameras?

20 A Eight cameras.

21 Q Yes, sir. Did the -- on October 9th of 2009 did the
22 police come to your -- come the store?

23 A The police came, yeah.

24 Q Had you had a shooting in the parking lot or in the
25 pump area?

Sanjaykumar Babubhai Patel
Direct examination by Mr. Barnette

1 A Outside, yeah.

2 Q And did you give them permission to get the video from
3 your video system?

4 A Yeah.

5 Q And did they bring somebody? Did Mr. Cox come and
6 take it, or somebody from the police station come and get
7 the videos from your system?

8 A What's name -- I don't know the name, but the one guy
9 came from the department.

10 Q Right. And he was part of the police department.

11 A Yeah, handicapped guy.

12 Q Okay. And they took the video -- video tapes from
13 your --

14 A They, they take the permission to me.

15 Q Right. And they copied like the cameras one and
16 eight, all eight cameras. So these videos was what they
17 took from your store. And they copied them to the disc, is
18 that right?

19 A They did some work, you know, what like I don't see
20 like that. But what happened, they came first. They told
21 me you can do this work. And I say I'm the new one. When
22 this thing happened, I started to work over there 40 days
23 before.

24 Q I understand. But you gave them permission to copy
25 these.

Sanjaykumar Babubhai Patel
Direct examination by Mr. Barnette

1 A So I tell her -- I tell him so you can do yourself.

2 And then they called the department guy.

3 Q Yes, sir.

4 A And they start with the, with the DVD. They did the
5 45 minute work over there.

6 Q And they copied those cameras.

7 A And they copied something like that.

8 Q Yes, sir.

9 MR. BARNETTE: Your Honor, I'd like to enter these
10 into evidence at this time, State's Exhibits 1 and 38 and
11 Defense Exhibit 1.

12 MR. THOMPSON: No objection, Your Honor.

13 MS. JONES: No objection, Your Honor.

14 THE COURT: All right. They're admitted.

15 (Exhibits previously marked.)

16 MR. THOMPSON: I would like to clarify that is one
17 through eight, correct?

18 MR. BARNETTE: One through eight cameras. And I went
19 ahead and did this.

20 MR. THOMPSON: In totality. Okay.

21 MR. BARNETTE: Yes, sir.

22 MR. THOMPSON: Thank you.

23 MR. BARNETTE: No problem.

24 Q If you would, sir, please answer any questions the
25 defense attorneys may have for you. If you would, just

Sanjaykumar Babubhai Patel
Cross-examination by Ms. Jones
Cross-examination by Mr. Thompson

1 have a seat. I don't know if they have any questions or
2 not.

3 CROSS-EXAMINATION

4 BY MS. JONES

5 Q Mr. Patel, do you only have eight cameras in the store
6 and surrounding your buildings?

7 A Yeah, eight.

8 Q There's eight total?

9 A Eight total, yeah.

10 Q Okay. And the officer took all eight.

11 A Yeah.

12 Q Okay. And how long have you had this video system in
13 your store?

14 A It was there when I started work. It was there.

15 Q Okay. So it was installed prior to you working there?

16 A So the -- before me. When installed, I don't know.

17 Q Okay. Thank you.

18 MS. JONES: Nothing further.

19 MR. THOMPSON: May it please the Court, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. THOMPSON

22 Q Mr. Patel, you say there's eight cameras in there.

23 A Yeah.

24 Q And they were present when you took over ownership or
25 management of the store, is that correct?

Sanjaykumar Babubhai Patel
Cross-examination by Mr. Thompson

1 A What do you mean?

2 Q Did you say those were in place at the time you, you
3 began to manage the store?

4 A Oh, yeah.

5 Q That video system.

6 A Before that, yeah.

7 Q Okay. And, as a matter of fact, when I go to your
8 store you have a large-screen T.V. up there showing each --

9 A Be each side, yeah.

10 Q Each camera angle, correct?

11 A Yeah.

12 Q So people that frequent your store can look up there
13 and they know they are being --

14 A Up there, yeah, yeah.

15 Q They know they're going to be on the camera.

16 A Yeah. That's, that's what the customer, you know, so
17 they understand they are.

18 Q Right.

19 A Each camera, yeah.

20 Q So, so someone that frequents your store knows they're
21 subject to be videoed at any, any part of that property,
22 right?

23 A Yeah, yeah.

24 Q Okay. I have no further questions. Thank you.

25 MR. BARNETTE: Nothing further, Your Honor. We'd ask

Russell Porter
Direct examination by Mr. Barnette

1 for the witness to be excused.

2 THE COURT: All right. You may be excused. Thank
3 you.

4 (Whereupon, the witness was excused.)

5 MR. BARNETTE: Your Honor, I'd like to call
6 Investigator Porter to the stand.

7 RUSSELL PORTER, having been
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION BY MR. BARNETTE

10 Q Investigator Porter, where do you work at, sir? Or
11 give me your full name for the record, please.

12 A Russell Porter.

13 Q And where do you work at, sir?

14 A Spartanburg Public Safety Department.

15 Q And what is your position there, sir?

16 A Criminal investigator.

17 Q And how long have you been there, sir?

18 A I've been at the department for almost 18 years.

19 Q Back on October 9th of 2009, was you working that day,
20 sir?

21 A I was working second shift that night.

22 Q And was you called to a shooting that occurred at 496
23 South Church Street at the Quick Stop?

24 A Yes, I was.

25 Q When you arrived there, could you tell us what you

Russell Porter
Direct examination by Mr. Barnette

1 found?

2 A Once I had gotten there the VCTF or the violent crime
3 task force was already on the scene, had already roped off,
4 advised me that there were possibly video recordings inside
5 the store. I went inside the store and began to view the
6 video.

7 Q And when you went in did you -- obviously, you saw the
8 camera outside.

9 A Yes.

10 Q Did you also look at the camera, the people coming
11 inside the door?

12 A Yes.

13 Q And did y'all get a copy of that?

14 A Yes, yes, we did.

15 Q When you viewed that video did you notice the person
16 that came and looked in the door and went and got the coat
17 and moped from Mr. Robbs?

18 A Yes, I did.

19 Q Did you I.D. that person?

20 A I did.

21 Q And who was it?

22 A Dadrin Johnson.

23 Q And how -- what is he known as?

24 A Worm.

25 Q Okay. And you saw him and you knew him from the

Russell Porter
Direct examination by Mr. Barnette

1 video.

2 A Yes.

3 MR. BARNETTE: Your Honor, I'd like to publish camera
4 four of that video at this time, Your Honor.

5 THE COURT: You may.

6 (Whereupon, the witness left the stand.)

7 Q Before I start this video, we also see Amber Rice come
8 in at some point, is that right?

9 A That's correct.

10 (Whereupon, the video was played for the jury.)

11 Q She comes in first and then the victim Adrian, I mean,
12 Adrian Edwards come in.

13 A That's correct.

14 Q And then do we see Dadrin Johnson or Worm look inside
15 the door?

16 A This is -- approaches him. He approaches in the front
17 door first and then goes around to the side over there too.

18 Q And than later on do we see Mr. Robbs come in?

19 A Yes, we do.

20 Q Okay. The first person we'll see, will that be Amber
21 Rice, sir?

22 A Yes, teal green shirt, jeans. Amber coming in the
23 door, holding the door for somebody else now.

24 THE COURT: Excuse me just a minute.

25 The court reporter is having some difficulty

Russell Porter
Direct examination by Mr. Barnette

1 understanding you because you're away from the microphone
2 and you've got your back to her.

3 So you see above your head there that microphone? If
4 you'll stand back behind that and speak up a little bit I
5 think that'll work.

6 THE WITNESS: Yes, sir.

7 BY MR. BARNETTE

8 Q I'll start over.

9 A That's Amber there coming in. That's the victim,
10 Adrian Edwards.

11 Q And the times correspond to the other cameras too, is
12 that right?

13 A That's correct. Some continuously record inside and
14 out.

15 Q And who is going to be approaching the door on the
16 outside, sir?

17 A This will be Dadrin Johnson right there. He's going
18 to the side, and then he goes back out to the lot.

19 Q Go back a little bit here. Did you watch this video
20 several times?

21 A Yes.

22 Q And that's Dadrin Johnson -- Worm.

23 A That's correct.

24 Q I'm going to get it to stop. But you got to see his
25 frontal shot, as well as his side shot, is that right?

Russell Porter
Direct examination by Mr. Barnette

1 A That's correct.

2 Q And after this is Mr. Robbs coming in?

3 A Yes, he does. He comes in a few seconds later. He
4 comes into the store.

5 Q Who is this coming in, sir?

6 A That's Mr. Robbs.

7 MR. BARNETTE: Speed it up a little bit so it will
8 play.

9 Q Who is this coming out, sir?

10 A That's Adrian Edwards exiting the store.

11 Q And who is this coming out behind him?

12 A That's Mr. Robbs coming out behind him.

13 (Whereupon, the witness returned to the stand.)

14 Q Fire, shots occurred?

15 A Sir?

16 Q Do shots occur right after that?

17 A Yes. See the people in the store react.

18 Q And through your investigation did you go to try to
19 find Mr. Johnson?

20 A We did.

21 Q And where was he found at, sir?

22 A Was located in Columbia, South Carolina.

23 Q And did y'all receive, ever receive, a 9-1-1 call from
24 Mr. Robbs or anything like that?

25 A We did not.

Russell Porter
Cross-examination by Ms. Jones

1 Q So he never called 9-1-1 or anything like that.

2 A He did not.

3 MR. BARNETTE: One moment, Your Honor, please.

4 (Pause.)

5 Q If you would, please answer any questions the defense
6 attorneys may have for you, sir.

7 CROSS-EXAMINATION

8 BY MS. JONES

9 Q Investigator Porter, is it fair to say that
10 Mr. Johnson became the focus of the investigation --

11 A Yes.

12 Q -- based on that video?

13 A That's correct, and eye witnesses, yes.

14 Q And you indicated that Mr. Robbs didn't call 9-1-1, is
15 that correct?

16 A As far as I know, he didn't.

17 Q Okay. But neither did Crystal Miller, did she?

18 A I don't think so.

19 Q And neither did Amber Rice, the lady with the green on
20 in the store. She didn't call 9-1-1 either, did she?

21 A That's correct.

22 Q Okay. You indicated that you found Mr. Dadrin Johnson
23 in Columbia, is that correct?

24 A That's correct.

25 Q Do you remember what address he was located at?

Russell Porter
Cross-examination by Ms. Jones

1 A I didn't go to Columbia, so I don't know what address
2 the victim's crime task force --

3 Q Okay. You are the lead investigator, right?

4 A That's correct.

5 Q Okay. Is it fair to say based upon the investigation
6 that he was located at [REDACTED] Wilmette Road, Columbia, South
7 Carolina?

8 A I take your word for it.

9 Q And who lives at that residence?

10 A Some family member, I think.

11 Q Isn't it his mother?

12 A Some family member. Like I said, I didn't go. The
13 NIP team got the call. They went. They just called me and
14 let me know they were going to get him.

15 Q Well, didn't you request a search warrant for [REDACTED]
16 Wilmette Road?

17 A No, ma'am.

18 Q Did you write an investigation for this case, sir?

19 A Which road?

20 Q Did you write an investigation report?

21 A Write a supplemental, yes, I did.

22 Q Okay. Looks like you have it in front of you.

23 A Uh-huh.

24 Q Do you recall writing in that report that search
25 warrant affidavit for the residence at [REDACTED] Wilmette Road,

Russell Porter
Cross-examination by Mr. Thompson

1 Columbia, South Carolina, was typed up --

2 A By who?

3 Q -- in your report?

4 A No, ma'am.

5 Q So your testimony today is you had no idea who lived
6 in Columbia, South Carolina.

7 A A family member. That's all I know, is a family
8 member.

9 Q You have no idea it was his mother.

10 A Mother, aunt, sister. I don't know.

11 MS. JONES: Nothing further.

12 MR. THOMPSON: May it please the Court.

13 CROSS-EXAMINATION

14 BY MR. THOMPSON

15 Q Mr. Porter, you're the lead investigator, you say.

16 A Yes, sir.

17 Q Okay. So it's up to you basically to review all of
18 the investigating officers' reports on this matter,
19 correct?

20 A Usually, yes.

21 Q Okay. And some of those reports you get are from
22 those guys that viewed the video, correct?

23 A Yes, sir.

24 Q Okay. So you do recall Officer Steadman giving you a
25 statement.

Russell Porter
Cross-examination by Mr. Thompson

1 MR. BARNETTE: Your Honor, I'm going to object at this
2 point. That's hearsay in that situation.

3 THE COURT: Well, let me see y'all just a minute.

4 (Bench conference held off the record in the presence
5 of the jury but out of the hearing of the jury.)

6 THE COURT: Sustain the objection.

7 MR. THOMPSON: Thank you, Your Honor.

8 BY MR. THOMPSON

9 Q All right. Do you recall your earlier testimony about
10 Worm, the person you identified as Worm, you said
11 approached the window? Correct?

12 A That's correct.

13 Q And did you state that he had on a jacket at that
14 time?

15 A No, I didn't.

16 Q You didn't. Okay. Now, in your report you -- you
17 see. This is yours here, right?

18 A Yes.

19 Q Okay. And you identify Mr. Johnson, you say, from
20 that little picture that we saw, correct?

21 A Yes.

22 Q Okay. And then eventually you see him walk up. He
23 doesn't have on a coat at that time, does he?

24 A That's correct.

25 Q And you remember the opening statement from the

Russell Porter
Cross-examination by Mr. Thompson

1 solicitor. She said that Brandon Robbs went straight to
2 Mr. Johnson and gave him a jacket, didn't she?

3 A She did.

4 MR. BARNETTE: Objection, Your Honor. Are we talking
5 about facts in evidence or are we talking about other
6 things?

7 THE COURT: Sustained.

8 BY MR. THOMPSON

9 Q Okay. All right. But it's clear from this video,
10 okay, and I'll -- I don't even know if I want to try to go
11 to work that thing. It might be a comedy. But Mr. Johnson
12 or whoever you say is Mr. Johnson walks up and looks in
13 that store, correct?

14 A That's correct.

15 Q And his view is good enough that you can recognize him
16 through that window?

17 A Yes.

18 Q Okay. So it would suffice to say that he's able to
19 recognize someone in the store at the same time, correct?

20 A That's, that's correct.

21 Q Okay. So your theory on this case is what as
22 concerning Mr. Robbs?

23 A What do you --

24 Q Well, how, how is Mr. Robbs involved in this case?

25 A After, after, after what part are we talking about?

Russell Porter
Cross-examination by Mr. Thompson

1 Q He's sitting here with a charge of murder.

2 A That's correct.

3 Q How did that come about?

4 A Watching the video. As you see afterwards when he
5 comes out of the store, even at that clip you just saw he
6 comes out right behind him. He's looking at him the whole
7 time.

8 He walks out and walks over to Johnson. Obviously,
9 they have some words. He switches his jacket out and gives
10 him the moped. He's standing there watching the whole
11 time. Even when the shots are fired, he's still standing
12 there watching.

13 Q Okay.

14 A And then, like you kind of pointed, pointed out, he
15 did not call 9-1-1. He was ready to leave, and he left.
16 And we found him -- or actually he came up to us later.

17 Q Right. Okay.

18 A And knowing that we went to his mother's house, his
19 sister's house, girlfriend's house, everybody's house
20 around that area looking for him.

21 Q Okay. So he lived at his grandmother's house, right?

22 A He wasn't there when we went there.

23 Q You went there.

24 A Yes.

25 Q And how far is that from the Spur station?

Russell Porter
Cross-examination by Mr. Thompson

1 A Probably less than a mile.

2 Q Okay. So that's about a mile away. How many blocks
3 is it?

4 A Three blocks.

5 Q Okay. And he's got to cross Church Street to get over
6 there, correct?

7 A Cross Church Street or Maryland Avenue, whichever one.

8 Q So your testimony is you had to go to Columbia to get
9 Mr. Johnson, right?

10 A That's correct.

11 Q And you had to go to Poo's house to get Poo, right?

12 A That's correct.

13 Q You had to go to Amber's house to get Amber, didn't
14 you?

15 A That's correct.

16 Q Mr. Robbs come knocking on the police station's door
17 when he heard you were working for him, didn't he?

18 A Yes.

19 Q Okay. So he didn't run to Columbia, did he?

20 A No.

21 Q He didn't run and stay away from you, did he?

22 A No.

23 Q He come to you, correct?

24 A That's correct.

25 Q All right. And, now, you said that some time went by,

Russell Porter
Cross-examination by Mr. Thompson

1 that he did go to the car and he and -- he and Mr. Johnson
2 actually spoke, correct?

3 A That's correct.

4 Q And that's on the video, right?

5 A That's correct.

6 Q And there's ample time for Mr. Johnson to say, hey,
7 can I borrow your moped, isn't there?

8 A Yes.

9 Q Okay. And does he not, in fact -- Ms. Crystal Miller
10 testified that he borrowed money for cigarettes, correct?

11 A Yes.

12 Q Okay. And you've got the store video here. He went
13 inside. What did he buy?

14 A I'm not sure.

15 Q He bought cigarettes. Okay. And I'll show that on
16 the video. Would you believe that?

17 A Yes.

18 Q Okay. And then she, Ms. Miller, actually said when
19 she -- when he pulled up she that summonsed him to the car,
20 correct?

21 A That's what she says here.

22 Q Okay. And he went straight to that passenger-side
23 window, correct?

24 A That's correct.

25 Q And Mr. Johnson was in the back seat, correct?

Russell Porter
Cross-examination by Mr. Thompson

1 A Yes.

2 Q And Mr. Johnson walked right by him and went and
3 looked in that store, correct?

4 A That's correct.

5 Q Okay. He took about four steps along that sidewalk
6 looking in that store, correct?

7 A Yes.

8 Q And then he came back.

9 A Yes.

10 Q Correct? And then he got in the car and closed the
11 door, correct?

12 A Yes.

13 Q And then he opens up the door and begins to talk to
14 Mr. Robbs, correct?

15 A Well, he spoke to him coming back as well.

16 Q Okay. So --

17 A He spoke coming back to the car. He spoke to him. He
18 gets in the car, gets out of the car, talks to him again
19 and gets his stuff.

20 Q I -- let's see if you can point that out to me.

21 MR. THOMPSON: I may need some assistance from the
22 state here.

23 (Whereupon, the video was played for the jury.)

24 (Whereupon, the witness left the stand.)

25 Q All right. And another thing I'll bring up. If this

Russell Porter
Cross-examination by Mr. Thompson

1 thing is so well planned, Officer, isn't it unusual that
2 the shooter is here at the store before the victim even
3 gets here? Isn't that unusual?

4 MR. BARNETTE: Your Honor, I'm going to object to
5 speculation.

6 MR. THOMPSON: He's a trained officer. I mean, he
7 worked --

8 THE COURT: Sustained.

9 A I speculate he --

10 THE COURT: I sustained the objection.

11 BY MR. THOMPSON

12 Q Okay, sir.

13 A Okay.

14 Q But you, you won't disagree that the victim arrives a
15 minute, more than a minute, after the --

16 A The victim didn't park at the pump either.

17 Q Well, did --

18 A He parked right in the middle. He didn't park at the
19 pump so he wasn't to come over --

20 Q The Camry's not parked at a pump either, is it?

21 A No, it's not either. So neither one of them come to
22 get gas, so they had some other purpose.

23 Q Okay. Well, sure. He went in and bought a lottery
24 ticket, didn't he, the victim, correct?

25 A Some other purpose besides gas.

Russell Porter
Cross-examination by Mr. Thompson

1 Q Okay. So he goes in, and then here comes Mr. Robbs on
2 a moped.

3 A Right. But looking right at the car. There's no
4 audio, so I don't know what's going on. Don't know what
5 he's saying.

6 Q Right. Ms. Miller said she hollered out to him.

7 A But when the -- he's already talking to Johnson right
8 there.

9 Q He's talking into the car.

10 A He's already talking to Johnson right there.

11 Q Well, he's leaning in talking to the driver, right?

12 A He's talking to --

13 MR. BARNETTE: Objection, Your Honor. Asked and
14 answered.

15 THE COURT: All right. Now, y'all are not going to be
16 able to argue about it. You can just ask him some
17 questions, and he can give you an answer.

18 BY MR. THOMPSON

19 A Since there's no audio, I don't know who he's talking
20 to right there.

21 Q Okay. But Ms. Miller did testify she hollered out to
22 him.

23 MR. BARNETTE: Objection, Your Honor. Pitting witness
24 against witness.

25 THE COURT: Overruled.

Russell Porter
Cross-examination by Mr. Thompson

1 BY MR. THOMPSON

2 A No. The back -- they had a conversation right there.
3 Gets in.

4 Q Okay.

5 A Still talking. Door's still open. He's talking to
6 him. And he bates that door. The door is open when he's
7 talking.

8 Q Down too, correct? Sure. He didn't. And the
9 testimony is -- you heard yesterday that he asked to borrow
10 a moped, correct?

11 A At that point you don't know what they're talking
12 about, but they're talking.

13 Q Well, I wouldn't argue. He's counting, counting money
14 and getting a key out, correct?

15 A Possibly, possibly.

16 Q And Mr. Robbs goes in the store to buy cigarettes at
17 this point, correct? You also testified that Brandon Robbs
18 watched the victim the whole way.

19 A That's correct. Come up right on his heels right
20 there.

21 Q Right. I mean, behind. He purchased something.

22 MR. BARNETTE: Your Honor, let him answer the question
23 if he could.

24 THE COURT: Y'all take turns.

25 BY MR. THOMPSON

Russell Porter
Cross-examination by Mr. Thompson

1 A See him looking at him?

2 Q No.

3 A Looked right over at him.

4 Q He's looking around everywhere, isn't he?

5 A Look at him. He's looking right at him. Both of them
6 did.

7 Q Well, there's a confrontation in the back, correct?

8 A There's no confrontation. Walked up and up to shake
9 his hand first.

10 Q Well, he got shot, didn't he?

11 A He walked up to shake his hand first before that
12 even -- before the shot even happened.

13 Q Okay. And he's still looking to shoot, correct?

14 A I don't know. I just gave a man my moped and my
15 jacket, I think I'd be standing there waiting until the
16 police got there.

17 Q Well, he was still in the store when the police
18 arrived, correct?

19 A He was ready to go then. The only reason he didn't
20 leave is because that girl was in the car -- in the store,
21 because Amber was in the store.

22 Q I think the testimony is clear that he stayed at the
23 store the whole time, correct?

24 A Until the police arrived. Amber couldn't leave the
25 store until the police got there and unlocked the door.

Russell Porter
Cross-examination by Mr. Thompson

1 And then she comes out and comes around beside the building
2 and then they leave.

3 (Whereupon, the witness returned to the stand.)

4 Q Okay. Were you present when Mr. Robbs was
5 interviewed?

6 A Yes.

7 Q And you're the one that actually told him that if he
8 didn't tell you what he -- you wanted to hear he was going
9 to get arrested, correct?

10 A I don't think I put it quite that way.

11 MR. BARNETTE: Your Honor, may we approach the bench
12 for a second?

13 THE COURT: Yes.

14 (Bench conference held off the record in the presence
15 of the jury but out of the hearing of the jury.)

16 BY MR. THOMPSON

17 Q Mr. Porter, I'm going to go through a series of videos
18 here. Okay. And we're going to look at these. And you
19 say you reviewed them all, correct?

20 A Yes, sir.

21 Q All right. Let's -- I'm going to look at the one of
22 the counter.

23 MR. BARNETTE: Do you know which camera that is?

24 MR. THOMPSON: One or two, I believe.

25 (Whereupon, the witness left the stand.)

Russell Porter
Cross-examination by Mr. Thompson

1 MR. BARNETTE: Is that the one you want?

2 (Whereupon, the video was played for the jury.)

3 BY MR. THOMPSON

4 Q That's Ms. Rice here, correct?

5 A Yes.

6 Q That's the victim there, correct?

7 A Yes, standing in, in, in the back.

8 Q Yes, in the black shirt.

9 A Mr. Robbs.

10 Q Right. That's Mr. Robbs there. And he's buying what
11 they call loosies, right? That's just some loose
12 cigarette. And that's the vehicle leaving, correct?

13 A Yes.

14 Q Mr. Robbs did not look at the victim, did he? This
15 transaction is over, correct?

16 A That's correct.

17 Q All right. And she's going to get off that phone in
18 about 53 seconds, correct? Well, just watch and see if I'm
19 right here. Maybe 51. And she is off. Now watch
20 Ms. White. That's when the gunshots went off, correct?

21 A That's correct.

22 Q That's all I need to see on that one.

23 A This is --

24 Q Mr. Robbs ever make eye contact with the victim?

25 A Looks like to me he's trying to avoid him, but

Russell Porter
Cross-examination by Mr. Thompson

1 everything, look the other way to keep him from looking at
2 him.

3 Q But he didn't look at him though, did he?

4 A He's trying not to let him look at him.

5 Q That's speculation there, isn't it?

6 A When he almost looked at him he pulled his shoulder up
7 and ducked his head.

8 Q Oh, I didn't --

9 A Didn't you see that?

10 Q No, I didn't. Do you recall what kind of gun was used
11 in this shooting?

12 A Gun or caliber of bullets are? I don't know what type
13 of gun, but I know the caliber of the shell.

14 Q Caliber of the bullets, yes. 9mm, correct?

15 A Yes.

16 Q I'm going to watch right here. You allege this is Mr.
17 Johnson getting out of the car, correct?

18 A Yes. That's Mr. Johnson.

19 MR. THOMPSON: Can we freeze that right there? Right
20 there anywhere in the parking lot there. Back up a little
21 bit. That's good.

22 BY MR. THOMPSON

23 Q All right. Now, you're alleging this is Mr. Johnson
24 in the white t-shirt, correct?

25 A Yes. That's Mr. Johnson.

Russell Porter
Cross-examination by Mr. Thompson

1 Q Okay. Now, Mr. Johnson doesn't have his shirt tucked
2 in, correct?

3 A That's correct.

4 Q Okay. In fact, that shirt's hanging down probably to
5 thigh length, isn't it?

6 A Yes.

7 Q Okay. And in your -- how long have you been a police
8 officer?

9 A Almost 18 years.

10 Q Okay. Where does -- if there's -- if someone is going
11 to carry a gun, where do they commonly carry that gun?

12 MR. BARNETTE: Objection, Your Honor. Objection.
13 Speculation, Your Honor.

14 MR. THOMPSON: Your Honor, he's been a police
15 officer --

16 THE COURT: Overruled.

17 Based upon your experience if you know.

18 BY MR. THOMPSON

19 Q Based upon your experience where would people
20 generally carry a gun?

21 A In their front waistband.

22 Q Okay. And it stands to reason that Mr. Johnson could,
23 could have a gun in there right then at that moment,
24 correct?

25 A Yes.

Russell Porter
Cross-examination by Mr. Thompson

1 Q Okay. Let's keep going through the tape.

2 Do you recall Ms. Crystal Miller's testimony that Mr.
3 Johnson asked to borrow a moped and the jacket? Do you
4 recall that?

5 A Yes, yes.

6 Q Okay.

7 A She was talking to him, head nodding. They're fixing
8 the door, talking.

9 Q I didn't ask a question.

10 All right. Okay. Now watch this jacket, because this
11 jacket's pretty flimsy, correct?

12 A Kind of hard for me.

13 Q He swings it around. Right there. I mean, obviously
14 there's no gun in that jacket, correct?

15 A I wouldn't know that.

16 Q Okay. But it doesn't appear to be a gun in that
17 jacket, correct? A firearm's fairly heavy, isn't it?

18 A A 9mm is fairly light.

19 Q Huh?

20 A A nine is fairly light.

21 Q Okay. But in relation to that jacket would it be?

22 A Since I don't have that jacket I wouldn't know.

23 Q Okay. That's all.

24 (Whereupon, the witness returned to the stand.)

25 MR. THOMPSON: Beg the Court's indulgence.

Russell Porter
Cross-examination by Mr. Thompson

1 (Pause.)

2 Q Officer, when you responded did you watch each tape?

3 A Yes.

4 Q Okay. And your testimony is based upon just a theory,
5 correct?

6 A Yes.

7 Q Okay. And your theory was that he was involved the
8 entire time, correct?

9 A That's correct.

10 Q Okay. But Worm gets out of the car and goes to the
11 window, correct? That's how you identify him, right?

12 A That's correct.

13 Q And he was up there. And by my calculations it's over
14 four seconds that he's on that sidewalk. Does that sound
15 accurate?

16 A Yes, somewhere around in there, yes.

17 Q Okay. And he's basically identifying the victim in
18 your theory, correct?

19 A That's correct.

20 Q Okay. And then when the shooting occurs, you recall,
21 Mr. Robbs nearly gets run over, correct? Do you recall
22 that from the video?

23 A Get run over from the car that's behind him?

24 Q Yes. Backing away from the scene.

25 A Yes.

Russell Porter
Redirect examination by Mr. Barnette

1 Q Do you recall in your statement whether or not you
2 indicated what each perpetrator was wearing?

3 A I don't think so, I don't think so.

4 Q So you didn't, you didn't mention that one had on a
5 black shirt or a black coat or anything like that, right?

6 A No.

7 Q Okay. I have no further questions. Thank you.

8 MR. BARNETTE: Just a couple on redirect, Your Honor.

9 THE COURT: Okay.

10 REDIRECT EXAMINATION

11 BY MR. BARNETTE

12 Q Obviously that was a winter coat that the --

13 MR. THOMPSON: Object to the leading, Your Honor.

14 He's testified to the fact he didn't know anything about
15 the coat.

16 MR. BARNETTE: I'll rephrase the question.

17 MR. THOMPSON: The fact he's leading, Your Honor.

18 THE COURT: Okay.

19 MR. BARNETTE: I'll rephrase the question.

20 THE COURT: Okay.

21 BY MR. BARNETTE

22 Q Do you need to watch that? I can put the video back
23 up. Does it appear to have like fur around it?

24 A Fur around the head, yes.

25 Q And most winter coats that have hoods like that, are

Russell Porter
Redirect examination by Mr. Barnette

1 they winter coats?

2 A Yes, they are.

3 Q Do they put -- have you known people to put guns in
4 their coats?

5 A Yes, in pockets, yes.

6 Q And it's easy to put it in the pockets.

7 A Yes.

8 Q It's a heavy coat.

9 A Yes.

10 Q And a winter coat.

11 MR. THOMPSON: Again, Your Honor, I'm going to object
12 to the leading. He's testified that he didn't know about
13 the jacket. And the solicitor keeps putting winter coat in
14 there.

15 THE COURT: Overruled.

16 BY MR. BARNETTE

17 Q So it'd be easier to put a gun in a coat --

18 A Yes, sir.

19 Q -- or easier to put it in the front waistband where
20 the t-shirt goes?

21 MR. THOMPSON: That's calling for speculation, Your
22 Honor.

23 THE COURT: Well, you brought it out on
24 cross-examination. Overruled.

25 BY MR. BARNETTE

Russell Porter
Recross-examination by Mr. Thompson

1 Q Would it be easier to hide a gun in a coat, winter
2 coat?

3 A Yes, it would, yes.

4 Q Than to hide it in your waistband.

5 A Yes.

6 Q And when Mr. Robbs came into the store Mr. Edwards was
7 in front of him, wasn't he?

8 A Yes.

9 Q Could he have easily saw him when he walked in the
10 door?

11 A Yes, he could have, yes.

12 MR. BARNETTE: One moment, Your Honor, please.

13 (Pause.)

14 Q Thank you, sir. Please answer any questions they have
15 for you.

16 MR. THOMPSON: One brief question, Your Honor.

17 RECROSS-EXAMINATION

18 BY MR. THOMPSON

19 Q You've been an officer for years, correct?

20 A Yes, sir.

21 Q Okay. And bike riders or motorcyclists, mopeds,
22 they're generally going to wear a jacket when they ride
23 their vehicle, correct?

24 A I don't normally when I ride, but anybody else I'm not
25 sure.

Russell Porter
Recross-examination by Mr. Thompson

1 Q Well, I mean, it's October the 9th.

2 A It wasn't really that chilly that night. It wasn't,
3 wasn't chilly. It wasn't cold. It was just autumn.

4 Q 9:00 o'clock at night, correct -- 9:00 o'clock at
5 night, correct?

6 A It was just autumn. It wasn't even cold yet.

7 Q Okay. But it's -- I mean, ordinarily do people wear a
8 jacket when they ride a moped or a motorcycle, don't they?

9 A I can't say.

10 Q It's not out of the ordinary, is it?

11 A It's not out of the ordinary, but I can't, you know,
12 can't say. I don't wear for -- I don't wear one that time
13 of the year. I just have a no-plate shirt on. That's
14 about, that's about it, so.

15 Q He had a short-sleeve shirt on when he took the jacket
16 off, correct?

17 A That's correct.

18 Q Okay. So, I mean, it'd stand reason that he's got a
19 jacket he wears when he rides a bike, correct?

20 A That's correct. When he pulled up on the moped he had
21 a jacket on, yes.

22 Q Okay. And it's, I mean it's, reasonable that he would
23 wear that at night when he rides his moped, any other
24 night, correct?

25 A I guess that's -- yes. I guess that's what he'd

Adrian Patton
Direct examination by Mr. Barnette

1 prefer, yes.

2 Q And you don't if that was a winter coat or a sweater
3 or a light jacket or anything, do you?

4 A Looking at it, I would speculate it to be a winter
5 coat because of the fur around the head. Because of the
6 fur and the thickness it looked in the video, and the fur,
7 I would say, yes, it'd be a winter coat, yes.

8 Q Thickness where? Thickness of the fur or --

9 A The thickness of the fur, yes. It had heavy fur
10 around, around the head of that jacket. Wasn't like fur
11 like, like hair.

12 Q Do we recover the -- did you recover that jacket?

13 A We did not.

14 Q Did you ever recover?

15 MR. THOMPSON: No further questions.

16 MR. BARNETTE: Nothing further, Your Honor.

17 THE COURT: All right. You may step down.

18 MR. BARNETTE: Your Honor, I'd like to call
19 Investigator Patton to the stand.

20 ADRIAN PATTON, having been
21 first duly sworn, testified as follows:

22 DIRECT EXAMINATION BY MR. BARNETTE

23 Q Sir, if you would, give your full name for the record,
24 please.

25 A Adrian Patton.

Adrian Patton
Direct examination by Mr. Barnette

- 1 Q And where do you work at, sir?
- 2 A I work at Spartanburg City Public Safety.
- 3 Q And what's your position there, sir?
- 4 A I'm -- criminal investigations.
- 5 Q And how long have you been there, sir?
- 6 A I've been there a little over eight and a half years.
- 7 Q During this investigation was you asked to show a
- 8 lineup?
- 9 A Yes, I was.
- 10 Q And did you show a lineup to Crystal Miller, sir?
- 11 A Yes, sir.
- 12 Q Let me show you what's been marked as 36-A. Is that a
- 13 copy of the lineup that you showed to her?
- 14 A Yes, sir.
- 15 Q And who is that lineup of? Is that Dadrin Johnson?
- 16 A Dadrin Johnson is in the lineup, yes, sir.
- 17 Q Okay. And when you showed it to her did you
- 18 indicate -- when you showed her these pictures a certain
- 19 person was in these pictures or anything like that?
- 20 A No, sir.
- 21 Q Did you indicate any person out of the lineup or --
- 22 A No, sir.
- 23 Q Okay. And who did she pick out of the lineup that was
- 24 the shooter?
- 25 A She picked out Dadrin Johnson.

Adrian Patton
Cross-examination by Ms. Jones

1 Q And did she sign the back of the picture?

2 A Yes, sir, she did.

3 MR. BARNETTE: Your Honor, I believe this is already
4 in evidence, but 36-A. I'd put, move into evidence in case
5 it's not in evidence at this time.

6 MS. JONES: No objection, Your Honor.

7 MR. THOMPSON: None.

8 THE COURT: It's admitted.

9 (Lineup marked State's Exhibit No. 36-A.)

10 Q And did you show -- I'm not going to enter the lineup
11 because I don't think there's any question. Just to
12 clarify for the jury, did you show a lineup of Mr. Robbs at
13 this point too?

14 A Yes, sir, I did.

15 Q And did she pick out Mr. Robbs too?

16 A Yes, sir.

17 MR. BARNETTE: One moment, Your Honor, please.

18 (Pause.)

19 Q Please answer any questions that they may have for
20 you, sir.

21 CROSS-EXAMINATION

22 BY MS. JONES

23 Q You testified that you showed Crystal Miller the
24 lineup, is that correct?

25 A Yes, ma'am. I did.

Adrian Patton
Cross-examination by Ms. Jones

1 Q Okay. Were you aware that Crystal Miller was familiar
2 with Mr. Johnson?

3 A Not at the time as I was reading the -- showing the
4 lineup.

5 Q Okay. But at the time you weren't aware that she
6 was -- knew Mr. Johnson and was familiar with Mr. Johnson.

7 A Not at the time, no.

8 Q Okay. And if somebody's familiar with somebody it's
9 pretty easy to pick them out of a lineup, wouldn't you say?

10 A Yes, ma'am.

11 MS. JONES: Nothing further.

12 MR. THOMPSON: I have no questions.

13 MR. BARNETTE: Your Honor, we ask for the witness to
14 be excused, Your Honor.

15 THE COURT: He may be.

16 (Whereupon, the witness was excused.)

17 MR. BARNETTE: Your Honor, may we approach for one
18 second?

19 THE COURT: Yes.

20 (Bench conference held off the record in the presence
21 of the jury but out of the hearing of the jury.)

22 MR. BARNETTE: Officer Bridges.

23

24

25

Cameron Lenar Bridges
Direct examination by Mr. Barnette

1 CAMERON LENAR BRIDGES, having
2 been first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MR. BARNETTE

4 Q Officer Bridges, give your full name for the record,
5 please.

6 A Cameron Lenar Bridges.

7 Q And where do you work at, sir?

8 A Spartanburg County Detention Facility.

9 Q And what position do you have there, sir?

10 A Identification officer.

11 Q You're one of the I.D. officers there, sir?

12 A Yes, sir.

13 Q When a person is brought in on an arrest is a picture
14 taken of him, sir?

15 A Yes, sir.

16 Q Let me show you what's been marked as State's
17 Exhibit 42. Was this a picture of Dadrin Johnson when he
18 was arrested for this charge?

19 A Yes, sir. It is.

20 Q And was that the picture that y'all took the day that
21 he was brought into the jail?

22 A Yes, sir, it is.

23 MR. BARNETTE: Your Honor, I'd like to move this into
24 evidence at this time.

25 MS. JONES: Your Honor, we would simply object to the

Cameron Lenar Bridges
Cross-examination by Ms. Jones

1 relevancy of the picture. Again, Officer Porter indicated
2 and testified regarding the video.

3 The video is the state's case in chief, and we would
4 just indicate that it's simply not relevant and more
5 prejudicial than relevant or probative.

6 THE COURT: Overruled.

7 MR. BARNETTE: Thank you, Your Honor.

8 (Photograph marked State's Exhibit No. 42.)

9 MR. BARNETTE: May I publish the picture to the jury?

10 THE COURT: You may.

11 (Whereupon, the video was played for the jury.)

12 BY MR. BARNETTE

13 Q The picture is of Mr. Johnson when he was brought into
14 the jail, is that correct, sir?

15 A Yes, sir.

16 Q Thank you.

17 MR. BARNETTE: Your Honor, that's all the questions I
18 have of this witness.

19 Q Please answer any questions they may have for you,
20 sir.

21 CROSS-EXAMINATION

22 BY MS. JONES

23 Q Officer, is it fair to say that everybody who's
24 brought to the county jail, their photo is taken?

25 A Yes, ma'am, everybody's taken a photo when they come

Edgar Victor Guthro
Direct examination by Ms. Barnette

1 to jail.

2 MS. JONES: Nothing further.

3 MR. BARNETTE: No further questions. We would ask
4 this witness be excused, Your Honor.

5 MR. THOMPSON: I have no questions, Your Honor.

6 THE COURT: You may step down.

7 (Whereupon, the witness was excused.)

8 MR. BARNETTE: Your Honor, I would like to call
9 Investigator Guthro to the stand.

10 EDGAR VICTOR GUTHRO, having
11 been first duly sworn, testified as follows:

12 DIRECT EXAMINATION BY MR. BARNETTE

13 Q If you would, sir, please state your full name for the
14 record.

15 A Edgar Victor Guthro.

16 Q And where do you work at, sir?

17 A Spartanburg Department of Public Safety.

18 Q And what's your position there, sir?

19 A I work in our forensics unit.

20 Q And how long have you been with the department of
21 public safety, sir?

22 A About 22 years.

23 Q Back on October 9th of 2009, was you working second
24 shift, sir?

25 A I was.

Edgar Victor Guthro
Direct examination by Ms. Barnette

1 Q Was you called to the scene at the Quick Stop at 496
2 South Church Street?

3 A Yes, sir, I was.

4 Q And when you arrived there, could you tell the jury
5 what you found, sir?

6 A When I arrived on the scene it had already been taped
7 off by patrol units with the yellow crime scene tape. And
8 the victim had already been removed from the scene by
9 E.M.S. So I just looked for evidence. Much of it had
10 already been found by patrol officers. Marked the
11 evidence, photographed it and measured it.

12 Q Let me show you some exhibits here, sir, if I can.
13 Let me show you State's Exhibit 2, which is a map of the
14 area. Is that a map of the area we're discussing where
15 this occurred at, sir?

16 A Yes.

17 Q And let me show you State's Exhibit 3. Is that an
18 aerial photo of the Quick Stop from above -- across from
19 the swim center -- Quick Stop and then the swim center
20 across the street?

21 A Yes.

22 Q Okay. And then let me let you look through State's
23 Exhibits 4 through 26 and see if those pictures fairly
24 represent what you saw that night, sir.

25 A Yes, sir, they do.

Edgar Victor Guthro
Direct examination by Ms. Barnette

1 MR. BARNETTE: Your Honor, I'd like to move Exhibits 2
2 through 26 into evidence at this time.

3 MS. JONES: No objection, Your Honor.

4 MR. THOMPSON: None from the defendant Robbs.

5 THE COURT: All right. They are admitted without
6 objection. Those are two through --

7 MR. BARNETTE: Twenty-six, Your Honor.

8 (Photographs marked State's Exhibits Nos. 2 through
9 26.)

10 BY MR. BARNETTE

11 Q Let me show you just to make this a little bit easier.
12 At the scene -- did you collect evidence at the scene also,
13 sir?

14 A Yes, sir, I did.

15 Q Let me show you what's been marked State's
16 Exhibits 29, 30, 31 -- well, goes all the way through
17 State's Exhibit 40 or 41. Excuse me. From 29 to 41. If
18 you would, take a look at these and see if those are
19 evidence that was collected either at the scene -- and you
20 also went to the autopsy of Mr. Edwards, is that right?

21 A I did.

22 Q If you would, see if those are items that was
23 collected and given to you, sir, or the ones you collected
24 or received.

25 A Yes, they are.

Edgar Victor Guthro
Direct examination by Ms. Barnette

1 MR. BARNETTE: Your Honor, I'd like to move these into
2 evidence at this time.

3 THE COURT: That's 29 through 41?

4 MR. BARNETTE: Yes, sir.

5 MS. JONES: Your Honor, we have no objection subject
6 to the chain being established. And it is our
7 understanding that the evidence person from the city is
8 going to be testifying.

9 THE COURT: Okay.

10 MR. BARNETTE: Your Honor, I'm going to have the
11 evidence person. I didn't realize it, but I will have them
12 here. We'll do that. And I will enter them subject to
13 that restriction to have them come over and testify about
14 it.

15 THE COURT: All right. They're admitted subject to
16 additional chain evidence.

17 (One fired bullet and one bullet core marked State's
18 Exhibit No. 29; one fired bullet and one bullet jacket
19 marked State's Exhibit No. 30; fired 9mm marked State's
20 Exhibit No. 31; one fired 9mm marked State's Exhibit No. 32;
21 fired 9mm marked State's Exhibit No. 33; one fired 9mm
22 marked State's Exhibit No. 34; one fired 9mm marked State's
23 Exhibit No. 35; photograph marked State's Exhibit No. 36;
24 photograph marked State's Exhibit No. 37; video marked
25 State's Exhibit No. 38; part of lead bullet marked State's

Edgar Victor Guthro
Direct examination by Ms. Barnette

1 Exhibit No. 39; 9mm shell casing marked State's Exhibit No.
2 40; bullet jacket fragment marked State's Exhibit No. 41.)

3 BY MR. BARNETTE

4 Q And let me show you State's Exhibits 27 and 28. Was
5 these the bullets that was collected at the autopsy?

6 A Yes, sir, it is. These are photographs that I took.

7 Q And do those pictures fairly represent what you do
8 when you receive the bullets that you received from Dr.
9 Wren?

10 A Yes, sir, they do.

11 MR. BARNETTE: Your Honor, I'd like to enter these two
12 exhibits into evidence.

13 MS. JONES: No objection, Your Honor.

14 MR. THOMPSON: None from defendant Ross.

15 THE COURT: Nos. 27 and 28?

16 MR. BARNETTE: Yes, sir.

17 (Photograph marked State's Exhibit No. 27; photograph
18 marked State's Exhibit No. 28.)

19 Q If you would, come on down sir, if you would.

20 (Whereupon, the witness left the stand.)

21 Q Publish State's Exhibit No. 3. Showing you State's
22 Exhibit No. 3 here. Is this, sir, South Church Street
23 right here, sir?

24 A Yes, sir, it is.

25 Q And is this where the Quick Stop is located?

Edgar Victor Guthro
Direct examination by Ms. Barnette

- 1 A That's correct.
- 2 Q And is this the swim center across or in this area?
- 3 A Yes.
- 4 Q And down here is Mary Wright and Carver Junior High?
- 5 A That'd be correct.
- 6 Q When you arrived there did you look for any weapons on
- 7 the scene, sir?
- 8 A I did.
- 9 Q Did you find any weapons, sir?
- 10 A No, sir.
- 11 Q Did you look inside the victim's car?
- 12 A I did.
- 13 Q Did you find any weapons in there, sir?
- 14 A No, sir.
- 15 Q At the autopsy was there any weapons found on the
- 16 victim?
- 17 A No, sir.
- 18 Q Did y'all look at his clothes and so forth too?
- 19 A Yes, sir.
- 20 Q There was no weapons in there also?
- 21 A Correct.
- 22 Q Let me show you State's Exhibit No. 4. Is this -- was
- 23 this the victim's car right here?
- 24 A Yes, sir.
- 25 Q And is this the pump area, the Quick Stop area?

Edgar Victor Guthro
Direct examination by Ms. Barnette

1 A It is.

2 Q And did you put placards for different locations for
3 items that you found, sir?

4 A Yes, sir. Each one of those yellow placards is
5 marking an item of potential evidence.

6 Q Let me show you State's Exhibit No. 5. Is this the
7 front of the Quick Stop, sir?

8 A Yes, sir, it is.

9 Q State's Exhibit 6. And in these placards, can you
10 tell us what was located at No. 1, sir?

11 A It was a 9mm shell casing.

12 Q Can you tell me what was located in No. 2?

13 A It was a bullet jacket fragment, which is the copper
14 outside of the bullet.

15 Q And No. 3.

16 A A Swisher cigar.

17 Q And No. 4.

18 A Four is marking an area of blood spatter on the ground
19 where I collected the swab.

20 Q Over here is No. 7. What was that, sir?

21 A A 9mm shell casing.

22 Q No. 8?

23 A A 9mm shell casing.

24 Q No. 9?

25 A A 9mm shell casing.

Edgar Victor Guthro
Direct examination by Ms. Barnette

1 Q No. 10?

2 A A 9mm shell casing.

3 Q And No. 11?

4 A A 9mm shell casing.

5 Q And the green hat, what placard was that, sir?

6 A No. 13.

7 MR. BARNETTE: Okay. Publishing State's Exhibit
8 No. 7.

9 Q Was this on the passenger side of the victim's car
10 there, sir?

11 A That's correct.

12 Q And No. 5, what did it indicate, sir?

13 A No. 5 was another area of blood spatter that I
14 collected the swab from.

15 Q And No. 4, is that blood spatter too?

16 A Correct.

17 Q And No. 8, this picture is again another picture --
18 and No. 6, placard six, what is that, sir?

19 A Six is a bracelet that was laying there.

20 Q And was this in the front of the victim's car?

21 A Yes, sir, in the front towards the passenger side.

22 Q State's Exhibit No. 9, what side is that, sir?

23 A That's the driver's side of the victim's vehicle.

24 Q And these are the placards where the shell casings
25 were found?

Edgar Victor Guthro
Direct examination by Ms. Barnette

1 A Correct.

2 Q State's Exhibit 10. Is this just an angle towards the
3 store from Church Street going in?

4 A It is. It's a random shot.

5 Q And No. 11 was where you found what?

6 A A 9mm shell casing.

7 Q And a 9mm, it's an automatic weapon, is that right,
8 anything that uses 9mm ammunition?

9 A Normally, yes. They are clips that can be sold where
10 the bullets actually slide into a clip that fit into the
11 cylinder, but they can be fired into a revolver.
12 Ninety-nine percent of the time, sir.

13 Q And in this case obviously it kicked the shell casings
14 out.

15 A Correct, ejected them.

16 Q And it usually would eject them in a pack, I mean --

17 MS. JONES: I'm going to object to leading.

18 THE COURT: Sustained.

19 MR. BARNETTE: I will move on.

20 BY MR. BARNETTE

21 Q Showing you State's Exhibit No. 11. Is this a picture
22 from the back side of the victim's car?

23 A Yes, sir, it is.

24 Q Showing you State's Exhibit No. 1. What is this a
25 picture of, sir?

Edgar Victor Guthro
Direct examination by Ms. Barnette

1 A A 9mm shell casing.

2 Q And if you would, show the jury where the shell casing
3 is.

4 (Whereupon, the witness complied.)

5 Q State's Exhibit No. 13. What is that, sir?

6 A That's a bullet jacket fragment, which was item No. 2
7 that's located right there.

8 Q Showing you State's Exhibit No. 14. Is this just
9 another picture of the car from a distance?

10 A It is.

11 Q State's Exhibit 15. What is this a picture of, sir?

12 A The area of blood spatter that I had swabbed, which
13 was located right there.

14 Q State's Exhibit 16. Can you tell us what that is,
15 sir?

16 A Another area of blood spatter.

17 Q State's Exhibit 17. Is that just another picture of
18 where the shell casings were?

19 A Correct. Everything except for one starts with 11 and
20 makes an arc to seven.

21 Q And showing the jury these, I know they're not in
22 evidence yet, but just having you I.D. them.

23 Showing you State's Exhibit 31 just for I.D. purposes
24 at this time. You have listed on there item one. Does that
25 match with the placard that you found?

Edgar Victor Guthro
Direct examination by Ms. Barnette

1 A Yes, sir, it does. It matches the placard behind the
2 vehicle.

3 Q So item one would be placard one.

4 A Yes, sir.

5 Q And that would be the shell casing that you found.

6 A Correct.

7 Q And then like State's Exhibit 32, if it just says item
8 seven that would match the placard seven?

9 A Would be collected from placard seven, yes, sir.

10 Q And then State's Exhibit 34, item nine, would be where
11 the placard --

12 A The 9mm shell casing would be that there.

13 Q And the shell casings are located inside of there.

14 A Yes, sir.

15 Q Item ten. Where would that be at, sir?

16 A Another 9mm shell casing would be right there.

17 Q And item eight, which is State's Exhibit 33.

18 A Another 9mm shell casing with this placard.

19 Q And item 11.

20 A A shell casing, a 9mm, placard.

21 Q That was State's Exhibit 40. But the item number is
22 what matches up the placard.

23 A The placards, yes, sir.

24 Q Showing you State's Exhibit No. 18. What does that
25 show, sir?

Edgar Victor Guthro
Direct examination by Ms. Barnette

- 1 A That's a 9mm shell casing located right there.
- 2 Q State's Exhibit 8.
- 3 A A 9mm shell casing right here.
- 4 Q State's Exhibit 20.
- 5 A Another 9mm shell casing in this area.
- 6 Q That's placard nine, item nine.
- 7 A Yes, sir.
- 8 Q State's Exhibit 21. What is that, sir?
- 9 A That's placard ten, a 9mm shell casing right there.
- 10 Q State's Exhibit 27, what is that, sir?
- 11 A Placard 11, 9mm shell casing.
- 12 Q And State's Exhibit 23 just shows the road, the
- 13 placards with the shell casings.
- 14 A Yes, sir. That's correct.
- 15 Q State's Exhibit 12. What does that show, sir?
- 16 A Twelve is another area of blood spatter.
- 17 Q Showing you State's Exhibit 26. What does that show,
- 18 sir?
- 19 A That's the area of blood spatter, item 12, and the
- 20 green ball cap, which was item 13.
- 21 Q You also attended the autopsy, is that correct, sir?
- 22 A Yes, sir, I did.
- 23 Q Showing you State's Exhibit No. 27. Is this the
- 24 bullet and the lead fragment that was recovered from Mr.
- 25 Edwards' body?

Edgar Victor Guthro
Direct examination by Ms. Barnette

1 A That's correct. They were recovered at autopsy.
2 That's virtually the whole bullet, and that's a lead
3 fragment of a bullet.

4 Q And this was collected by the doctor and given to you.

5 A Correct.

6 Q And you placed it into evidence.

7 A That's correct.

8 Q All of these things you placed into evidence that
9 we're talking about.

10 A That's correct.

11 Q And State's Exhibit 28. Can you tell us what that is
12 there, sir?

13 A Yes, sir. That's the same bullet as right here, same
14 fragment and that bullet was removed at the autopsy.

15 Q And showing you State's Exhibit 30, are those pieces
16 that you took photographs of, sir?

17 A Yes.

18 Q State's --

19 A Small jacket in that, in that picture right there.

20 Q State's Exhibit 29 for I.D. purposes, is that the
21 bullet you was talking about earlier?

22 A Yes, sir, it is.

23 Q And State's Exhibit 39. Is that a piece of lead
24 fragment that was also collected?

25 A It is.

Edgar Victor Guthro
Cross-examination by Ms. Jones

1 Q And you received these off of Dr. Wren.

2 A That's correct.

3 Q And then you placed them into evidence.

4 A That's correct.

5 Q Please have a seat, sir.

6 (Whereupon, the witness returned to the stand.)

7 Q And, sir, these all occurred, this occurred, in the
8 City of Spartanburg, is that correct?

9 A Yes, sir, it did.

10 Q And which is in Spartanburg County.

11 A Yes.

12 Q Please answer any questions that Ms. Jones or
13 Mr. Thompson may have for you.

14 CROSS-EXAMINATION

15 BY MS. JONES

16 Q Investigator Guthro, did you also do a gunshot residue
17 kit?

18 A I did.

19 Q Okay. And did you do that off the -- Mr. Adrian
20 Pearson?

21 A Collected from the victim. Is that what you're --

22 Q Yeah. Adrian Edwards. I'm sorry.

23 A Yes, I did.

24 Q Okay. And did you send that off to SLED?

25 A Yes.

Edgar Victor Guthro
Cross-examination by Mr. Thompson

1 Q Okay. And were you aware that there was gunshot
2 residue on Mr. Edwards?

3 A I haven't seen the report, but I am aware of it, yes,
4 ma'am.

5 Q On his hands?

6 A One of his hands. I don't recall which one.

7 MS. JONES: Nothing further.

8 MR. THOMPSON: May it please the Court, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. THOMPSON

11 Q Mr. Guthro, I want to show you one of the exhibits the
12 state entered. You've testified this is a picture of the
13 scene, right?

14 A It's an aerial photograph. You can't actually see the
15 scene. It's under an awning.

16 Q So and let me see if I can. Up here is South Church
17 Street. Up above that is the store, correct?

18 A Yes, sir, I believe, yes.

19 Q Okay. And then down below here toward the bottom of
20 the screen is the swim center, correct?

21 A Yes.

22 Q All right. Now, my client, Mr. Robbs, lives, lived,
23 lives on East Park Street. Do you know where that is in
24 relation to this diagram?

25 MR. BARNETTE: Your Honor, I'm going to object. He's

Edgar Victor Guthro
Cross-examination by Mr. Thompson

1 asking him to assume facts that's not in evidence.

2 THE COURT: Well.

3 MR. THOMPSON: Your Honor, we're showing the
4 surrounding area.

5 THE COURT: Overruled. Go ahead.

6 BY MR. THOMPSON

7 Q Okay. Do you have any idea where that is?

8 A I believe -- it's been a long time since I've been
9 riding the streets -- but I think it runs off of Marion,
10 which is close to there, yes.

11 Q So that would be down past the swim center --

12 A Yes --

13 Q -- out of the -- out of view of this, correct?

14 A Yes.

15 Q Okay. And then if you get to that store who is --
16 someone would have to get on South Church Street, correct?

17 A Yes. You'd at least have to cross it.

18 Q All right. Now, from Marion Avenue -- Marion Avenue
19 is right there beside of the swim center, correct?

20 MR. BARNETTE: Your Honor, I'm going to object.

21 Assuming facts in evidence. He just said he knew where it
22 was or whatever from that standpoint, trying to assume
23 facts not in evidence.

24 THE COURT: Well, I believe he just asked him what's
25 on that map. Is that map not in evidence?

Edgar Victor Guthro
Redirect examination by Mr. Barnette

1 MR. BARNETTE: Yes, sir, it is.

2 THE COURT: Okay. He's just referencing the map right
3 now.

4 MR. BARNETTE: Okay.

5 BY MR. THOMPSON

6 Q And that -- this is Marion Avenue here between the
7 swim center and the church right here, correct?

8 A That's correct.

9 Q Okay. So someone coming from my client's home would
10 likely get on Marion Avenue and then Church Street to go to
11 the store, correct?

12 A Yes, sir.

13 Q Okay. And do you know about how far East Park is from
14 the store there? Do you have any idea?

15 A Not very far.

16 MR. THOMPSON: I have no further questions.

17 MR. BARNETTE: Just one question on redirect, Your
18 Honor.

19 REDIRECT EXAMINATION

20 BY MR. BARNETTE

21 Q Ms. Jones asked you about G.S.R.

22 A Yes, she did.

23 Q What is G.S.R., sir?

24 A G.S.R. stands for gunshot residue kit. We use it to
25 determine whether or not somebody has got gunshot residue

Edgar Victor Guthro
Redirect examination by Mr. Barnette

1 on them, which is powders and metals.

2 Q Okay. So when a gun is fired gun powder goes off. I
3 mean, residue goes off with gunpowder, is that right?

4 A That's correct.

5 Q And if somebody -- and I think you received a report,
6 is that right?

7 A Yes.

8 Q And it indicated on the right palm.

9 A I didn't recall the palm. I knew it was one hand, but
10 yes.

11 Q So if you was reaching out could it be very --

12 MS. JONES: I'm going to object to -- he's assuming
13 facts not in evidence. Mr. Guthro has not been qualified
14 as an expert in G.S.R., and the SLED person isn't here.

15 THE COURT: Sustained.

16 MS. JONES: No further questions, Your Honor.

17 THE COURT: All right. You can step down.

18 All right. Ladies and gentlemen, we're going to take
19 a sort break, so I'll ask you to please go to your jury
20 room.

21 Do not yet discuss the case. I'll bring you back
22 after that break.

23 (The following takes place outside the presence of the
24 jury.)

25 THE COURT: Court is in recess for 15 minutes.

George David Reeves
Direct examination by Mr. Barnette

1 (Whereupon, a recess was taken.)

2 THE COURT: All right. Bring the jury in, please.

3 (The following takes place in the presence of the
4 jury.)

5 THE COURT: All right. We will continue with the
6 state's presentation.

7 Mr. Barnette.

8 MR. BARNETTE: Thank you, Your Honor. May it please
9 the Court. I would like to call David Reeves to the stand.

10 GEORGE DAVID REEVES, having
11 been first duly sworn, testified as follows:

12 DIRECT EXAMINATION BY MR. BARNETTE

13 Q If you would, state your full name for the record,
14 please.

15 A My full name is George David Reeves.

16 Q And where do you work at, sir?

17 A I work at the City of Spartanburg Police Department.

18 Q And what's your position there, sir?

19 A I'm a property and evidence technician.

20 Q And how long have you been there, sir?

21 A Ten years.

22 Q Did you receive the evidence in this case, sir, from
23 Investigator Guthro?

24 A I did.

25 Q Let me show you what's been marked, I believe, as

George David Reeves
Direct examination by Mr. Barnette

1 State's Exhibits 29 through 41. Take a look at those
2 items. Are these items that Investigator Guthro placed
3 into evidence with you at the evidence room?

4 A They are.

5 MR. BARNETTE: Your Honor, I'd like to move these into
6 evidence at this time.

7 THE COURT: Which numbers were those?

8 MR. BARNETTE: Twenty-nine through 41, Your Honor.

9 THE COURT: All right. Well, they've already been
10 admitted subject.

11 MR. BARNETTE: Subject to the evidence person
12 testifying.

13 THE COURT: Any further objection?

14 MS. JONES: No objection, Your Honor.

15 MR. THOMPSON: None from defendant Robbs.

16 THE COURT: They're confirmed.

17 MR. BARNETTE: Okay. Thank you, Your Honor. No
18 further questions of this witness, Your Honor.

19 MS. JONES: No questions for this witness, sir.

20 MR. THOMPSON: No cross from Robbs.

21 THE COURT: You may step down.

22 MS. GALLIVAN: The state calls Dr. Wren.
23
24
25

Dr. John David Wren
Direct examination by Ms. Gallivan

1 DR. JOHN DAVID WREN, having
2 been first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MS. GALLIVAN

4 Q Dr. Wren, would state your full name for the record?

5 A My full name is John David Wren.

6 Q Where are you currently employed and what's your
7 position?

8 A I currently work as a pathologist for Carolinas
9 Pathology Group. We have hospitals in North Carolina and
10 South Carolina. But I'm currently the medical director of
11 Spartanburg Regional Medical Center and Spartanburg
12 Hospital for Restorative Care.

13 Q Are you licensed to practice medicine in the State of
14 South Carolina?

15 A South Carolina and North Carolina, yes.

16 Q Will you tell the jury a little bit about your
17 educational background and any certifications that you
18 have?

19 A Well, I have a bachelor's degree, a master's degree
20 and a doctor of philosophy degree in chemical engineering
21 from Clemson University. I have an M.D. degree from the
22 Medical University of South Carolina.

23 I did a combined anatomic and clinical pathology
24 residency at the Medical University. And while I was there
25 I was associate, excuse me, assistant medical examiner for

Dr. John David Wren
Direct examination by Ms. Gallivan

1 Charleston County from July of 1980 until January of 1983.

2 I came -- I finished my residency there by applying
3 some of my doctoral work and some research work while I was
4 a medical student finishing seven years equivalent in three
5 years and ten months.

6 I passed my anatomic and clinical pathology boards on
7 my first try, and I am certified in anatomic and clinical
8 pathology by the College of American Pathologists.

9 I did forensic autopsies at the Medical University
10 filling in for the resident, I mean, the attending
11 physicians there one weekend a month from July of 1980
12 until January of 1983.

13 I came to Spartanburg in October, middle of October,
14 1982 and went back to Charleston on the weekends because my
15 family was still there and my daughter was in school there.
16 So we waited until the break in the school semester before
17 I -- we moved here. So I've been here since then doing
18 forensic autopsies for the coroner.

19 Q Okay. Dr. Wren, how many autopsies have you performed
20 during the course of your medical career, would you
21 estimate?

22 A Between four and five thousand. I haven't kept exact
23 count. I did about 260 a year for the last 14 or 15 years.
24 Before that I had done various numbers but not quite that
25 many.

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1 Q Okay. Have you ever been qualified as an expert in
2 the field of pathology before?

3 A Yes. I've been qualified in multiple counties in
4 South Carolina. A few of them are Charleston, Greenville,
5 Anderson, Spartanburg of course, York, Cherokee, Chester,
6 Fairfield, Lexington, Laurens, Lexington. I've said that.
7 Orangeburg, Dillon and Clarendon, Beaufort and Berkeley.
8 And I think that's most of them.

9 Q Okay.

10 MS. GALLIVAN: Your Honor, at this time I'd like to
11 offer Dr. Wren as an expert in the field of pathology.

12 THE COURT: Any objection?

13 MS. JONES: No, sir.

14 MR. THOMPSON: None, Your Honor.

15 THE COURT: He is so qualified.

16 MS. GALLIVAN: Thank you.

17 BY MS. GALLIVAN

18 Q Dr. Wren, on October 10th of 2009 did you perform an
19 autopsy on a 24-year-old black male by the name of Adrian
20 Edwards?

21 A Yes. I performed an autopsy on an individual
22 identified as Adrian Dante Edwards in the Spartanburg
23 Regional Medical Center Autopsy Room on October the 10th of
24 2009. I began that autopsy at approximately 9:45 a.m.

25 Q Okay. And based on that particular autopsy and within

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1 the bounds of reasonable medical certainty did you perform
2 an expert medical opinion as to the cause of death of Mr.
3 Edwards?

4 A Yes. I assigned the cause of death as exsanguination,
5 which means that he bled to death, secondary to internal
6 hemorrhage, secondary to gunshot wounds to the buttocks and
7 right groin.

8 Q Could you please describe the gunshot wounds that your
9 autopsy revealed to the jury?

10 A He had four gunshot wounds. The immediately fatal
11 gunshot wound was one that was in his right inguinal region
12 in the crease of the leg there. And that gunshot wound
13 passed into the abdomen. It went through the intestines in
14 several places.

15 It actually lacerated the aorta in the abdomen, which
16 is the main blood-carrying artery in the body. And it
17 passed on out into his left flank, where I recovered a
18 bullet. I labeled that bullet "A" with the autopsy -- last
19 number of the autopsy, which was a five. And I also
20 labeled it with a delta, which is easy to make on bullets.
21 So I use that as my identifying characteristic.

22 And it was a copper jacketed lead bullet. I forwarded
23 that to Officer Ed Guthro of the Spartanburg City Police
24 Department.

25 Now, this was an immediately fatal bullet because it

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1 penetrated the aorta. And he bled rapidly from that.

2 He also had several other gunshot wounds, particularly
3 one that I labeled as gunshot wound No. 2. It was in the
4 right medial knee. It appeared to be a ricochet type
5 gunshot wound in that it didn't have a clean border. It
6 was like as if the bullet was tumbling. It was 55
7 one-hundredths by 45 one-hundredths of an inch in overall
8 dimensions.

9 And it had an abrasion border where the skin was
10 abraded from 2:00 to 10:00 o'clock. If you were looking at
11 it as if it were face of a clock. From 2:00 around to
12 10:00 was where the bullet was coming from. And that
13 abrasion was a little over half an inch in width.

14 That bullet actually went into the leg. It fractured
15 the femur, which is the main bone between the knee and the
16 hip, and came to rest there.

17 I recovered that bullet also. I labeled that one 5-C
18 with a delta and forwarded it to Officer Guthro also. It
19 was about 43 one-hundredths of an inch in -- that was a
20 copper fragment. And then I found a partially copper
21 jacketed lead fragment that was about 36 one-hundredths of
22 an inch in the base. I found two -- two portions of that
23 bullet in his leg.

24 And gunshot wound No. 3 I thought was probably an
25 exit. It was posterior to the anus. And a fragment of

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1 bullet came out there.

2 The fourth gunshot wound was in the right lower
3 buttocks region about 5 inches to the right of midline.
4 And that was a circular wound. It had a slight abrasion
5 border from 12:00 to 4:00 o'clock that was 6 one-hundredths
6 of an inch in width.

7 And then the 5th gunshot wound was an exit into the
8 left lower buttocks region about two and three quarter
9 inches to the left of midline. And it had a tag of tissue,
10 and tissue protruding from that indicating that it was an
11 exit wound.

12 Now, he also had some stretch type abrasions or
13 grazing wounds to his scrotum. And in the right scrotum I
14 found a lead fragment from a bullet that was considerably
15 distorted. And I labeled that 5-B and Delta and forwarded
16 it to Officer Guthro also. So those are the wounds now.

17 In addition the gunshot wound No. 1 was passing from
18 front to back, from right to left, and slightly upward.

19 Gunshot wound No. 2, which was the one in the leg, was
20 passing upward and lateral going, to his right in this
21 case, and front to back.

22 And then the gunshot wound No. 4, which was in the
23 right lower buttocks, it was extensively fragmented. And
24 it went in and hit bone and fragmented apart. And that's
25 why I found these other fragments and the other exits. It

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1 was going from back to front, slightly to right to left,
2 and forward and slightly upward in him.

3 Q I want to show you what has been marked as State's
4 Exhibits 29, 30 and 39. Can you identify these items I'm
5 handing you?

6 A Will these open?

7 Q They should.

8 A I think they're sealed.

9 This one labeled 30 I can recognize because it has a
10 copper jacket, portion of a copper jacket, as well as a
11 flattened distorted bullet that distorts when it hits. And
12 it's partially jacketed. It's etched on the base of that
13 bullet. This is the one recovered from his leg.

14 The second one I put into a blood tube without blood
15 in it. This one was from the left flank labeled "A". And
16 it's basically an intact bullet copper jacketed. And it's
17 labeled with those indicators on the base that I talked
18 about. And then the -- that one is No. 29.

19 And then No. 39 I also put in a blood tube. That one
20 was from the fragment -- the fragmented piece of a bullet
21 from the scrotum labeled "B". And one can see the base on
22 that one is pretty well distorted, but it tore apart.

23 Q And these are the bullets and fragments that you gave
24 to Investigator Uthro -- Guthro then, right?

25 A Yes, yes. And he signed for them.

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Direct examination by Ms. Gallivan

1 Q And based on these gunshot wounds and the autopsy,
2 that was used to determine the cause of death of this
3 victim?

4 A I stated previously it was exsanguination secondary to
5 internal hemorrhage.

6 All bullets are potentially fatal either from
7 infection or complications of surgery or other type things.
8 But the one that I determined is the immediately fatal one,
9 the one he actually died from, was the gunshot wound to his
10 inguinal region, over in his right lower abdomen, that
11 passed through the aorta and bled rapidly. Usually less
12 than ten minutes before you bleed out with an aortic
13 laceration.

14 MS. GALLIVAN: Beg the Court's indulgence.

15 Q Please answer any questions the defense may have.

16 MS. JONES: Your Honor, I do not have any questions.

17 MR. THOMPSON: No questions, Your Honor.

18 THE COURT: You may step down. Thank you.

19 MS. GALLIVAN: We would ask this witness be excused,
20 Your Honor.

21 THE COURT: He may be.

22 (Whereupon, the witness was excused.)

23 MR. BARNETTE: Your Honor, the state would like to
24 check on something before we go to the next part.

25 THE COURT: Okay.

1 (Bench conference held off the record in the presence
2 of the jury but out of the hearing of the jury.)

3 MR. BARNETTE: Your Honor, the state will rest at this
4 time.

5 THE COURT: All right. Ladies and gentlemen, that is
6 all of the testimony or other evidence to be offered by the
7 state, at least in their case in chief.

8 Before we go any further I've got some matters I'll
9 need to address with the lawyers. It should take only a
10 few minutes. And then we'll continue with the trial -- or
11 perhaps we may break for lunch. I'll just see after I have
12 concluded those issues.

13 But right now I'm going to ask you to please go to
14 your jury room. Do not yet discuss the case. I'll bring
15 you back in just a few minutes.

16 (The following takes place outside the presence of the
17 jury.)

18 THE COURT: All right. Motions or other matters to be
19 addressed, Ms. Jones?

20 MS. JONES: Thank you, Your Honor.

21 We would make a motion for a directed verdict, Your
22 Honor, based upon the objections we've made at trial, and
23 as well as the sufficiency of the evidence.

24 We do not believe that there is sufficient evidence,
25 Your Honor, in this particular case and not a positive

1 identification, as well as we would renew our objection to
2 the picture of the detention photo for reasons we
3 previously stated, sir. Thank you.

4 THE COURT: All right. That motion is denied.
5 Mr. Thompson.

6 MR. THOMPSON: May it please the Court, Your Honor.
7 I would move on behalf of Mr. Robbs for a directed
8 verdict. Your Honor, the state has not produced any
9 evidence to support the charge here.

10 The eye witness testimony, the first two witnesses
11 that came up, clearly exonerated my client of any
12 wrongdoing.

13 And Mr. Porter testified his whole arrest was based
14 upon a theory that's just totally unsupported by the video
15 or the eye witness testimony, Your Honor. And I would move
16 a directed verdict for lack of evidence.

17 THE COURT: All right. That motion is denied. There
18 is sufficient direct, as well as substantial
19 circumstantial, evidence if believed or from which the jury
20 could reasonably infer his participation. So based upon
21 the existence of that evidence your motion is denied.

22 MR. THOMPSON: Thank you, Your Honor.

23 THE COURT: All right. Ms. Jones, does Mr. Johnson
24 intend to testify?

25 MS. JONES: One moment, Your Honor.

1 (Pause.)

2 MS. JONES: No, sir.

3 THE COURT: All right. Mr. Thompson, does
4 Mr. Robbs-Tanner intend to testify?

5 MR. THOMPSON: No, Your Honor.

6 THE COURT: No?

7 MR. THOMPSON: No.

8 THE COURT: All right. I'll begin with Mr. Johnson.

9 Mr. Johnson, I've just inquired of your lawyer as to
10 whether or not you wish to testify during the trial of this
11 case.

12 Do you understand that, and have you discussed with
13 your lawyer, the fact that when you're charged with a crime
14 you have an absolute right to remain silent, which simply
15 means that nobody can make you testify or provide any
16 statement or answer any questions that relate to these
17 charges against you? Do you understand your absolute right
18 to remain silent?

19 DEFENDANT JOHNSON: Yes, sir.

20 THE COURT: Do you also understand that if you wish to
21 provide testimony in the trial of this case now is the only
22 opportunity that you will have to do so?

23 DEFENDANT JOHNSON: Yes, sir.

24 THE COURT: Has Ms. Jones discussed with you the
25 advantages and disadvantages of your testifying, as well as

1 your not testifying?

2 DEFENDANT JOHNSON: Yes, sir.

3 THE COURT: Do you understand that if you elect to
4 take the witness stand and testify in the trial of this
5 case that you will have to answer not only your lawyer's
6 questions but you'll also have to answer the prosecutor's
7 questions to the extent that those questions are relevant
8 even if the responses to those questions might tend to
9 prove you guilty of some crime they claim you committed?

10 DEFENDANT JOHNSON: Yes, sir.

11 THE COURT: Do you also understand that if you elect
12 not to testify that I will instruct the jury that they
13 can't hold that against you, they can't consider it in any
14 way, they cannot allow it to influence their deliberations
15 or their determination as to whether or not your guilt has
16 been proven beyond a reasonable doubt?

17 DEFENDANT JOHNSON: Yes, sir.

18 THE COURT: Have you had plenty of time to reflect
19 upon your decision as to whether or not you will testify?

20 DEFENDANT JOHNSON: Yes, sir.

21 THE COURT: And have you reached a decision?

22 DEFENDANT JOHNSON: Yes, sir, I have.

23 THE COURT: And what is that decision?

24 DEFENDANT JOHNSON: No, sir. I don't want to testify.

25 THE COURT: You do not wish to testify?

1 DEFENDANT JOHNSON: No, sir.

2 THE COURT: And is that a decision that you reached of
3 your own free will and accord?

4 DEFENDANT JOHNSON: Yes, sir.

5 THE COURT: Has anybody pressured you into arriving at
6 that decision?

7 DEFENDANT JOHNSON: No, sir.

8 THE COURT: Did you arrive at that decision on your
9 own after careful reflection of the pros and cons?

10 DEFENDANT JOHNSON: Yes, sir.

11 THE COURT: And are you satisfied with that decision?

12 DEFENDANT JOHNSON: Yes, sir.

13 THE COURT: All right. Thank you. Be seated.

14 Mr. Robbs-Tanner, have you discussed with Mr. Thompson
15 your absolute right to remain silent?

16 DEFENDANT ROBBS-TANNER: Yes, sir.

17 THE COURT: Do you understand that when you're charged
18 with a crime as you are today that you have an absolute
19 right to remain silent? Nobody can require that you take
20 the witness stand and testify.

21 DEFENDANT ROBBS-TANNER: Yes, sir.

22 THE COURT: During the trial of this case you don't
23 have to provide any statement or answer any questions that
24 relate to these charges.

25 You have an absolute right to remain silent and to

1 require the state to establish your guilt to the
2 satisfaction of this jury beyond a reasonable doubt and to
3 do that without your assistance by testifying or answering
4 questions that might tend to prove your own guilt.

5 DEFENDANT ROBBS-TANNER: Yes.

6 THE COURT: You do understand your absolute right to
7 remain silent?

8 DEFENDANT ROBBS-TANNER: Yes.

9 THE COURT: Do you also understand that if you choose
10 to testify or provide any evidence now is the only
11 opportunity that you will have to do so?

12 DEFENDANT ROBBS-TANNER: Yes, sir.

13 THE COURT: And have you and Mr. Thompson discussed
14 the advantages and disadvantages of your taking the witness
15 stand and testifying, as well as not taking the witness
16 stand and testifying?

17 DEFENDANT ROBBS-TANNER: Yes, sir.

18 THE COURT: And do you appreciate what those
19 advantages and disadvantages are?

20 DEFENDANT ROBBS-TANNER: Yes, sir.

21 THE COURT: And have you had plenty of time to reflect
22 upon your decision?

23 DEFENDANT ROBBS-TANNER: Yes, sir.

24 THE COURT: Have you had reached a decision?

25 DEFENDANT ROBBS-TANNER: Yes, sir.

1 THE COURT: What is that decision?

2 DEFENDANT ROBBS-TANNER: I will not be testifying.

3 THE COURT: And is that a decision that you have
4 reached of your own free will and accord?

5 DEFENDANT ROBBS-TANNER: Yes, sir.

6 THE COURT: Did anybody force you or pressure you into
7 that decision?

8 DEFENDANT ROBBS-TANNER: No, sir.

9 THE COURT: Did you arrive at that decision on your
10 own after careful reflection upon it?

11 DEFENDANT ROBBS-TANNER: Yes.

12 THE COURT: And are you satisfied with that decision?

13 DEFENDANT ROBBS-TANNER: Yes, sir.

14 THE COURT: All right. Thank you. Be seated.

15 Ms. Jones and Mr. Thompson, do either of you have any
16 other witnesses that you intend to call?

17 MS. JONES: No, sir.

18 MR. THOMPSON: None from Mr. Robbs.

19 THE COURT: All right. Mr. Johnson, do you or
20 Mr. Robbs-Tanner have any other witnesses you wish for your
21 lawyers to call in the case?

22 Mr. Johnson.

23 DEFENDANT JOHNSON: No, sir.

24 THE COURT: Mr. Robbs-Tanner.

25 DEFENDANT ROBBS-TANNER: No, sir.

1 THE COURT: Okay. All right. Do we have -- does the
2 state have any requests for instructions?

3 MR. BARNETTE: Yes, sir, like to request the hand of
4 one, hand of all.

5 THE COURT: Okay. Ms. Jones, any requests by Mr.
6 Johnson?

7 MS. JONES: Just your standard instruction, sir.

8 THE COURT: Mr. Thompson, any requests for
9 Mr. Robbs-Tanner?

10 MR. THOMPSON: I just repeat his earlier request, Your
11 Honor, that the Court stress that one client or one
12 defendant can be found guilty, whereas the other can be
13 found not guilty. And I don't doubt the Court will go into
14 that.

15 THE COURT: I will be telling the jury that.

16 MR. THOMPSON: Thank you.

17 THE COURT: All right. I think I'm going to excuse
18 the jury for lunch, and then we'll conclude with the final
19 arguments and the instruction and deliberations after
20 lunch.

21 Okay. Bring the jury in.

22 (The following takes place in the presence of the
23 jury.)

24 THE COURT: Ladies and gentlemen, as you know, the
25 state has concluded with their presentation. So we'll now

1 continue with any to be offered by either defendant.

2 Ms. Jones, does Mr. Johnson wish to introduce any
3 additional evidence?

4 MS. JONES: No, sir.

5 THE COURT: Mr. Thompson, does Mr. Robbs-Tanner wish
6 to introduce any additional evidence?

7 MR. THOMPSON: No, Your Honor.

8 THE COURT: Both of you intend to rest.

9 MR. THOMPSON: Yes, sir.

10 MS. JONES: Yes, sir.

11 THE COURT: All right. Ladies and gentlemen, that is
12 all of the testimony and evidence to be introduced in the
13 trial of this case.

14 As I told you previously, therefore what remains to be
15 done are the lawyers' final summations, after which I'll
16 instruct you on the law, and then you can begin with your
17 deliberations in the case.

18 Because it's about lunchtime we're going to stop now.
19 We'll recess for lunch and excuse you for lunch. You'll
20 return at 1:45, at 1:45 this afternoon, at which time we'll
21 conclude with the lawyers' final summations, my instruction
22 on the law and your deliberations.

23 In the meantime during lunch you're still to continue
24 to follow the instructions previously given you. That is
25 you are not to discuss the case in any fashion, you are not

1 to consult any outside resources. Don't conduct any
2 investigation or do your own research into any issue, and
3 do not permit yourselves to be exposed to any type of media
4 coverage that might relate to the case.

5 With that, do have a good lunch. Please report to
6 your jury room at 1:45, at 1:45 this afternoon. Have a
7 good lunch.

8 (The following takes place outside the presence of the
9 jury.)

10 THE COURT: All right. Court is in recess until 1:45.

11 (Whereupon, a recess was taken.)

12 THE COURT: Any matters that need to be addressed
13 before the jury is brought in?

14 MR. BARNETTE: None from the state, Your Honor.

15 MS. JONES: No, sir.

16 MR. THOMPSON: None from me.

17 THE COURT: Okay. Bring them in.

18 (The following takes place in the presence of the
19 jury.)

20 THE COURT: All right. Ladies and gentlemen, as you
21 know, all the evidence is in. What remains to be done are
22 the lawyers' final summations, after which I'll instruct
23 you on the law. And then you can begin with your
24 deliberations in the case.

25 So please give the lawyers your attention now as they

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1 give you their final summations.

2 Ms. Jones.

3 MS. JONES: Thank you, Your Honor.

4 Ladies and gentlemen of the jury, as you know, I
5 represent Mr. Johnson in this matter.

6 As you heard throughout this, this court proceeding,
7 ladies and gentlemen, it was Investigator Porter who was
8 the person in charge of this investigation. And as you
9 heard him testimony, he made a judgment. He looked at the
10 video, and he made a judgment that that person on the video
11 was my client. And everything flowed from there.

12 They also tracked down who owned that car, and they
13 found out that that person was Crystal Miller. They also
14 knew that Amber Rice was there. She was the one in the
15 green shirt getting out and paying the bill. You all saw
16 that on video.

17 Ladies and gentlemen, we also heard from Crystal
18 Miller. Let's take a look at what she was saying. She
19 indicated, or least was testifying here, blow by blow. She
20 knew second by second by second what was going on.

21 Is that believable? Is that really believable when
22 she's in the driver's seat, and she was testifying on
23 cross-examination that she was listening to music, she's
24 texting away and she's talking on a cell phone?

25 Is it really realistic to think while she's talking on

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1 her cell phone she turns like this or she's texting and
2 turns like this and sees something heinous over here? It
3 is over here. We saw her car is here and Mr. Edwards' car
4 is way back here.

5 So she would have literally had to turn. Is that
6 possible, turning around and texting? And if she saw that,
7 wouldn't you stop the text and call 9-1-1? I'm just seeing
8 something awful here. She doesn't do that. What does she
9 do? She tries to drive off.

10 We saw Brandon try and get in the car. And they're
11 trying to leave. The state's star witness is trying to get
12 the heck out of Dodge.

13 So is Amber Rice. We heard testimony from her. She
14 too is trying to get out of there.

15 We heard testimony that Crystal Miller was going to
16 give Dadrin Johnson, somebody she knew as Worm, a ride to
17 Winsmith Avenue. Winsmith Avenue, ladies and gentlemen, at
18 least according to the map that the state has introduced,
19 is nowhere near Spurs.

20 So how is it that they have this convoluted plan
21 between Brandon and Dadrin and it doesn't even include
22 Spurs? He wants to go to Winsmith allegedly. But somehow
23 everybody arrives at Spurs.

24 Is that believable, or is it as Crystal Miller
25 indicated? She was terrified. The police were coming and

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1 knocking on her door. She knew that she was there, she
2 knew she had left and she knew she didn't call 9-1-1. She
3 knew that.

4 She knew who they were after. She testified to that.
5 She knew they were after Worm. And she testified that I
6 asked the question and you were just responding yes, sir,
7 yes, sir, yes, sir. And she said yes.

8 Is it really that difficult to figure out then who
9 she's going to pick out of the lineup? She doesn't want to
10 get charged with it. She didn't even want to be involved.
11 She testified this was such a horrible thing she doesn't
12 even bother to call 9-1-1.

13 We also heard testimony that Mr. Johnson was found in
14 Columbia -- Columbia, South Carolina. There was a lot of
15 talk about he was in Columbia, he was in Columbia, he was
16 in Columbia, except when I asked, well, whose address this
17 was. The investigator couldn't tell me. This lead
18 investigator who is in charge of this heinous murder,
19 somebody had been gunned down, and their prime suspect, you
20 don't know where they were apprehended?

21 Is that believable or does that not just fit the
22 theory, the theory that he ran away? So it doesn't fit the
23 theory of it being his mama's house. He couldn't admit
24 that. No, I don't know whose house it was.

25 And after I pressed him a little bit more, well, maybe

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1 it was a family member's house. But he didn't want to
2 admit whose house this is. And are we really to believe he
3 doesn't know whose home that was?

4 Doesn't fit the theory, because everybody knows that
5 children often go to parents' houses, to relatives' houses.
6 Who knows? Maybe he lived there. There was no testimony
7 as to where Mr. Johnson resides. Doesn't fit the theory.

8 Where is the forensics, ladies and gentlemen? We know
9 that search warrants were executed. We know that there was
10 a search warrant executed in Columbia at Mr. Johnson's
11 residence.

12 What did they find? Anything? What about the car?
13 They found the car. Did they take anything from it? Did
14 they collect anything from it? Are there any fingerprints
15 found? Did they try and collect any fingerprints?
16 Anything? Doesn't fit the theory.

17 Ladies and gentlemen, this is all going to come down
18 to your perception of the video and who you believe is on
19 that video, not who we say it is, not who they say it is,
20 not who Investigator Porter believes it is. It's all down
21 to you.

22 And if you are not convinced beyond a reasonable doubt
23 that it's my client, as hard as it is you must find him not
24 guilty. And I believe when you look at that video and you
25 study that video that's the conclusion you're going to come

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1 to, that it is not my client, and you will return the
2 proper verdict of not guilty. Thank you.

3 THE COURT: Mr. Thompson.

4 MR. THOMPSON: May it please the Court, Your Honor.

5 Ladies and gentlemen of the jury, I again thank you
6 for your time this week. I know this is not a lot of fun
7 and takes you away from things. But I asked you yesterday
8 when I come up here to take this very seriously.

9 You've got two men here charged with a very, very
10 serious crime. I want to emphasize the fact that these are
11 two separate defendants. You can come back with two
12 separate verdicts.

13 Please look at the evidence. Remember what was put
14 before you. I'm going to start off talking about this
15 case, and I will talk about the state's star witness too,
16 okay, Crystal.

17 She got up here. She has a statement. And her
18 statement and testimony are pretty much in line, because
19 she was interviewed the same night.

20 What did she tell you about the situation? One, that
21 Amber wanted to go to Spur. That's the store. Mr. Johnson
22 or Worm wanted a ride to Winsmith Avenue.

23 Okay. She took those parties to the Spur to pay a
24 phone bill. Okay. Worm had asked to go to Winsmith. I
25 guess they were going there afterwards. I think Amber

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1 touched on that, that she was going to go to Spur first and
2 then she would take him to Winsmith.

3 All right. Then she says Brandon pulled up on the
4 moped. What did she say then? She said I hollered at
5 Brandon to come here. The state wants you to think Brandon
6 pulled up and went straight to Worm.

7 Okay. If you remember, the state introduced two or
8 four videos. And they wanted to leave the middle videos
9 out. I had to introduce those. Why is that? I had to
10 bring those in. They didn't want those videos shown
11 because those videos back up what Crystal said.

12 Let's go over what she said. She called him over. If
13 you watch that video, let's say this is the back seat and
14 this is the front seat. He goes here to the front seat.
15 He talks across that front seat to Crystal.

16 What does she say he does? He is panhandling for some
17 change for some cigarettes. What does the video show he
18 goes in the store and does? He buys cigarettes.

19 Officer Porter. He wants you to think he's in there
20 scoping out the victim, hiding his face. Okay. That comes
21 down to perception like co-counsel just mentioned.

22 All right. I got up this morning. I perceived my
23 hair's getting a little thicker. Okay. You'd probably
24 disagree with that, wouldn't you? Okay. I want it to be
25 thicker, but that doesn't necessarily mean it's happening.

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1 I mention society. We have a society that basically
2 finds somebody guilty until proven innocent. I think
3 that's the way Mr. Porter approaches this case. He looks
4 at this video. He sees two young black guys that was
5 switching a coat and a moped off. Yeah. He's involved.
6 And he quits there. He can't answer questions. I asked
7 him, well, what did he buy in the store. He couldn't
8 remember.

9 Trust me. This is a major, major issue. I looked at
10 that video. And can tell you exactly what he bought. I
11 can tell you what coins he used to pay for it.

12 Okay. Y'all have watched these videos, now. It backs
13 up what Crystal says. He goes in. He bought cigarettes.
14 She says that when he come back to the car Worm said can I
15 borrow your jacket, can I borrow your moped.

16 And if you look at that video, okay, the state wants
17 you to think he walked right over there and they made the
18 transaction. It didn't happen. Thirty something seconds
19 go by while Worm walks up and walks back. Then he comes
20 back and gets back in the car. Then he asks can I borrow
21 your moped. There's plenty of time for him to say, well, I
22 don't know, man, this is my moped. Hey, can I borrow your
23 moped? I'll bring it back. He says okay, sure. You see
24 the jacket. He was driving the moped.

25 Officer Porter wants to make an issue out of the

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1 jacket. Okay. I can go to Myrtle Beach on bike week in
2 the middle of May and they've got on leather jackets.
3 People ride bikes, they're going to wear jackets most of
4 the time.

5 This is October the 9th. It's the fall. He wants you
6 to think that this jacket is all part of a big scheme. It
7 comes down to perception. It's a kid on a moped. He's got
8 a jacket on.

9 Then if you watch that video it's all about Crystal's
10 testimony. Then she tells you what? When he comes back he
11 looks up. He sees what? One, he sees the person and his
12 moped in the distance. Well, he thinks his moped's gone,
13 so he does look. He's not watching and gawking about a
14 murder. Watch his mannerisms. Watch the other tapes when
15 he's inside and he's goofing off. He's kinda playing. He
16 makes a goofy little gesture at Amber when he walks out.

17 If you, if you, if you've got killing somebody on your
18 mind I don't think you're going to be that relaxed. I
19 don't think you're going to be that lackadaisical. He's
20 just -- it's just a purchase of cigarettes. It's just
21 loaning the moped. He's got no knowledge that this crime's
22 going to take place. He doesn't know what Worm's going to
23 do. There's no criminal intent on behalf of my client.

24 What does -- what did Amber report? I mean, what did
25 Crystal say next? When the shots were fired, what did

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1 Brandon say? Call the police, call an ambulance. If I'm
2 part of a murder, if I'm part of a scheme to murder
3 somebody, am I going to say call the police? No. I'm
4 probably not even going to go in that store in the first
5 place.

6 Okay. You heard Mr. Patel sit here and testify I got
7 eight cameras in there. Okay. I got a T.V., a flat
8 screen, on my wall. When you purchase something everybody
9 sees that those cameras are working.

10 And you heard the testimony from Amber. She worked
11 there six or eight months. Not uncommon to see Brandon
12 come in. Okay. So you're going to be part of a murder
13 plot with all of those cameras running? It's just a kid
14 who had a moped and let another guy borrow the moped. Why?
15 He gets a ride home. Both parties testified, Amber and
16 Crystal, that they live right near each other. Just going
17 to get a ride home, get his moped back later.

18 Look at, look at his response. No shots are fired.
19 What does he do? He backs up. He's in shock. He nearly
20 gets run over by two cars. Okay. He's getting away from
21 the gunfire. Okay. He wasn't expecting that to happen.
22 If he was expecting it to happen he wouldn't have went in
23 the store, or, two, he'd already been in the car.

24 Okay. He's taken by surprise. He's got no knowledge.
25 He didn't know what Worm's intent is when he -- when he

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1 loans him that moped.

2 The state wants you to just come in here and do what
3 they did. Look at that tape from the fact that, oh, yeah,
4 the people are guilty until they're proven innocent. I'm
5 saying he's innocent until proven guilty. I don't think
6 the state's met that burden. Watch that tape. You'll see
7 a kid that clearly has no idea that this was going to take
8 place.

9 Amber's testimony basically backed up what Crystal
10 said. Going to the Spur. Worm wanted to go to Winsmith.
11 And the fact that she's in the car -- she's in there in
12 this store, doesn't really see Brandon for a while until
13 they're gone.

14 But her testimony is right in line with what Crystal
15 says. These are two eye witnesses. I didn't call them;
16 Ms. Jones didn't call them. The state called them.

17 And they gave favorable testimony to my client. They
18 didn't say Worm come up and said can I borrow your jacket
19 so I can commit a crime, can I borrow your moped so I can
20 make a getaway after I do something wrong. She said can I
21 borrow -- he said can I borrow your jacket and your moped.
22 Okay. That's all that was said. That's the first-hand
23 knowledge. This is the same night this crime is committed.

24 Look at Officer Layton. He sat up here. I
25 cross-examined him on his own statement where he had the

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1 same statement that madam solicitor made at the very
2 beginning. You're going to see him get off that moped and
3 walk over to give a guy a jacket. No. You see him walk
4 over there and talk to a girl through the passenger-side
5 window.

6 You see 30 seconds elapse. You see Worm go to the
7 store and back. And then you see Worm sit in a car. And
8 then you see Worm and my client converse briefly, about 15
9 to 16 seconds. And then he gives him the coat. Worm gets
10 on the moped. My guy, what did he do? He borrowed change
11 and went in and bought the cigarettes just like the
12 testimony said.

13 Officer Layton, like I said, he wants you -- he
14 wants -- he's following the line that Officer Porter has
15 put down. Hey, this is the way I want you to look at it,
16 this is the way it ought to be, find him guilty.

17 Think about Officer Porter. His theory is that this
18 was all a big plan and Brandon Robbs, my client and the
19 person known as Worm planned this all out.

20 Well, let's look at that theory. Look at that tape.
21 Watch Worm put that jacket on. That jacket's flimsy.
22 There's no way there's a gun in that coat. And then he
23 told you. I asked him where do most people hide a gun.

24 I didn't say waistband. He said waistband. A
25 waistband is a wrap where someone will take it and put it

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1 around their waist and put the gun down in here. And look
2 at Mr. -- the shooter's shirt when he walks in. Shirt's
3 down to his thighs. It's a baggy shirt. It's there for a
4 reason. It's there to hide the gun.

5 My client didn't pass a gun to him. Watch that video.
6 It's not my video. It's the state's video. There's no gun
7 in it. Watch how flimsy the jacket is. There's no gun
8 there.

9 Officer wants to -- wants you to look at this tape,
10 and he wants you to think that my client's watching the
11 victim out in the parking lot, that he's avoiding eye
12 contact in the store. But he's reading a whole lot of
13 stuff in there that I don't see. Watch the video.

14 What if he is not making contact? So what? What if
15 he does watch him walk across the parking lot? It's not a
16 crime. Doesn't mean that he has any knowledge of a
17 shooting that's going to take place.

18 Okay. Officer Porter has got a round peg and he's
19 trying get it in a square hole. And he's trying to get you
20 to perceive what he's perceiving and get you to stick that
21 round peg in a square hole. And it is not going to fit.

22 Also, co-counsel mentioned forensics, no gun, very
23 little forensics. Watch the video, guys. And here's the
24 thing that gets me. How in the world does a car with the
25 shooter pull up ahead of the victim? And then how does the

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1 moped arrive a minute later?

2 I've got testimony from these guys that East Park
3 Street where my client lives is a few minutes out. Well,
4 then they're probably going to have to be on cell phones or
5 something if they're going to set this thing up. The
6 timing on this thing would be impeccable if this was
7 planned out. We don't have cell phone records.

8 You heard testimony from Amber. She don't think Worm
9 even had a phone. The state hasn't produced any records of
10 a phone. Amber's on the phone in the -- in the -- in the
11 store. We don't even have that. You know why? Because it
12 doesn't show anything.

13 They don't have one piece of evidence that puts my
14 client in contact with the shooter prior to the shooting.
15 They can't put them together. They can't say where this
16 scheme came from. They can't tell you what the motive is.
17 They can't produce a phone record that says they called
18 each other on October the 5th, 6th, whatever. Nothing,
19 nothing but a theory that basically amounts to a square peg
20 trying to be jammed in a round hole.

21 Ladies and gentlemen, my client pulled up on a moped.
22 He's sitting here charged with the most serious crime that
23 you can be charged with. He let a guy borrow a moped. He
24 had no knowledge of what that guy was going to do.

25 Guys, a gold Camry, Corolla, whatever that was, pulled

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1 up to the store. They brought the shooter to the store.
2 And they walked. They don't have a warrant signed on them,
3 okay, because of perception.

4 I can go through that video and I can pick things out
5 and probably make a stronger case against those two than I
6 can my client. Okay. The police didn't want to do that.
7 They watched one time. He couldn't tell you if he bought
8 cigarettes or not. He couldn't tell you where the guy was,
9 the shooter was picked up, the alleged shooter. Okay. He
10 just wants you to believe in a theory that's not true.
11 It's not possible.

12 Like I said, guys, at the beginning this is a trial.
13 This is court. And there's no -- it's not like T.V.
14 There's not a -- not going to be a witness come in at the
15 last moment and say I -- you know, break the case wide open
16 and make it easy for me. It's not going to happen. That
17 doesn't happen very often.

18 Okay. Hear these terms. Innocent until proven
19 guilty. Okay. Take that serious. Okay. That was written
20 over 200 years ago. That's a principle that this country's
21 been built upon.

22 You're going to hear -- probably the judge is going to
23 instruct you on something called the hand of one is the
24 hand of all. I'm not going to instruct you on the law.
25 Listen to that. And it is going to require that there be

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1 some intent and some knowledge of this crime on behalf of
2 my client. The evidence doesn't support that, guys.

3 You'll hear something else called reasonable doubt.
4 And the judge is going to be a lot more articulate than I
5 am in explaining what reasonable doubt is, but it's
6 something that makes you stop and say wait a minute, it's
7 not a slam-dunk and not totally convinced that what they
8 put forth is actually true, I don't know that they have
9 carried their burden of proof.

10 If it makes you stop and think about that you need to
11 come back and say Mr. Robbs is not guilty. Guys, I told
12 you this is serious, and it's very serious. My client's
13 charged with the most serious crime he can be charged with.

14 Okay. You've seen the video. Watch all of them.
15 Watch every one of them. And then take what I think is the
16 most common sense approach to this thing.

17 The shooter sees the victim. He gets out. He walks
18 up here. He looks in the store. He makes sure that's who
19 it is.

20 He goes back in the car and sits down. Then my client
21 pulls up. And the shooter gets it in his head I can, if I
22 can borrow that moped, I can get out of here.

23 Okay. Remember the first two witnesses, especially
24 the first one, Crystal. Said the shooter said or one of
25 them said can I borrow your jacket and can I borrow your

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1 moped.

2 He didn't say I got something going on, I need this to
3 get away. In fact, he didn't say there was any collusion
4 on behalf of my client himself. That's what she testified
5 to. That's what the truth is. Watch the tape, watch the
6 jacket. No gun in that jacket.

7 Okay. Listen to me, guys. You've got good lawyers
8 over here for the state. Probably the future solicitor for
9 this district will Barry Barnette. And I'd vote for him
10 today.

11 Okay. He's going to get up here. He's going to try
12 to tie Mr. Porter's theory together. Okay. I'm asking you
13 to listen to him. Okay. But also listen to me. And be
14 serious about this thing. Okay. It's very serious to me,
15 serious to my client, should be serious to all of you guys.

16 October 9th of 2009 a 24-year-old kid walks out of a
17 store, got gunned down and killed. And he got cheated out
18 of the rest of his life.

19 My client's a very similar age. He's close to that
20 age. Guys, give him the rest of his life. He's not
21 guilty. Okay. And I told you before we come into this
22 thing at the beginning and I'll close up, and I'll shut my
23 mouth.

24 All right. The state's got the massive resources.
25 They've got a witness list with about 12 cops. They've got

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1 investigators; they've got the coroner's office; they've
2 got all of these forensic experts. They've got an aerial
3 map. They can look down and they can take that picture.
4 They've got resources.

5 And I know the burden of proof lies with them, but it
6 is a great, great mountain to climb when you've got all of
7 that amassed against you and you're sitting in that chair
8 over there charged with murder.

9 One thing he does have. He's got 12 people here that
10 can evaluate this evidence and use an open mind and your
11 experiences, common sense. And look at it. Give him the
12 rest of his life, guys. Thank you.

13 THE COURT: Mr. Barnette.

14 MR. BARNETTE: May it please the Court, Your Honor.

15 Ladies and gentlemen, actions speak louder than words.
16 You've heard that all of your life. You've heard somebody
17 tell you that in your past going through that with you.

18 And the one thing you bring with you is your common
19 sense, your everyday experiences. You judge things every
20 day in view of what's credible and what's not credible.
21 And you'll be doing that today, and the judge will be
22 telling you that.

23 The one thing I guarantee that's not a question in
24 your mind is the two people that were there that night if
25 you look at the evidence. Mr. Robbs is not contesting. He

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1 says he was there. Mr. Johnson. I.D., all the evidence,
2 shows that he was the man there too.

3 And the unusual thing about this case is we have a
4 video of the murder. That's very unusual in this case. I
5 know you've seen that several times, and you'll get to see
6 it again, because it will be part of the evidence in this
7 case.

8 But look at it. Look at the actions of the people on
9 the video. And I'm going to go through it with you here in
10 the closing and tell you what I'm pointing out, what I'm
11 showing to you.

12 You have the defendant in the back seat of a car. Two
13 ladies in the front seat. They pull up. They don't get
14 gas. Amber Rice comes in.

15 And one other thing too. Everybody's going to show
16 something. I went through the video. And y'all remember
17 it the way y'all see it. Nobody else has got a coat on.
18 Not even a sweater don't look like. Everything is short
19 sleeve. Amber Rice has got a tube on. Everybody I watched
20 on that video, nobody had a coat on. Nobody.

21 And Mr. Edwards pulls up in his car. You'll see him
22 coming over. And right behind him you see Mr. Robbs comes
23 up. As soon as he's coming he's watching. He sees that
24 car, and he looks at that car the whole time. You watch on
25 that video.

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1 As soon as he comes to a stop who opens the door? It
2 isn't Crystal Miller. Dadrin Johnson opens the door
3 immediately like he's expecting him to be there.

4 Mr. Robbs goes up to the car, and immediately Mr.
5 Johnson goes over to make sure that Mr. Edwards is in the
6 store. He looks in.

7 And y'all can see on the video, and I will try to --
8 I'm going to try to show it to you again and try to get it
9 stopped at the perfect spot when you can see a frontal of
10 his face and see the side of it. At that time he didn't
11 have a beard like he has now. Actually on here you'll see
12 other pictures so you can have something to see what he
13 looked like at the time this happened.

14 He goes in and checks. He goes back to the car. And
15 one thing Mr. Thompson tries to argue through his questions
16 and his argument is that it's easy to put a gun in the
17 front with a t-shirt over it.

18 Let me ask you a question, ladies and gentlemen.
19 Common sense. Where would it be easier to place a gun? In
20 a coat. And they keep saying it's a flimsy coat. Well,
21 it's a winter coat because he's got the fur around the hood
22 of the coat and got pockets and everything.

23 He goes over. Obviously you see them switching coats,
24 and you see them switching the moped. He drives the moped
25 around, and he says he's going in to get cigarettes. Well,

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1 if he's going to go get cigarettes he didn't have any
2 money. Why did he even go to the store if he didn't have
3 any money? How did he know anybody was going to be there
4 supposedly to panhandling this change? How did he know
5 they were going to be there? He knew they were going to be
6 there -- he knew that they were going to be there.

7 But now he's supposed to go there and panhandle some
8 change. He goes in and gets the cigarettes. When he goes
9 in the door he can see Adrian right there.

10 He goes in, and he does turn away, and he does follow
11 afterwards. And he comes out. And when he sees he starts
12 looking over there. He goes over to the car. He's still
13 looking. He knows something's going to happen. He's
14 looking the whole time he goes there.

15 Even when the first shot's fired he hasn't moved yet.
16 He kind of flinches. And Mr. Thompson makes a big deal
17 about him getting out of the way. Do you know why he got
18 out the way? Would you get out the way if a gun was
19 pointed in your direction? Think about it. Look where the
20 shell casings fell.

21 He starts shooting. He goes around the car. And Mr.
22 Edwards is crawling. He's pointing the gun where at?
23 Right at him. He better get out of the way. He doesn't
24 want to get hit by any of these bullets as they ricochet or
25 whatever. That's when he jumped out of the way.

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1 Look at that video. When he goes around the car he
2 shoots four times. There's another shell casing there.
3 When he turns around and is firing and shooting him in the
4 back the gun is pointed right at him. Then he jumps back
5 and gets out of the way while Adrian Edwards is crawling.

6 Like I say, ladies and gentlemen, actions speak louder
7 than words. They keep talking about the state's witnesses.
8 We don't choose and pick our witnesses. When something
9 happens those witnesses are there.

10 Don't have anybody from First Pres., preacher, anybody
11 like that, or a school teacher, any of those. It's
12 9:00 o'clock at night, not in the middle of midnight,
13 1:00 or 2:00. I mean, this happened in Spartanburg, City
14 of Spartanburg, on a busy street, South Church Street.
15 You've been down that road, 221, right across from the swim
16 center.

17 Crystal Miller testified. We had to put witnesses up.
18 She saw what happened and everything. But you got to
19 remember one thing about her testimony. Who was she
20 neighbors with? Who was Amber Rice neighbors with? This
21 man right here. Two doors down in the neighborhood.

22 She said she heard him call for the police. Well,
23 look at the video. Does it look like he's trying to call
24 for the police? He's wanting to get out of there as fast
25 as he can. He don't care about Amber Rice. He wants out

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1 of there.

2 Then Amber Rice even testifies. She says what --
3 asked for the police. There's no way she can know that.
4 She's in the store when all of this happens, and she
5 admitted that.

6 Like I said, the video speaks louder than anything
7 else in this case. Watch the actions of the individuals on
8 it.

9 Adrian Edwards didn't do anything. He went in this
10 store and came back out to his car. As a matter of fact,
11 they went to school together, the victim and these two men
12 over here.

13 MS. JONES: I'm going to object to that, Your Honor.
14 There's no evidence of that.

15 MR. BARNETTE: I think Amber Rice testified to that.

16 THE COURT: Overruled.

17 MR. BARNETTE: Amber Rice you remember -- remember her
18 testimony the way you heard it. She testified about
19 McCracken and Carver during her testimony, that they all
20 three knew each other.

21 He goes over to shake his hand. There's no gun found.
22 No gun found in -- he didn't get anywhere to put it
23 obviously because he shot and he's crawling.

24 The police roped off the scene. You heard from
25 several officers. No gun was found on him, around him or

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1 in his car. No weapon was found, period. He is no threat
2 to him.

3 Mr. Johnson, Worm, waits on him. He is waiting on him
4 to come out. It's obvious. I mean, the video tells you
5 that. He leans over and just waits on him and waits until
6 he gets in the car and comes over.

7 Let me ask you another question, ladies and gentlemen,
8 too, and this is common sense. I'm asking to use your
9 common sense.

10 Why would you put a coat, cover your belt. You got a
11 t-shirt and you got a coat and you're going to go through
12 all of that to get a gun? It's much easier to have it in a
13 pocket and just take it out and shoot it.

14 Mr. Johnson. It's about as brutal killing as you ever
15 seen, shooting a man unarmed on a busy night at
16 9:00 o'clock in the night. Shoots him in this area, Dr.
17 Wren said. He's turning. He's trying to get away from
18 him. He's still shooting him. He shoots in one leg and
19 hits his femur. He's crawling trying to get away from him,
20 shooting him in the back. Nothing more culpable than that.

21 And Mr. Robbs gave him a message, conceal his
22 identity, and gave him the method to get away. And I
23 submit to you gave him the weapon. I wish we had the
24 pistol. The evidence shows we do have the shell casings.

25 You've got the pictures where they were found. You

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1 can track those down the path I was telling you about. And
2 Mr. Johnson followed as he shooting him and killing him.

3 The judge will be telling you about the hand of one is
4 the hand of all. And what that merely says is one party is
5 assisting in any way another party commit a murder that's
6 the hand of one, hand of all -- assisting, aiding, anything
7 of that nature.

8 And I submit to you Mr. Johnson did the murder and
9 Mr. Robbs gave him the means to get away. He gave him the
10 means to conceal him himself. And looks like he gave him
11 the weapon, because you can look on the film. It doesn't
12 look like there's anything here sticking out or anything
13 like that from that standpoint. Much easier to conceal a
14 weapon in that coat. And the one person wearing a coat
15 that night is Mr. Robbs, and then Mr. Johnson.

16 And under that theory of hand of one, hand of all,
17 it's a theory we have in South -- it's more than a theory.
18 It's the law in South Carolina. And Judge Cole will be
19 charging you on that. And I encourage you to listen very
20 closely to that charge when he talks about assisting and
21 aiding somebody else to do a murder. And then you will
22 understand that.

23 What I would like to do, is show you the video real
24 quick. And, like I say, you'll have this with you. But I
25 just want to go through a few things with you if I could.

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1 (Whereupon, the video was played for the jury.)

2 MR. BARNETTE: Here is Amber Rice coming inside. And
3 look at what they're wearing, ladies and gentlemen.
4 They're all wearing t-shirts and wearing t-tops. And I
5 will go back a little ways. You'll see the people on the
6 outside before that. They're all wearing t-shirts, every
7 last one. They're all wearing t-shirts.

8 Here comes Mr. Edwards, the victim. He's wearing a
9 t-shirt. Watch Mr. Robbs as he comes in on the moped.
10 Look where he's looking at as he comes in. He's looking
11 right at them. Look at how the door opens up, bam, like
12 they're expecting each other.

13 And he immediately goes over and checks to make sure
14 Mr. Edwards is still in there. Sees him. Goes towards the
15 counter just to make sure. Sees him, goes on. No talking
16 there. You kind of wonder why did he ask what he was going
17 to do with him from that standpoint.

18 All the evidence shows he gives him the coat. He zips
19 it up and pulls the hood up and tries to make sure nobody
20 sees him. Kind of hard to pull a gun from underneath that
21 coat if it's in your waistband.

22 Robbs goes over. Mr. Edwards goes over and just waits
23 for him. And Mr. Johnson is waiting for Mr. Edwards. Gets
24 on the other side of the pumps so he won't initially see
25 him coming out.

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1 There goes Mr. Edwards back to his car, and Mr. Robbs.
2 And look where he looks at. Look where he's looking the
3 whole time. He's looking right over there.

4 He waits at the door. He sees a shot, and now he sees
5 the guy pointing the gun at him and says, oh, and gets out
6 of his way.

7 Mr. Edwards is crawling after being shot at the -- he
8 said he's calling for the police. Why is he running around
9 calling for the police? Why didn't he just tell him to get
10 out of there? Mr. Robbs is.

11 There's one other video I want you to watch, the one
12 at the doorway. Trying to get it where you can see the
13 face. And there's a point where you can see it right
14 there. You can see him walking by. There is a side of
15 him. You can see his face. And there's Adrian crawling.

16 There's a frontal shot I was trying to show you there
17 where you can see the defendant's face. And you'll have
18 his picture in the back where he was arrested that day or
19 that -- when he was arrested. You can match it up, and
20 inside. Plus, you got all the evidence points to that
21 being Dadrin Johnson.

22 And another thing too as he walks up, does it appear
23 that he has a gun in the front? I submit he does. You can
24 see his side.

25 And this is a very serious case. What happened to

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1 Adrian Johnson should never -- I mean Adrian Edwards in
2 this case should never happen to anybody in Spartanburg, to
3 be killed the way he was killed that night.

4 His family is here, along with the state. They keep
5 talking about the vast resources of the state. Y'all see
6 what evidence we've got. There's the video right there.

7 Mr. Thompson makes a big deal out of them knowing that
8 video is in there. They've all been there. I kind of
9 wonder if they wanted everybody to know that they did
10 something like this, to do something so brutal in front of
11 the public right there with people around, busy street
12 coming around.

13 And, ladies and gentlemen, I submit this is something
14 that Spartanburg don't deserve. Adrian Edwards didn't
15 deserve the death he died that night.

16 What I'm going to ask you to do, ladies and gentlemen,
17 and, like I said, actions speak louder than words. And
18 your action will tell the people we're not going to
19 tolerate this in Spartanburg County. We're not going to
20 tolerate what these two men did to Adrian Edwards that
21 night. He didn't deserve it. They deserve to get what
22 they deserve, what they did to him that night.

23 I'm going to ask you to return verdicts of guilty on
24 both of them, because that's the just verdict in this case,
25 ladies and gentlemen. Thank you.

Jury charge

1 THE COURT: Madam fore -- excuse me. Mr. Foreman and
2 ladies and gentlemen of the jury, you of course have heard
3 and seen all the evidence in this case. And you've now
4 heard the final summations of the lawyers. And therefore
5 it now becomes my duty and obligation to instruct you on
6 the law that's applicable in the case. And then you'll be
7 asked to go back and begin with your deliberations. And
8 through that process you'll examine all of the evidence,
9 you'll determine the facts, you'll apply the law. And you
10 will arrive at a fair and just decision, whatever that
11 decision might be.

12 It is your exclusive duty to determine what the facts
13 are, and you do that through your own common sense
14 examination and evaluation of all of the testimony and
15 other evidence received during the trial of this case.

16 You 12 jurors alone will decide what weight, value and
17 effect to give to any particular witness' testimony, or
18 even portions of that testimony. But your sole objective
19 is to simply reach the truth in the matter. And by doing
20 that you will have fulfilled your obligations as jurors,
21 and that is to simply give both the state and each
22 defendant a fair and impartial trial.

23 Now, in this case, as you know, the state through the
24 prosecutor has accused each of these defendants with having
25 committed the crime of murder.

Jury charge

1 The allegations supporting that charge are contained
2 in the documents which are referred to as indictments that
3 I discussed with you prior to and after your selection as
4 jurors in the case. Each of the indictments does allege
5 that each of these defendants committed the crime of
6 murder.

7 The indictment charging Dadrin Johnson with the crime
8 of murder alleges that on or about October the 9th of 2009
9 he did willfully and with malice aforethought kill Adrian
10 D. Edwards by shooting Mr. Edwards with a handgun, and that
11 he died as proximate result of that act.

12 The indictment alleging murder against the defendant,
13 Brandon Robbs-Tanner, alleges that the defendant, Brandon
14 Robbs-Tanner, did here in Spartanburg County on or about
15 October the 9th of 2009 wilfully and with malice
16 aforethought kill Adrian D. Edwards by being an accomplice
17 of Dadrin Johnson, and that Mr. Edwards died as a proximate
18 result of the conduct committed by both of the defendants.

19 Now, as to those allegations and as to each of those
20 charges, as you know, each of the defendants has entered a
21 plea of not guilty. That plea of not guilty has therefore
22 placed upon the state the burden of proving the allegations
23 that they have set forth in each of these indictments, the
24 burden of proving each of the essential elements of the
25 crime alleged against each of these defendants; and

Jury charge

1 therefore the burden is upon the state to establish the
2 defendant's guilt or a defendant's guilt beyond a
3 reasonable doubt before any verdict of guilty could be
4 returned as to that particular defendant.

5 The burden is never upon a defendant or a person
6 accused of a crime to prove that they are not guilty or to
7 prove that they are innocent because in some cases that
8 might not be possible.

9 As I have told you, the burden is always upon the
10 state because they have brought this charge against each of
11 these defendants to prove each defendant's guilt beyond a
12 reasonable doubt.

13 You are instructed that it is a vital, important and
14 cardinal rule of law that every defendant in a criminal
15 trial, no matter how serious the offense might be for which
16 that person stands charged, that person shall always be
17 presumed innocent of that charge. And that presumption of
18 innocence remains with any defendant, as it does with each
19 of these defendants, from the time that he is placed under
20 arrest and throughout the course of the criminal process
21 and even throughout the course of the actual trial in the
22 case.

23 That presumption of innocence will be with each of
24 these defendants even as you go back into your jury room to
25 begin with your deliberations in the case, and that

Jury charge

1 presumption of innocence will be with each of those
2 defendants in that jury room. And it'll be him forever
3 unless you 12 jurors determine that a defendant is no
4 longer entitled to that presumption of innocence.

5 In other words, after you've carefully considered all
6 the evidence in the case, and from that evidence you have
7 determined what you believe to be the true facts, and upon
8 determining those true facts you apply the law that I will
9 have provided you, if you 12 jurors unanimously determine
10 that a defendant has been proven guilty beyond a reasonable
11 doubt, then he would no longer be entitled to that
12 presumption of innocence. But it's only if, unless and
13 until you are satisfied of a defendant's guilt that that
14 defendant would no longer be entitled to that presumption
15 of innocence.

16 Now, while the state does have the burden of proving a
17 defendant's guilt to your satisfaction beyond a reasonable
18 doubt, that doesn't mean that the state has to prove a
19 defendant's guilt beyond all doubt or beyond any possible
20 doubt. But it does require the state to prove a
21 defendant's guilt to your satisfaction beyond a reasonable
22 doubt.

23 And the term reasonable doubt should be given its
24 plain and ordinary meaning. A reasonable doubt is the kind
25 of doubt that would cause a reasonable person to hesitate

Jury charge

1 to act upon the information provided. And a defendant in a
2 criminal trial is entitled to any reasonable doubt that
3 arises from the evidence or lack of evidence in a case.

4 And if upon any factual issue essential to a finding
5 of a verdict of guilty you have some reasonable doubt as to
6 how that issue should be resolved, it would be your duty to
7 resolve that reasonable doubt in favor of that defendant.

8 And therefore if upon your consideration of the whole
9 case you have a reasonable doubt as to a defendant's guilt,
10 you must resolve that reasonable doubt in his favor and
11 return a verdict of not guilty.

12 And, on the other hand, after you've carefully
13 considered all the evidence in the case and decided the
14 facts and applied the law if you have no reasonable doubt
15 as to a particular defendant's guilt, then it would be your
16 corresponding duty to convict that defendant of the crime
17 where it has been proven to your satisfaction beyond a
18 reasonable doubt.

19 Now, the same law that provides that you are the
20 judges of the facts also provides that I am the judge of
21 the law. And that simply means that nobody is going to
22 tell you how to arrive at your determination of fact in
23 this case. You do that, as I've already stated, through
24 the exercise of good judgment and common sense
25 conscientiously applied to the testimony and evidence

Jury charge

1 received during the trial.

2 You must however under your oath as a juror accept the
3 law as I provide it to you as being the law that you are to
4 apply in this case. In other words, you're never to
5 concern yourself with what you thought the law was before
6 you came to serve as a juror this week or what you think
7 the law ought to be.

8 Under your oath as a juror you must simply accept the
9 law as I provide it to you as being the law that you are to
10 apply in this case. Then you take that law and you apply
11 it to the facts as you 12 jurors determine those facts to
12 be after your common sense evaluation of all of the
13 evidence in the case.

14 Now, as I told you, you are the sole judges of the
15 facts in this case. And you are therefore necessarily the
16 sole judges of the credibility and the believability of
17 each witness that has testified during the course of this
18 trial.

19 You 12 jurors alone will decide what weight, value and
20 effect to give to any particular witness' testimony or even
21 a portion of that testimony. And so there are several
22 factors which you should take into consideration in
23 arriving at your assessment as to a particular witness'
24 credibility, and I'm going to list those factors for you.

25 You should consider the demeanor of a witness. In

Jury charge

1 other words, how did the witness appear to you as the
2 witness testified from the witness stand? Was the witness
3 straightforward in responding to questions that were asked
4 of that witness, or was the witness hesitant or evasive in
5 responding to questions asked of the witness. Simply put,
6 did the witness appear to you to be telling the truth and
7 to have knowledge of the facts to which that witness has
8 testified.

9 You should also consider whether or not the testimony
10 of a witness is consistent, or is it inconsistent with that
11 witness' own testimony or other statements made by that
12 witness, whether in court or outside of court.

13 And you should consider also whether or not the
14 testimony of a witness is consistent or inconsistent with
15 other witnesses' testimony or other evidence received
16 during the trial.

17 You should also consider how the witness came to know
18 the facts to which a witness has testified. In other
19 words, what was that witness' opportunity and ability to
20 perceive the existence of those facts to which that witness
21 has testified by having previously used his or her senses.
22 And then what is that witness' ability to be able to come
23 into court and to accurately recollect to you as what they
24 have previously seen, heard, or felt for that matter.

25 You should also consider any bias or prejudice or

Jury charge

1 interest that a witness might have with respect to the
2 case. In other words, do you find some reason that a
3 particular witness would come into court and would testify
4 one way or another to help or to hurt one side or the
5 other.

6 And you may consider any interest that a witness might
7 have in the outcome of the case if you determine that a
8 witness does have such an interest and you find that that
9 interest would bear upon that particular witness'
10 credibility.

11 And you should consider whether or not the testimony
12 of a witness is strengthened, or is it weakened by other
13 testimony or other evidence received during the trial.

14 Now, because you are the finders of the facts and the
15 sole judges of the credibility of each witness that has
16 testified you are permitted to believe as much or as little
17 of what a witness has testified to as you deem is
18 appropriate in the exercise of good judgment and common
19 sense.

20 And therefore you may believe everything that a
21 witness testified to. You may choose to believe none of
22 it. You may believe one portion of a witness' testimony
23 and reject some other portion of that same witness'
24 testimony. In a given case you could believe one witness
25 as opposed to several, or several as opposed to one.

Jury charge

1 But whatever your good judgment and common sense tells
2 you is the most believable and credible testimony is the
3 testimony you should accept, and you should reject any
4 testimony or other evidence that you find not to be
5 credible or believable.

6 Again, your sole objective is to simply reach the
7 truth in this matter, and by doing that you will have
8 fulfilled your obligations as jurors in the case.

9 While there are various forms of evidence such as
10 testimony, photographs, documents, charts, and other types
11 of physical exhibits, there are really only two types of
12 evidence. And either or both of those types of evidence
13 may be used to prove any fact in issue. But the two types
14 of evidence are direct evidence and circumstantial
15 evidence.

16 Now, direct evidence is the testimony of a person who
17 testifies from actual knowledge of the fact. It is
18 testimony by a person who has perceived the existence of
19 some fact by means of his or her senses, and then they come
20 into court and they testify as to what they have previously
21 perceived.

22 Circumstantial evidence, on the other hand, is the
23 proof of some other fact or set of facts which taken either
24 singly or collectively may prove the existence of a fact in
25 question as a necessary consequence, that is through an

Jury charge

1 inference.

2 And an inference is simply a deduction of fact that
3 may logically and reasonably be drawn from the proof of
4 some other fact or set of facts. In other words, it's not
5 a fact proven by the direct testimony of a witness based
6 upon that witness' personal perception, but it is a
7 conclusion which might reasonably be drawn from the jury by
8 proof of other facts.

9 In other words, you may infer that a particular event
10 occurred or that a particular fact exists based upon the
11 proof of sufficient factual circumstances which would
12 reasonably warrant your arriving at a particular
13 conclusion.

14 The law however makes absolutely no distinction
15 between the weight or value to be given to circumstantial
16 evidence as opposed to direct evidence, nor is a greater
17 degree of certainty required of circumstantial evidence as
18 opposed to direct evidence.

19 Whatever type of evidence used to prove any fact in
20 issue, you should consider all of the evidence presented in
21 the trial of this case. And after carefully considering
22 all of that evidence and weighing that evidence in your
23 minds if you are not convinced of the guilt of a defendant
24 beyond a reasonable doubt, then you must resolve that
25 reasonable doubt in favor of that defendant and return a

Jury charge

1 verdict of not guilty.

2 Now, in this case, as you know, each of the defendants
3 is accused of the crime of murder. Murder is a statutory
4 offense, and that just means that it's defined in a code
5 section.

6 The legislature meets every year from January to June.
7 And during the course of those sessions they pass a number
8 of laws and rules and regulations that govern our conduct
9 in a variety of ways.

10 Some of those statutes are criminal statutes. And
11 that just means that the legislature prohibits citizens
12 from engaging in particular conduct. And where a person
13 has engaged in that conduct in violation of that statute,
14 then it subjects that person to some form of punishment or
15 penalty. And of course the statute also defines what the
16 crime is or what the conduct is that's being prohibited.

17 Please understand that however, that as jurors you are
18 never to be concerned with punishment or penalty. You are
19 not to be concerned with the consequence of your decision
20 in a case.

21 Your sole obligation and duty as jurors in this case
22 and in any criminal case that you're selected to
23 participate in is to determine whether or not the evidence
24 in the case has proven a defendant guilty beyond a
25 reasonable doubt. And you do that without any

Jury charge

1 consideration of any consequence to that decision.

2 But murder is a statutory offense, as I've stated.
3 That offense is set forth in Section 16-3-10 of the South
4 Carolina Code of Laws. And that section defines the crime
5 of murder as the killing of any person with malice
6 aforethought, either expressed or implied. Expressed or
7 implied refers to the term malice aforethought.

8 In order for you to -- in order for you to find a
9 defendant guilty of the crime of murder it would be
10 necessary that the evidence in this case has established to
11 your satisfaction beyond a reasonable doubt that a
12 defendant or an accomplice did commit some act or acts
13 which proximately caused the death of the decedent -- in
14 this case Adrian D. Edwards -- and that the killing was
15 done with malice aforethought. Malice aforethought is an
16 essential element of the crime of murder.

17 Therefore what is malice aforethought? Well, malice
18 as an essential element of the crime of murder is a state
19 of mind connoting an ill will and having the intent to do
20 harm.

21 Intent means the state of a person's mind which
22 directs his actions towards a specific object or goal. And
23 the term intent would include those consequences which
24 represent the very purpose for which an act is done, as
25 well as those consequences which are known to be

Jury charge

1 substantially certain to result whether actually intended
2 or not.

3 Malice is a technical term importing wickedness and
4 excluding just cause or legal excuse. It is something
5 which springs from depravity, from a heart devoid of social
6 duty and fatally bent on mischief. It is a state of mind
7 indicating an extreme disregard for or an extreme
8 indifference to human life.

9 Malice may be likewise defined as a state of mind
10 which indicates a formed purpose and design to do a
11 wrongful act under circumstances that exclude any legal
12 right to do it.

13 And the words expressed or implied malice do not mean
14 different kinds of malice but merely the manner in which
15 malice may be shown to have existed, that is to say either
16 by direct evidence or by circumstantial evidence from which
17 the existence of malice may be reasonably inferred. And as
18 I've stated, an inference is simply a deduction of fact
19 which may logically and reasonably be drawn from the proof
20 of some other fact or set of facts.

21 And malice may be expressed as where there is an
22 expressed threat to kill or a lying in wait or where the
23 circumstances show directly that an intent to kill was
24 entertained by the killer.

25 Malice may be inferred, though no expressed intent to

Jury charge

1 kill is proven by direct evidence, where the facts and
2 circumstances which have been proven by the evidence in the
3 case satisfy you beyond a reasonable doubt that malice was
4 present in the mind of the killer at the time any killing
5 took place.

6 The existence of malice may be inferred from the acts,
7 declarations and conduct of the killer, as well as from any
8 other circumstances shown to have existed at the time of
9 the event and from which you might reasonably infer the
10 existence of malice, as often the state of a person's mind
11 can only be proven by circumstantial evidence.

12 Malice as an essential element of the crime of murder
13 does not necessarily require proof of an actual or specific
14 intent to take human life, although such intent may be
15 established by the evidence in the case. But rather what
16 it means is a state of mind accompanying conduct signifying
17 a general malignant recklessness and extreme disregard for
18 or an extreme indifference to human life.

19 And even if the facts proven are sufficient to raise
20 an inference of malice such an inference is simply an
21 evidentiary fact which should be taken into consideration
22 by you 12 jurors along with all of the other evidence
23 received during the trial. And you should give such
24 inferences such weight, if any, that you determine they
25 should receive, if any.

Jury charge

1 The state is required to prove malice just as it must
2 prove any other essential element of the crime charged, and
3 it is for you 12 jurors to determine whether or not malice
4 has been proven beyond a reasonable doubt.

5 It's also essential that it be proven that there be
6 malice, but also that it be malice aforethought. Now, the
7 law does not require that malice must exist for any
8 appreciable length of time before the commission of an act
9 proximately causing a fatal result. Indeed, it may be
10 conceived at the very moment that the fatal act is
11 committed.

12 It is sufficient in the law so long as the state does
13 prove beyond a reasonable doubt both the existence of
14 malice and the commission of an act or acts by a defendant
15 or defendants which proximately caused the fatal result.

16 You must determine whether or not malice aforethought
17 exists based upon your consideration of all of the evidence
18 introduced during the trial and any reasonable inferences
19 which might be drawn from that evidence.

20 Now, while the state must prove beyond a reasonable
21 doubt that a killing occurred and that that killing was
22 accompanied by the element of malice aforethought, in order
23 to establish the crime of murder it is not necessary that
24 the state prove any motive for such a killing.

25 Motive is not an essential element of the crime of

Jury charge

1 murder which must be proven, although there may be evidence
2 relating to such a fact introduced during the trial of the
3 case.

4 You are further instructed that one who is charged
5 with the commission of a crime may be convicted as the
6 principal offender or as an accomplice to the principal
7 offender. An accomplice is one who knowingly and
8 voluntarily and with common intent with the principal
9 offender unites with the principal offender in the
10 commission of a crime. An accomplice is often referred to
11 as an abator or an aider to the commission of a crime.

12 In this case the state is alleging that the defendants
13 are guilty of the crime of murder either as a principal or
14 as an accomplice. And therefore you are instructed that
15 where two or more people act together with a common intent
16 and purpose and they combine, conspire, plan or otherwise
17 agree to the commission of a crime, each person who is
18 present to aid, abet, assist or otherwise participate in
19 the commission of the crime is equally guilty.

20 The act of one is deemed to be the act of all. Any
21 person who joins with another or others to accomplish an
22 illegal purpose is held to be criminally responsible for
23 everything done by any other person which occurs as a
24 natural and probable consequence of the acts done pursuant
25 to and in furtherance of the common plan or purpose.

Jury charge

1 And therefore where two or more persons are acting
2 together and they are aiding, abetting, assisting and
3 participating with each other in committing a crime the
4 acts of one become the acts of all or the hand of one
5 becomes the hand of all. And all are equally guilty of any
6 crime accomplished thereby.

7 You are further instructed however that in order to be
8 guilty as an accomplice in the commission of a crime one
9 must actually be present at the scene of the crime with the
10 intention of aiding, abetting, assisting or participating
11 in the commission of the crime and the crime be completed.

12 Prior knowledge by a defendant that another person is
13 intending to commit a crime without more is not sufficient
14 to make him guilty of the crime of which he may be shown to
15 have had knowledge.

16 Likewise, the mere presence of a defendant at the
17 scene of a crime or in close proximity thereto even with
18 knowledge that another person is intending to commit a
19 crime is not sufficient standing alone to prove a defendant
20 guilty of the crime under the legal theory of accomplice
21 culpability.

22 In order for a defendant to be found guilty of a crime
23 under the legal theory of accomplice liability or aiding
24 and abetting it must be proven beyond a reasonable doubt
25 that that defendant was actually present at the scene of

Jury charge

1 the crime with the intention of aiding, abetting, assisting
2 or participating in a common plan which culminates in the
3 commission of a crime.

4 Under a theory of accomplice liability or culpability
5 two or more persons may be guilty of an unlawful homicide
6 even though only one person actually commits the act which
7 is directly responsible for the death of another person so
8 long as it is proven that each person charged with the
9 commission of the unlawful homicide was aiding, abetting,
10 assisting and participating with one another in the
11 commission of the crime accomplished through the conduct of
12 all of those shown to be participating in any crime
13 pursuant to a common plan or purpose.

14 And a criminal intent is also a necessary element
15 which must be proven beyond a reasonable doubt, for there
16 must have been a common design or intent to commit a crime,
17 and the crime must have been committed pursuant thereto
18 with the defendants aiding, abetting and assisting one
19 another by the commission of some overt act or acts. And
20 intent means the state of a person's mind which directs his
21 actions towards a specific object or goal.

22 Criminal intent is a state of mind that operates
23 jointly with an act in the commission of a crime. Criminal
24 intent is a mental state of conscious wrongdoing in
25 contrast to the commission of an act which is the result of

Jury charge

1 accident, inadvertence or mistake.

2 And criminal intent, just as any other fact or element
3 of a crime in any case, may be proven by the acts,
4 declarations and-or conduct of a defendant, as well as any
5 other circumstances which are established by the evidence
6 in the case from which you might naturally and reasonably
7 infer any such intent.

8 Now, Mr. Foreman and ladies and gentlemen of the jury,
9 I emphasize to you the fact that a defendant during the
10 trial of a criminal case does not take the witness stand
11 and testify during the trial of that case is not a fact
12 which may be considered by you in your deliberations or in
13 your consideration as to whether or not a defendant's guilt
14 has been proven beyond a reasonable doubt. You may not
15 permit such a fact to weigh in the slightest degree against
16 a defendant.

17 As I have already stated, the burden is always upon
18 the state to prove a defendant guilty of a crime they claim
19 he committed. The burden is not upon a defendant to prove
20 that he is not guilty or to prove that he is innocent
21 because in some cases that might not even be possible.

22 And therefore you are not to draw any inference nor
23 reach any conclusion from the fact that a defendant does
24 not testify during the trial of the case, nor may such a
25 fact even be discussed while you are in your jury room and

Jury charge

1 engaged in your deliberations in this case.

2 Now, ladies and gentlemen, I am not in any way
3 concerned with what your decisions are. But as I've
4 already indicated, any decision that a jury reaches must be
5 unanimous. All 12 of you must be in agreement.

6 Now, Mr. Foreman as you go back to begin your
7 deliberations, as you know, you will be the presiding
8 officer. You are simply there to ensure that the
9 deliberations are carried out in some orderly fashion.

10 It will also be your duty to indicate the jury's
11 decisions on the back of the separate indictments. You
12 have one -- you have an indictment for each of the separate
13 defendants. And therefore you'll be indicating the jury's
14 unanimous decision as it relates to each of the separate
15 defendants on that respective defendant's indictment.

16 And you'll see on the back of each of the indictments
17 in the lower left-hand corner. You'll see the word -- I
18 know you can't see it from there, but you'll see it when
19 you get back there. You'll see the word verdict. And it's
20 beneath that word that you'll indicate the jury's unanimous
21 decision.

22 There's also a space for you to sign your name as the
23 foreperson. You're the only juror that needs to sign the
24 verdict form. And there's also a space for you to place
25 the appropriate date, which today is the 14th.

Jury charge

1 Now, in this case with respect to each of the separate
2 indictments you have two possible verdict forms, and those
3 two potential verdict forms are guilty and not guilty. So
4 whatever that decision is as it relates to a particular
5 defendant, insert it in the space provided. Sign your name
6 as the foreperson and date it.

7 Now, as I've already told you, and I'll tell you
8 again, you have two separate defendants. You have two
9 separate indictments.

10 You will be rendering separate decisions as to each of
11 the separate defendants. And depending upon your
12 determination of fact and then your application of the law,
13 your verdicts may be the same as it relates to both
14 defendants, or it may be different as it relates to each of
15 the defendants. That of course will simply depend upon
16 your determination of fact and then your application of the
17 law as I have provided it to you.

18 Now, as you go back to begin deliberations let me tell
19 you this. I am never permitted to answer questions that
20 relate to questions of fact or that relate to evidence in
21 the case.

22 Also, now that you are going back to begin
23 deliberations no additional evidence can be received. So
24 as you go back to deliberate if somebody says, well, I
25 wonder if they have so and so, wonder if we could get that

Jury charge

1 and bring it back to the jury room, that might help us
2 decide the case, it doesn't matter if that evidence does
3 exist. It can't be received now because the evidence is
4 closed, and you're getting ready to go back and begin
5 deliberations. So even if evidence exists out there that
6 you think might help it cannot now be received. So don't
7 bother to ask questions about that.

8 I'm also, as I say, not permitted to comment upon the
9 facts or the evidence. If you have a question about
10 testimony and you think that question can be answered by
11 having testimony replayed in whole or in part, I am
12 permitted to bring you back into the courtroom and have
13 that testimony replayed.

14 I do not have transcripts of the witnesses' testimony,
15 so I can't send you back a transcript. But if a question
16 can be answered by having a witness' testimony replayed in
17 whole or in part, let me know through the bailiff. And
18 I'll bring you back to the courtroom and we'll replay a
19 witness' testimony in the event that's necessary.

20 As to questions of law if you ever have a question
21 about the law that is applicable, I am permitted to answer
22 those questions. So if you need for me to reinstruct you
23 on the law as to any point or all of it or you need a
24 clarification or an explanation of some point of law, I am
25 permitted to provide that additional instruction or that

Jury charge

1 clarification if necessary.

2 Mr. Foreman, if at any time you need to address some
3 comment to me or question to me, if you'll simply write it
4 on a piece of paper and provide it to the bailiff he'll
5 provide it to me and I'll respond accordingly.

6 There have been some videos introduced during the
7 course of the trial. And the system might have some
8 complications. I'm not sure about that. We're going to
9 send a computer back with each of those discs already
10 loaded on the computer. So you should be able to just
11 click on the icon for the various cameras or various discs
12 and it bring it up. And so that way you can look at it all
13 you want to if you need to as you deliberate.

14 If for some reason you can't get the discs operational
15 or you can't get the video to work properly, just let me
16 know. It might be that we'll have to bring you back into
17 the courtroom and show it to you on the screen as it was
18 shown before, which is not the most desirous way of doing
19 it, because I'd rather you have it in the jury room so you
20 can talk about it while you're looking at it.

21 If you come back into the courtroom you won't be able
22 to discuss it while you're in here. But it might be that
23 we'll need to. We'll just have to see how that works. So
24 you'll be receiving the computer with those videos on it.
25 If for some reason you can't get it to operate, you let me

Jury charge

1 know. We'll try to make other arrangements.

2 I don't know if we have any smokers on the jury, but
3 if you want to smoke you can, but you can't smoke in the
4 jury room. Anybody that needs to smoke let the bailiff
5 know. They'll take you outside for that purpose.

6 But you are instructed that deliberations must cease
7 if any juror is absent for some authorized purpose.
8 Deliberations may only resume when all 12 jurors are
9 present so that all may participate.

10 So, Mr. Foreman, after you and your fellow jurors have
11 reached unanimous decisions in the case and after you have
12 indicated those decisions on the back of each indictment as
13 indicated, if you'll knock on the door, let the bailiff
14 know that you have reached a unanimous decision, and then
15 we'll bring you back to receive that decision.

16 You will just hold onto the verdict forms until you
17 come back into the courtroom. And you'll provide them to
18 me when asked to do so.

19 Okay. Now, it appears that all 12 of the original
20 jurors are in good health. So I'm going to ask those 12 to
21 go back to the jury room. I'll ask my two alternates to
22 stay here in the courtroom with me.

23 As the 12 go back do not yet begin deliberations.
24 I've got some matters I'll need to address with the
25 lawyers. If I don't need to bring you back for any reason

Jury charge

1 I'll send word by way of the bailiff that you can begin
2 with your deliberations. In that event he'll bring to the
3 jury room all of the exhibits which have been introduced.

4 And to you, Mr. Foreman, he'll also bring the
5 indictments which will serve as the verdict forms.

6 So please retire, but don't begin deliberations until
7 I send you word to do so.

8 (Whereupon, the jury retired to deliberate at
9 3:23 p.m.)

10 (Whereupon, the alternate jurors were excused.)

11 THE COURT: Are there any exceptions taken to the
12 instruction or requests for additions to the instruction by
13 the state?

14 MR. BARNETTE: None at that time, Your Honor.

15 THE COURT: By the defendant Johnson?

16 MS. JONES: No, sir.

17 THE COURT: By defendant Robbs-Tanner?

18 MR. THOMPSON: None, Your Honor.

19 THE COURT: Let me ask y'all to verify the exhibits,
20 please.

21 And did I state it correctly about the computer, all
22 of the videos are on there?

23 MR. BARNETTE: Your Honor, I looked. That's one thing
24 we do need to talk about.

25 (Bench conference held off the record.)

1 THE COURT: All right. Any other matters to address
2 before the jury begins deliberations?

3 MR. BARNETTE: Your Honor, Exhibit 36 -- we have a
4 36-A and 36. Thirty-six was the original lineup. There's
5 numbers on there. The Court wanted to take it off before
6 he entered it in. We made a copy which is 37-A. I showed
7 that to the defense. Obviously, they don't object to it.

8 I think what we do want is send 37-A back, keep 36.
9 Obviously the exhibit for the record is a -- 36-A is a copy
10 of that lineup. And that it doesn't have any numbers at
11 the -- what I mean by numbers.

12 THE COURT: Well, I understand. What's the point in
13 keeping that as any kind of exhibit? The jury's not
14 getting it.

15 MR. BARNETTE: Okay. Well, we can withdraw that.

16 THE COURT: Exhibit 36 is just simply the lineup that
17 was introduced without objection.

18 MR. BARNETTE: Right. I would -- I'll make an offer
19 to withdraw 36 and send 37 as part of the evidence back
20 then.

21 THE COURT: You misunderstand me. Thirty-six is the
22 lineup that's going back.

23 MR. BARNETTE: Okay. We can make that 36 or make that
24 a court's exhibit.

25 THE COURT: See, you're just substituting one for the

Verdicts

1 other.

2 MR. BARNETTE: Right. This is the original one, Your
3 Honor. And I just -- can I make that a court's exhibit
4 just to protect the record?

5 THE COURT: Court's Exhibit No. 1.

6 MR. BARNETTE: Yes, sir. Make that Court's Exhibit 1
7 and have the copy as Exhibit 36.

8 THE COURT: Okay. 36-A is nonexistent. Marked in
9 error.

10 All right. Tell the jury to begin deliberations and
11 notify us when they have concluded.

12 (Whereupon, a recess was taken.)

13 THE COURT: All right. I understand the jury has
14 reached a decision. Are we ready to receive the verdict?

15 MR. BARNETTE: The state's ready, Your Honor.

16 MS. JONES: Yes, sir.

17 MR. THOMPSON: We are ready, Your Honor.

18 THE COURT: All right. Bring them in, please.

19 (Whereupon, the jury returned to the courtroom at
20 4:15 p.m. to report its verdict.)

21 THE COURT: Mr. Foreman, have you and your fellow
22 jurors reached a unanimous decision as to each of the
23 separate indictments?

24 THE FOREMAN: Yes, sir.

25 THE COURT: And have you indicated those decisions on

Verdicts

1 the back of the indictment as requested?

2 THE FOREMAN: Yes, sir.

3 THE COURT: And signed your name as the foreperson and
4 dated it?

5 THE FOREMAN: Yes, sir.

6 THE COURT: If you will, please hand those verdict
7 forms up by way of the bailiff.

8 You may publish the verdicts.

9 THE CLERK: Indictment 2010-GS-42-1059, State of South
10 Carolina, County of Spartanburg, State vs. Brandon
11 Robbs-Tanner, indictment for murder, the jury finds the
12 defendant not guilty. Signed by the foreperson, Geoffrey
13 Chapman, today's date, 2/14/10.

14 Indictment 2010-GS-42-1052, County of Spartanburg,
15 State of South Carolina, State vs. Dadrin Johnson,
16 indictment for murder, the jury finds the defendant guilty.
17 Signed by the foreperson Chapman -- Geoffrey Chapman.
18 Dated 12/14/10.

19 Ladies and gentlemen of the jury, is this your verdict
20 and still your verdict on both indictments?

21 THE COURT: If so, please raise your hands.

22 (Whereupon, all jurors responded in the affirmative.)

23 THE CLERK: So say you all.

24 THE COURT: All right. Does anyone wish to have the
25 jury polled?

Verdicts

1 MS. JONES: Yes, sir.

2 THE COURT: All right. Poll the jury please, ma'am.

3 THE CLERK: Ladies and gentlemen of the jury, I will
4 be asking you a question. That question is is this your
5 verdict and still your verdict on both indictments. When I
6 call your name and jury number, if you would, just say yes
7 or no.

8 Juror No. 26, Geoffrey Chapman.

9 THE JUROR: Yes.

10 THE CLERK: Juror No. 179, Jonathan Barham.

11 THE JUROR: Yes.

12 THE CLERK: Juror No. 149, Debra Shaw.

13 THE JUROR: Yes.

14 THE CLERK: Juror No. 18, Vanessa Brantley.

15 THE JUROR: Yes.

16 THE CLERK: Juror No. 222, Johnny Henderson.

17 THE JUROR: Yes.

18 THE CLERK: Juror No. 20, Kathy Bruce.

19 THE JUROR: Yes.

20 THE CLERK: Juror No. 201, Kechia Edwards.

21 THE JUROR: Yes.

22 THE CLERK: Juror No. 134, Timothy Ragsdale.

23 THE JUROR: Yes.

24 THE CLERK: Juror No. 223, Paul Huggstickler.

25 THE JUROR: Yes.

Sentence

1 THE CLERK: Juror 100, Lauren McCarter.

2 THE JUROR: Yes.

3 THE CLERK: Juror 173, Cheryl Wingo.

4 THE JUROR: Yes.

5 THE CLERK: Juror No. 110, Kennedy Moore.

6 THE JUROR: Yes.

7 THE CLERK: The jury has been polled.

8 THE COURT: All right. Any other matters to be
9 addressed with the jury present?

10 MR. BARNETTE: None from the state, Your Honor.

11 MS. JONES: No, sir.

12 MR. THOMPSON: None from defendant Robbs, Your Honor.

13 (Whereupon, the trial jury was excused.)

14 THE COURT: All right. Anything further on behalf of
15 the defendant Dadrin Johnson prior to the imposition of
16 sentence?

17 MS. JONES: Your Honor, just briefly.

18 We would make a motion for a new trial based upon the
19 issues we raised at our motion for a directed verdict.
20 Again, the photo of the detention center, as well as the
21 sufficiency of the evidence.

22 And also, Your Honor, we would just simply renew our
23 objection to the solicitor's closing arguments talking
24 about how Dadrin and the victim, Adrian, were childhood
25 friends. That was never mentioned in any of the

Sentence

1 transcripts. We believe that that was mentioned to inflame
2 the passions and prejudice of the jury, Your Honor. And
3 with that our basis for a new trial, sir. Thank you.

4 THE COURT: All right. Anything further on behalf of
5 the state?

6 MR. BARNETTE: Your Honor, I do have the sentencing
7 sheet to hand up.

8 MR. THOMPSON: Your Honor, may my client and I be
9 excused during the sentencing?

10 THE COURT: Well, you may. But he's got to go back
11 with the jail folks to be processed out.

12 MR. THOMPSON: I understand that. But can we leave
13 together? Okay. I'll just stay.

14 MR. BARNETTE: May I approach, Your Honor?

15 THE COURT: Sure. All right. Anything further on
16 behalf of the state?

17 MR. BARNETTE: Your Honor, we do have a prior record.
18 Ms. Gallivan is going to read that. And I did talk with
19 the family, Your Honor. They wish to see justice done.
20 And you have seen the case.

21 THE COURT: Okay. Ms. Gallivan.

22 MS. GALLIVAN: Your Honor, Mr. Johnson's record is a
23 2003 simple assault and battery, a public disorderly
24 conduct, also in 2003; in 2004 manufacturing or
25 distribution of cocaine base first offense; and 2005

Sentence

1 another distribution of cocaine first offense; 2008, a
2 simple assault and battery, as well as a PWID, Schedule
3 One, Two and Three.

4 THE COURT: All right, Ms. Jones.

5 MS. JONES: Thank you, Your Honor.

6 Initially, I'm not sure you actually denied my motion
7 for a new trial.

8 THE COURT: Oh, I'm sorry. Yes. I intended to. I
9 guess I lost my place.

10 MS. JONES: Thank you, Your Honor.

11 THE COURT: Your motion for a new trial is denied.

12 MS. JONES: Thank you, sir.

13 On behalf of my client, as you've heard, he was born
14 in Columbia, South Carolina. He has lived in the
15 Spartanburg area since elementary school, Your Honor. He
16 was living with a grandmother.

17 He has five children, Your Honor, all under the age of
18 seven. He was supporting those children with car detailing
19 and home repair. Basically, he was doing odds and ends to
20 support himself and his family.

21 He does, Your Honor, respect the verdict. I think as
22 I indicated to you, there was no offer in this case, Your
23 Honor. So we simply elected to go ahead and make the state
24 prove their case.

25 We understand that there is a minimum mandatory of 30

Sentence

1 years on this particular case, Your Honor. We are
2 requesting that he be given a second chance at some point
3 and that you only impose the minimum mandatory sentence on
4 Mr. Johnson.

5 Your Honor, his grandmother is here and would like to
6 speak on my client's behalf at the appropriate time, sir.
7 Thank you.

8 THE COURT: All right. Now is that time. She can
9 stand up next to you.

10 LYNN HIGGINS: I'm Lynn Higgins. I am Dadrin's
11 grandmother. And I just wanted to say that I'm sorry for
12 the family's loss.

13 I understand that, but, you know, and young men make
14 bad decisions sometimes. And he is a good person. He has
15 always been there for me. He come by and see me and, you
16 know, just spoil the grandmama. That's the kind of guy
17 that he is.

18 And his children, he spent a lot of time with his
19 children. And they really look forward to him being a
20 father to them, because they listen to him and they play
21 with him.

22 And I ask the Court just to think about these children
23 not being able to grow up with their dad for his input, and
24 we really need that. And I pray that you and, and God
25 would give him just one, just give him a second chance and

Sentence

1 let him start all over again. Thank you.

2 THE COURT: Thank you, ma'am.

3 MS. JONES: Your Honor, I did not neglect to mention,
4 that my client has been incarcerated ever since he was
5 arrested back in October. So we would request credit for
6 that time as well, sir. Thank you.

7 THE COURT: All right. Mr. Johnson, do you have
8 anything you'd like to add to what's been said on your
9 behalf?

10 THE DEFENDANT: No, sir.

11 THE COURT: Okay. On Indictment 2010-1052, the State
12 vs. Dadrin Johnson, wherein you have been found guilty by
13 the jury of the crime of murder, the Sentence of the Court
14 is you, Dadrin Jerome Johnson, be confined to the South
15 Carolina Department of Corrections for the period of your
16 natural life.

17 You have a right to appeal the verdict of the jury and
18 the sentence of the Court. You must file any notice of
19 your intention to appeal those decisions within ten days of
20 today's date. So you can talk with Ms. Jones about that.

21 THE DEFENDANT: All right.

22 THE COURT: Okay.

23 THE DEFENDANT: Yes, sir.

24 END OF REQUESTED TRANSCRIPT OF RECORD

25

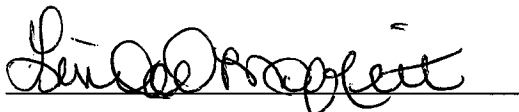
Certificate

CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh 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 of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 13th and 14th days of December 2010.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

April 22, 2011

A handwritten signature in cursive script, appearing to read "Linda D. Moffitt", is written over a horizontal line.

Linda D. Moffitt
Circuit Court Reporter

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)Dadrin Jerome Johnson #316909)

Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2014-CP-42-0204

APPLICATION FOR

POST-CONVICTION RELIEF**INSTRUCTIONS - 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 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 McCormick Correctional Institution 386
2. Name and location of Court which imposed sentence Gen Sessions - Spartanburg
3. Name(s) of co-defendant(s) (if any) Brandon Robbs - Tanner
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2010-GS-42-01052 / Murder
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) Dec 14, 2010 / life
 - (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. S.C. Court of Appeals
- ii. S.C. Court of Appeals
- iii. S.C. Supreme Court
- (b) the result in each such Court to which you appealed:
- i. Affirmed
- ii. Denied
- iii. Denied
- (c) the date of each such result:
- i. Submitted Sept 4 2012 - Filed Sept 19 2012
- ii. Oct 18 2012
- iii. Dec 19 2013
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Unpublished Op. # 2012-4P-528
- ii. Order App. # 2010-180607
- iii. Order App. # 2012-213427
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____ N
- (b) _____
- (c) _____ A
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) _____
- (c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) See attached sheets 1 - 4
- (b) _____
- (c) _____

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? YES
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? YES
- (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. Appeal
- ii. Rehearing
- iii. Writ of Certiorari
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. S.C. Court of Appeals
- ii. S.C. Court of Appeals
- iii. S.C. Supreme Court
- iv. _____
- (c) the disposition thereof:
- i. Affirmed
- ii. Denied
- iii. Denied

- iv. _____
- (d) the date of each such disposition:
- i. Submitted Sept 4, 2012 - Filed Sept 19, 2012
- ii. Oct 18, 2012
- iii. Dec 19, 2013
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. Unpublished Op # 2012 - UP-528
- ii. Order App. # 2010-180607
- iii. Order App. # 2012-213427
- 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
- ii. _____
- iii. A

- (b) the proceedings in which each ground was raised:

- i. N
- ii. _____
- iii. A

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) Applicant first time presenting ground see (10 (a))
- (b) _____
- (c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? N/A
- (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. Tanya R. Jones - Spartanburg Public Defender's office
- ii. Robert M. Dudek - Div. of Appellate Defense
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Trial and sentencing
- ii. Appeal -
- iii. _____

19. State clearly the relief you seek in filing this application:
New trial, and any other relief I may be entitled to
and the court deems just and fair

20. Are you now under sentence from any other court that you have not challenged?

NO

2018 JAN 16 PM 2:10
 CLERK OF COURT
 11. 1070 N. W. 101 ST

STATE OF SOUTH CAROLINA)

County of McCormick)" DADRIN JOHNSON)

VERIFICATION

I, DADRIN JOHNSON, 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.

DADRIN JOHNSON

SWORN to and subscribed before me this 13
day of Jan, 2014.

J. J. Franklin (L.S.)
Notary Public

My Commission Expires: 12-16-2019

2014 JAN 16 PM 2:10
H. HOFFMAN & SONS, INC.

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

Dadrin Johnson

I, , 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.

Dadrin Johnson

Applicant

SWORN or affirmed to and subscribed before me this

13 day of Jan, 2014.

JA Samler

Notary Public

My Commission Expires: 12-16-2019

2014 JAN 16 PM 2:10
H. MOPE - ADAMS

Date: 1-13-14

Dear Hon. Clerk

Please find enclosed for filing my form
5/PCR application and motion for costs/fees.

Would you be so kind as to send the
Atty Gen's Office a filed copy and me one
back please

Thank you

Sincerely

cc: Personal file

2014 JAN 16 PM 2:10
Nathan Johnson

PROOF OF SERVICE

I DADRIN Johnson certify that I have served my Form 5/PCR application and motion for costs / fees. By placing the above said into the Mc Carr Inst. mail room on this 13 day of JAN 2014 to be placed in the U.S. mail with postage prepaid to the below Hon. Clerk of Ct.

SWORN to before me
this 13 day of JAN 2014

s/ Dadrin Johnson

J. A. Minkley
Notary Public

My Commission Expires
12-16-2017

cc: Personal file

2014 JAN 16 PM 2:10
Mc Carr Inst. Mail Room

INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL

(1) Per the Bill of Rights to the Federal Constitution I was denied the right to effective assistance of counsel.

Thereby, my conviction and sentence violate the Constitutions and laws of the United States, as guaranteed by the 6th and 14th Amend. Also per S. C. Const. Article I sec 3 and sec 14 Also see Strickland v Washington 104 S. Ct. 2052.

I can and will show prejudice, where there is a reasonable probability that but for counsel, Tanya Jones unprofessional

2015 JAN 16 2:10
K. H. H.

errors, the result of my trial would have been different SEE: Porter v State 629 SE2d 356.

Where Ms. Jones undermined the confidence in the outcome of my trial SEE: Cherry v State 386 SE2d 624; Johnson v State 480 SE2d 733

Here, Ms. Jones acts and or omissions including but not limited to:

Failure to properly research and investigate the facts and laws surrounding the entitlement of my whole case prejudiced me SEE: State v Williams 485 SE2d 99; Ard v Catoe 642 SE2d 590; Pelzer v State 672 SE2d 790; Ray v State 401. Thus, which I can/will prove by the preponderance of evidence SEE:

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS

PCR #

Dadrin Lerone Johnson

316909

Applicant

vs

NOTICE AND MOTION
FOR COSTS/FEEs

The State

Respondent

NOW COMES the above named Applicant who
moves this Hon. court in the above entitled
matter per DUE PROCESS and S.C. Code
Ann § 17-3-50 and 17-3-60 for costs/
fees for an investigator to aid PCR
counsel in founding/locating and interview-
ing my witnesses SEE: Bannister v State
509 SE2d 807; Glover v State 458 SE2d
538

Date: 1-13-14

Respectfully submitted
Dadrin Johnson

2014 JAN 16 PM 2:10

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
	)	2014-CP-42-0204
Dadrin Jerome Johnson, #316909,	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

Respondent, making its Return to the application for post-conviction relief¹ (PCR) filed January 16, 2014, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. He was indicted at the February 2010 term of the Spartanburg County Grand Jury for murder (2010-GS-42-1052). The Applicant was represented by Tanya R. Jones, Esquire. On December 14, 2010, the Applicant proceeded to trial where he was found guilty of murder by a jury. The Honorable J. Derham Cole sentenced Applicant to a sentence of life.

A timely Notice of Appeal was filed on Applicant's behalf. The South Carolina Court of Appeals affirmed the conviction and sentence. State v. Johnson, Op. No. 2012-UP-528 (filed September 19, 2012). The Applicant filed a Petition for Rehearing, which was denied on October 18, 2012. The Applicant then filed a Petition for Writ of Certiorari with the South Carolina Supreme

¹ Applicant also includes a document captioned, "Notice and Motion for Costs/Fees." Respondent submits that the determination of need for investigators and additional costs and fees shall be determined by a judge based upon Applicant's showing of good cause.

Court. The Petition was denied on December 19, 2013. The Remittitur was returned on December 27, 2013.

Attached herewith and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections, the trial transcript, and Applicant's appellate records. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reason:

- I. Ineffective assistance of counsel, in that;
 - a. Counsel failed to properly research and investigate the facts and laws pertaining to Applicant's case.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their 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, 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, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional

judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 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.

The Respondent submits that the Applicant cannot satisfy either 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, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Each and every allegation contained within the application not hereinbefore expressly admitted, qualified or explained is hereby denied.

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held solely on the claim of ineffective assistance of counsel.

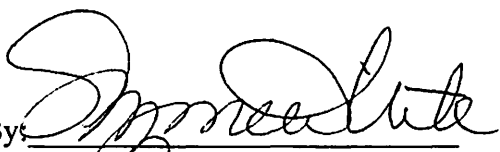
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

SUZANNE H. WHITE
Assistant Deputy Attorney General

By: 
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

August 19, 2014.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
Dadrin Jerome Johnson, #316909,	)	Case No.: 2014-CP-42-0204
	)	
Applicant,	)	
	)	
v.	)	AMENDED RETURN AND MOTION
	)	FOR MORE DEFINITE STATEMENT
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

Respondent, making its Amended Return and Motion for More Definite Statement in response to the application for post-conviction relief¹ (PCR) filed January 16, 2014, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. He was indicted at the February 2010 term of the Spartanburg County Grand Jury for murder (2010-GS-42-1052). Tanya R. Jones, Esquire, represented Applicant. On December 13, 2010, Applicant proceeded to trial before the Honorable J. Derham Cole and a jury. The jury found Applicant guilty as indicted, and Judge Cole sentenced him to life imprisonment.

A timely Notice of Appeal was filed on Applicant's behalf. The South Carolina Court of Appeals affirmed the conviction and sentence. State v. Johnson, Op. No. 2012-UP-528 (filed September 19, 2012). The Applicant filed a Petition for Rehearing, which was denied on October

¹ Applicant also included a pro se document with his Application captioned, "Notice and Motion for Costs/Fees." Respondent submits that the determination of need for investigators and additional costs and fees shall be determined by a judge based upon Applicant's showing of good cause.

18, 2012. The Applicant then filed a Petition for Writ of Certiorari with the South Carolina Supreme Court. The Petition was denied on December 19, 2013. The Remittitur was returned on December 27, 2013.

Attached herewith and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections, the trial transcript, and Applicant's appellate records. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reason:

1. Ineffective assistance of counsel, in that;
 - a. Counsel failed to "properly research and investigate the facts and laws surrounding . . . [Applicant's] whole case."

III.

Respondent submits Applicant's allegation of ineffective assistance of counsel is 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 the trial 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, 466 U.S. 668; Cherry v. State, 300 S.C. 115, 117, 386

S.E.2d 624, 625 (1989). The applicant “must first demonstrate that counsel was deficient and then must also show the deficiency resulted in prejudice.” Walker v. State, 407 S.C. 400, 404-05, 756 S.E.2d 144, 146 (2014).

First, the applicant must show that counsel’s performance “fell below an objective standard of 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).

IV.

Respondent also moves for a more definite statement. The Uniform Post-Conviction Procedure Act requires the Applicant to "specifically set forth the grounds upon which the application is based." S.C. Code Ann. § 17-27-50 (1985) (emphasis added). Applicant has wholly failed to set forth any facts to "support each ground" or to explain with any specificity whatsoever the

facts upon which his claims are based. Respondent respectfully submits that it is incumbent upon Applicant, through counsel, to amend his application well in advance and set forth specific facts upon which his allegations are based so that Respondent may adequately prepare for an evidentiary hearing.² Therefore, Respondent requests that Applicant be required to amend his application to set forth specifically the grounds on which his claims are based.

V.

Applicant must specify any claims he intends to raise at the PCR 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. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRPC. 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), SCRPC.

VI.

Each and every allegation contained within the application not expressly admitted, qualified, or explained herein is denied.

VII.

WHEREFORE, having made its Amended Return and Motion for a More Definite Statement, Respondent requests that Applicant amend his application to set forth the factual grounds supporting

² Applicant's PCR attorney has been notified this hearing is expected to take place during the week of September 19, 2016. Therefore, Respondent requests Applicant provide Respondent with an amendment specifically setting forth the factual grounds for his allegations no later than thirty days from the date of service of this Return.

his allegation of ineffective assistance of counsel. Respondent further requests an evidentiary hearing be held solely on the claims of ineffective assistance of counsel.

Respectfully submitted,

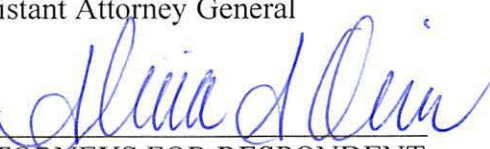
ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

JOHANNA VALENZUELA
Senior Assistant Deputy Attorney General

ALICIA A. OLIVE
Assistant Attorney General

July 22nd, 2016.

By: 
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) COURT OF GENERAL SESSIONS

3
4 DADRIN JEROME JOHNSON,) TRANSCRIPT
5 APPLICANT,) OF
6 VS.) RECORD
7 STATE OF SOUTH CAROLINA,) 2013-CP-42-204
8 RESPONDENT.)

9
10 September 19th, 2016
11 Spartanburg, South Carolina
12

13 B E F O R E:

14 THE HONORABLE PAUL M. BURCH, Judge.

15 A P P E A R A N C E S:

16 J. BRANDT RUCKER
17 ESQ.
18 Attorney for the Applicant

19 PATRICK L. SCHMECKPEPER
20 ASSISTANT ATTORNEY GENERAL
21 Attorney for the Respondent

22
23 PAMELA E. GREEN
24 Circuit Court Reporter
25 Seventh Judicial Circuit

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P R O C E E D I N G S

THE COURT: All right. I'm ready whenever y'all are.

MR. SCHMECKPEPER: Thank you, Your Honor.

May it please the Court.

This is Dadrin Johnson versus the State of South Carolina. 2014-CP-42-0204. The Applicant was indicted in Spartanburg County for murder. He was represented by Tanya Jones.

On December 13th, 2010, he proceeded to trial, was found guilty. He was sentenced, sentenced by Judge Cole to life imprisonment. His appeal -- he filed a timely notice of appeal, which was also ended successful.

This application was filed on January 16th, 2014, alleging ineffective assistance of counsel for failure to properly investigate.

At this time I'll turn it over to opposing counsel.

MR. RUCKER: Your Honor, I'll call my client, Dadrin Johnson, to the stand.

THE COURT: All right.

DADRIN JOHNSON, being first duly sworn, testified as follows:

MR. SCHMECKPEPER: Your Honor, I'm gonna go ahead and call opposing counsel or call defense counsel.

(WHEREUPON, Ms. Tanya Jones was called on the phone at

1 this time.)

2 MR. SCHMECKPEPER: Hey, Ms. Jones. This is Patrick
3 Schmeckpeper from the AG's Office. We're about to start the
4 hearing---

5 MS. JONES: Okay.

6 MR. SCHMECKPEPER: ---for Mr. Johnson. He's about to
7 testify. So, I'm gonna put you on speaker so you can hear
8 what's going on.

9 Can you, can you hear me all right?

10 MS. JONES: Yes, I can hear you.

11 MR. SCHMECKPEPER: Can you hear the---

12 THE COURT REPORTER: No, sir.

13 MR. SCHMECKPEPER: And, if you can, just try and speak
14 loud, as loudly and clearly as possible.

15 MR. RUCKER: Ms. Jones, this is Brandt Rucker, the
16 Applicant's attorney.

17 Can you hear me?

18 MS. JONES: I can hear you.

19 THE COURT: Okay. And, Dadrin, can you speak up to see
20 if Ms. Jones can hear you.

21 THE APPLICANT: Hello.

22 MS. JONES: I can hear him.

23 MR. RUCKER: Okay.

24 DIRECT EXAMINATION

25 BY MR. RUCKER:

1 Q Okay. Dadrin, in your application -- well, first,
2 before we start, what is -- what sentence are you doing
3 right now?

4 A I'm currently serving a life sentence.

5 Q Okay. And were you convicted at trial?

6 A Yes, sir, I was.

7 Q Who was your attorney at trial?

8 A Ms. Tanya Jones.

9 Q Okay. And you've -- in your application for
10 post-conviction relief, you've said that she failed to
11 properly research and investigate the facts of the case.

12 In what way is that true?

13 A I mean in all ways, sir.

14 Q All right. Specifically, what do you think she did
15 incorrectly?

16 A I mean I begged Ms. Jones to come see me and talk to me
17 and a lot of things she didn't do.

18 Q Okay. And this is your time to tell the judge
19 specifically how she failed to investigate the law and facts
20 of your case.

21 A I mean I kept requesting for discoveries and evidence
22 presented against me in this case, which I knew nothing
23 about, and she failed to do so.

24 Q Did you ever get a copy of your discovery?

25 A In the middle of trial. Like the second day of the

1 trial, yes, I received some of it.

2 Q All right. And before we get too far into this line of
3 questioning, were you offered a plea in this case?

4 A No, sir.

5 Q Did Ms. Jones ever discuss trying to get a plea for
6 you?

7 A No, sir.

8 Q Okay.

9 A Not to my knowledge.

10 Q All right. Did you ever come into Court for a, for any
11 kind of plea hearing before your final -- your trial week?

12 A No, sir.

13 Q Okay. What did you find in the discovery that made you
14 think you -- she wasn't doing a good job for you?

15 A I mean I was requesting for Ms. Jones to come talk to
16 me because, like I was telling her, I didn't know nothing
17 about it and it's life. She was just brushing me off.

18 Q All right. When you say you didn't know anything about
19 it, are you talking about the crime?

20 A Yes, sir.

21 Q Okay. What did you tell her happened around that time?

22 A What did I tell her?

23 Q Yeah.

24 A Well, I -- she was asking me questions when she finally
25 came. You know, I explained the situation to her the best

1 way I could. But it was like she wasn't listening to me.

2 Q Okay. Can you explain to the judge what was going on
3 so the judge will understand what she did not do correctly?

4 A I mean I was accused of murder. Somebody that I cared
5 about, you know what I mean, and I tried to explain. I mean
6 it was like nobody didn't want to hear me.

7 Q Well, the judge wants to hear you now.

8 So, what did you -- what were you trying to tell Tanya
9 Jones?

10 A I was trying to tell her that I didn't do it but it's
11 like she didn't listen.

12 Q Did, did you talk to her about an alibi defense or
13 anything like that?

14 A Yes, I had spoke with her that I had a witness that
15 could verify the situation but it's like I couldn't get no
16 where, no help.

17 Q Who was the witness that you were gonna use?

18 A It was my aunt but she's deceased.

19 Q Was, was she deceased before the trial or no?

20 A No, sir.

21 Q What was her name?

22 A Her name is Penny. Don't even know her real name.

23 Q Okay. Did you give Ms. Jones information on how to get
24 in contact with her?

25 A Yes, I did.

1 Q And what happened as a result of that?

2 A I mean she didn't take the stand. So, obviously,
3 Ms. Jones didn't properly investigate what I asked her.

4 Q Okay. In addition to that, what did she not do that
5 you think she should of done?

6 A I mean investigated the facts.

7 Q And if she would of properly investigated the facts,
8 what would she of found that would of helped your case?

9 A She would of knew where I was at the time of when the
10 murder occurred---

11 Q Okay. And how---

12 A ---or supposedly occurred.

13 Q What, what information did you have for her about where
14 you were?

15 A My whereabouts.

16 Q Okay. No, I think we're talking past each other.

17 Did you have any other evidence, other than your aunt's
18 testimony, about where you were at the time?

19 A No, ma'am. I mean no, sir.

20 Q All right. And what else did she fail to do to
21 investigate, properly investigate your case?

22 A I requested so much stuff, man. I mean like it's so
23 painful, man.

24 Q Well, I understand but now's the time -- this is the
25 judge that can grant your relief. So, you have to tell him

1 what happened.

2 A I mean I just kept asking Ms. Jones to reach out to
3 people. You know what I mean?

4 I asked her to reach out to victim's family, you know,
5 which, you know, was my family and I just -- I couldn't get
6 no where. It's like I was just in a cell for about two
7 years.

8 Q How many times did you actually meet with her?

9 A Maybe -- Ms. Jones maybe came to visit me twice or
10 three times.

11 Q And how, how long were those meetings?

12 A They wasn't long.

13 Q All right. Can you give an estimate, 15 minutes?

14 How, how long?

15 A Maybe, if that long.

16 Q Okay.

17 A I wanted the county records but I ain't know how to go
18 about getting those.

19 Q You're talking about to show how many times she met
20 with you?

21 A Yes, sir.

22 Q Okay. And just -- you need to be as clear as possible
23 with the Court.

24 what other things did she do wrong that you think you,
25 if you, if she would of talked to you, would of gone right?

1 A I mean, Ms. Jones, she's stated that I would pick my
2 own jury, which I didn't do that. During trial, failure to
3 object. I mean she said if -- something about a sumatation
4 (phonetic) if that's the right language. But we would have
5 the last say so at trial if I wanted to defend myself but
6 that didn't happen either.

7 Q Did you testify in your trial?

8 A No, sir, because of that reason.

9 Q All right. Well, are you talking about summation?

10 A Yes, sir.

11 Q Is that---

12 A If that's the right word.

13 Q And tell me, if I'm incorrect here, but what you're
14 saying is that she wanted to have the last argument before
15 the jury?

16 A Yes, sir.

17 Q So, she didn't---

18 A The final.

19 Q She did not want you to testify.

20 Is that right?

21 A Yes, sir.

22 Q Okay. What else about her investigation do you think
23 was faulty that she didn't do correctly?

24 A A lot of things, sir.

25 Q Well, you're gonna have to---

1 A I mean like -- I mean I, I requested so much, so much,
2 you know, and it wasn't nothing done. Like it was nothing.

3 Q Okay. You're -- the judge has to hear specifics of
4 what you requested and how that would of affected your
5 hearing -- your, your trial.

6 A I mean it affected me a lot because, like I say, I
7 requested a lot of things from Ms. Jones. I couldn't get no
8 help to my counsel. I practically begged Ms. Jones. Asked
9 her to talk to, to the people that's was a part of it. She
10 ain't do that. I asked her to get with the family of the
11 victim. She wouldn't speak to them. I don't know if she
12 did or not. They didn't get back to me. So --.

13 Q Do you believe that prohibited you from having a good
14 defense in the case?

15 A I mean I feel like that the defense was she didn't
16 defend me at all.

17 Q Okay. Do you have any other specifics for the Court at
18 this time?

19 This is your, your chance to tell the judge.

20 A I mean like I was asking her about the evidence
21 presented against me, photo lineups, et cetera. It was
22 nothing. It was just like I didn't have an attorney.

23 Q All right. If, if she -- what do you think would of
24 been the result had she done what she was suppose to?

25 A That they would of clearly viewed that it wasn't me in

1 the film.

2 Q All right. Do you have any other issues you want the
3 judge to consider?

4 A Yes, to -- I would like for him to investigate the
5 film. I was asking for a private investigator also.

6 Q You mean as part of this PCR?

7 A Yes, sir, and for a specialist on the film.

8 Q Okay. And what, what -- if the judge reviews the film,
9 if he has the ability to get, retrieve it from the Clerk's
10 Office, what's that gonna show?

11 A It would show that the guy who was supposedly my
12 codefendant, I mean he didn't get no time. He assisted
13 whoever killed Mr. Edwards.

14 Q Are you saying you -- that, that wasn't you on the
15 film?

16 A Yes, sir.

17 Q Okay. Is the film---

18 A It wasn't.

19 Q Is the film clear?

20 A I mean from what I viewed several times, it's like the
21 film been tampered with from what I seen from the beginning
22 and numerous times that I viewed it.

23 Q And the judge will have access to that. That was part
24 of the trial transcript. It's part of the evidence that was
25 introduced in.

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by Mr. Rucker

1 what do you want him to look at in the video?

2 A I mean I would like for him just to review it, and I,
3 if I'm not mistaken, I think the jury instruction was given
4 wrong also by the judge.

5 Q All right. What, what was wrong with the jury
6 instruction?

7 what did she not object to that she should of objected
8 to?

9 A It wasn't, it wasn't properly -- the jury instruction
10 wasn't properly given to the jurors.

11 Q All right. What was---

12 A That's what I'm trying to say.

13 Q What was given and what should of been given?

14 A What should of been given was I mean the---

15 MR. SCHMECKPEPER: Your Honor, I just like to object at
16 this point. We're getting pretty far outside failure to
17 investigate.

18 MR. RUCKER: Your Honor, we would argue that the charge
19 is related to her lack of knowledge of the law. He -- he's
20 alleged that he, she did not investigate the law properly to
21 be able to counter that charge.

22 THE COURT: I'll give you some leeway. Go ahead.

23 Q All right. Go ahead.

24 A Yes. So, as I researched and did -- you know what I
25 mean?

1 Looking at the jury instructions, he didn't properly
2 get the jurors the instructions which Ms. Jones didn't
3 object to them.

4 Q All right. What do you believe was wrong in the
5 instructions?

6 That's what the Court needs to know.

7 A I mean about the charge, the basis of that. I could be
8 charged with murder or lesser included offense --

9 Q Okay.

10 A -- if the -- I had got found guilty --

11 Q All right. You have the---

12 A -- before the trial started.

13 Q Did you---

14 A And I, I didn't pick my own jury.

15 Q And Ms. Jones told you you could?

16 A Yes, she did.

17 Q All right. In addition to the jury charge and the
18 general failure to investigate claim and the issue with the
19 picking of your own jury, do you have any other specific
20 issues for the Court?

21 A I mean it was issues such as prejudice with jurors
22 because I guess they was like they culture or the area side
23 of town that we lived on. They were striking jurors, et
24 cetera, so far so on.

25 Q Ms. Jones challenged some of that, didn't she?

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by Mr. Rucker

1 A If I'm not mistaken, yes, sir.

2 Q But you believe there was some that she didn't
3 challenge she should have?

4 A Yes, sir.

5 Q Okay. I mean -- and any other issues?

6 A No, sir, not that I can think of.

7 MR. RUCKER: Okay. No further questions, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. SCHMECKPEPER:

10 Q Good afternoon, Mr. Johnson. I just want to clarify.
11 You're alleging your counsel should of investigated
12 more. She should of shared discovery with you.

13 A Yes, sir.

14 Q She should of let you pick the jury?

15 A Yes, sir.

16 Q And she should of objected to the jury instruction?

17 A Yes, sir.

18 Q Now, you said your counsel -- you said your attorney
19 only met with you two or three times for 15 minutes max?

20 A I mean I'm not sure about the time but approximately
21 maybe 15 minutes.

22 Q And only, and only two or three times?

23 A Yes, sir, that I can remember, sir.

24 Q And that you would ask your attorney for discovery and
25 for -- to look into the evidence and she never did?

1 A Yes, sir.

2 Q And it -- so, it sounds like you're also alleging that
3 the film of the actual murder was tampered with?

4 A Yes, sir.

5 Q And in what way?

6 A I mean I'm charged with murder first that I don't know
7 anything about, and this alleged tape, they got this tape on
8 YouTube and exposing it to the media. That's what.

9 Q So, you're saying it's not on the tape?

10 A Yes, sir.

11 Q And that---

12 A I am stating that.

13 Q Well, I'm trying to figure out what way you say it was
14 tampered with.

15 A It -- I mean the tape, from when I seen the tape the
16 first time, the second time, and the third time, obviously
17 it's like somebody tampered with it because it was different
18 settings.

19 MR. SCHMECKPEPER: Beg the Court's indulgence.

20 (Pause.)

21 Q And you said you gave your attorney your aunt's
22 information?

23 A I did.

24 Q Did you give her her real name?

25 A No.

1 Q So, you don't know her real name now and you didn't
2 know it then?

3 A No, sir.

4 Q So, you didn't give your attorney -- did you, did you
5 have her contact information?

6 A Yes, I told her how to get in touch with my aunt, and I
7 said, matter of fact, Ms. Jones, I'll make sure my aunt get
8 in touch with you.

9 Q And you're saying that she failed to do that?

10 A Yes, sir.

11 MR. SCHMECKPEPER: Your Honor, I have no further
12 questions.

13 MR. RUCKER: Nothing further, Your Honor.

14 THE COURT: You may step down. Thank you.

15 THE WITNESS: Yes, sir.

16 MR. RUCKER: And that's all the witnesses.

17 MR. SCHMECKPEPER: Your Honor, the State calls Tanya
18 Jones via cell, via cell telephone.

19 THE COURT: Ms. Jones?

20 MS. JONES: Can you hear me?

21 THE COURT: This is Paul Burch, the judge.

22 THE WITNESS: I can hear you.

23 TANYA JONES, being first duly
24 sworn, testified as follows:

25 MR. SCHMECKPEPER: May it please the Court.

1 I'm gonna step closer to the phone and make sure Ms.
2 Jones can hear me.

3 THE COURT: That's fine.

4 DIRECT EXAMINATION

5 BY MR. SCHMECKPEPER:

6 Q Good afternoon, Ms. Jones.

7 A Good afternoon.

8 Q Thank you for being with us today.

9 Just a, a few preliminary questions.

10 How long have you been practicing law?

11 A I've been a licensed attorney since 2000.

12 Q And what percentage of your practice has been criminal?

13 A I became public defender in Georgia in 2007. I've been
14 practicing public defense work ever since then. So, I guess
15 eight years.

16 Q And at some point you became a public defender in South
17 Carolina and came to represent the Applicant.

18 Is that correct?

19 A Yes, that's right.

20 Q Now, when did -- about how long before the actual trial
21 did you start representing the Applicant?

22 A That I don't remember but usually when people are
23 arrested, they're interviewed in terms of whether or not
24 they're going to need an attorney. And if they so qualify,
25 then I would get a file. So, I would guess shortly after he

1 was arrested---

2 Q Now, do you recall---

3 A ---in October of 2009.

4 Q Do you recall roughly how many times you met with the
5 Applicant?

6 A I do not but I certainly met with him a number of
7 times. We also went over all of the discovery as well as
8 autopsy photos. I brought my laptop and we'd go over all
9 the evidence and the videos and the photos.

10 Q So, you did, you did get discovery in this case?

11 A I did, yes.

12 Q And you went over that with the Applicant?

13 A I did.

14 Q Did he ask you -- was there anything else he asked you,
15 as far as discovery goes, to look into?

16 A Not that I recall anything specific that wasn't in the
17 discovery. There was quite a bit of discovery.

18 Q How, how was your working relationship with the
19 Applicant?

20 was he a difficult client to deal with?

21 A I wouldn't say difficult. He was, he was quiet. He
22 asserted that he did not do this. Mainly just kind of went
23 from there and went over the facts and the evidence of the
24 case.

25 Q Did he ever express to you that you weren't meeting

1 with him enough?

2 A No.

3 Q Did he ever express to you that you weren't showing
4 him -- telling him enough about the case?

5 A Not to my knowledge, no. I don't recall us having a
6 contentious relationship.

7 Q Did he ever tell you about his aunt, about a potential
8 alibi witness?

9 A I don't recall anything about an alibi witness at all.

10 Q As a practicing attorney, is it your, your, your normal
11 practice to investigate an alibi witness if a client tells
12 you about one?

13 A Yes, it is. But often times, what happens with alibi
14 witnesses in my line of work, is people don't know their
15 first names. They maybe know a nickname. They kind of know
16 what side of the city they may live on. So, it's really
17 getting and using my case staff a lot of times. I rarely
18 have any luck with alibi witnesses.

19 Q But you'd of at least looked into it had he asked you?

20 A I would have looked into it had he asked me, and I just
21 don't ever recall him talking about any type of alibi
22 witness.

23 Q Is it your general practice to let your clients pick
24 the juries?

25 A No. What I do though is I let them -- I consult them,

1 obviously, because sometimes they might be a juror that they
2 don't like or maybe they feel was giving us a bad look. So,
3 certainly I consult, but, ultimately, picking the jury is
4 what I do. But I certainly consult and let them have, you
5 know, a say. So, obviously, it is their life at stake and
6 sometimes I'll, I'll agree and sometimes I won't. It just,
7 it just depends.

8 Q Now, I know we've already talked about discovery and,
9 and looking at it with him.

10 Did you view the video of the actual murder with the
11 Applicant?

12 A We did, several times.

13 Q And did he ever express to you that it had been altered
14 or tampered with?

15 A I don't recall that at all and I don't remember the
16 video being like that at all. The video was actually pretty
17 good for -- as far as surveillance video goes. You could
18 see the person walk up to the store. They actually put
19 their face in the convenience store door, and then that
20 person walks back to the moped. Adrian walks out again and
21 is shot several times.

22 Q And just to put this in a little bit of context.

23 The facts of this were, were relatively undisputed to
24 the extent that the victim was shot at a gas station because
25 there's a video of it, right?

1 A That is correct.

2 Q Now, were there any---

3 A It was---

4 Q Go ahead.

5 A I was gonna say it was, it was not a very good case for
6 us and I spoke with Mr. Johnson at length about potentially
7 throwing out an offer to Barry Barnette.

8 Q Because there were, there were a number of eye
9 witnesses to the actual event.

10 Is that correct?

11 A There were and there were two specifically that was
12 good friends with Mr. Johnson.

13 Q And I know a number -- I think at least one police
14 officer identified Mr. Johnson---

15 MR. RUCKER: Your Honor, I'm going to object to leading
16 at this point.

17 THE COURT: Rephrase your question.

18 Q Were there any police officers who identified the
19 Applicant from the video?

20 A I believe there was. I think Investigator Porter did
21 but it's been a long time ago but I believe I -- he did
22 recognize him. He went by the nickname worm. I think
23 that's how a lot of the eye witnesses testified who he was
24 and, from there, they tracked down Dadrin Johnson.

25 MR. SCHMECKPEPER: I beg the Court's indulgence.

320 Tanya Jones - Direct examination
by Mr. Schmeckpeper

1 THE WITNESS: I'm sorry?

2 MR. SCHMECKPEPER: I'm, I'm -- I beg the Court's
3 indulgence. Just give me one second. I will get right back
4 to you.

5 (Pause.)

6 MR. SCHMECKPEPER: Ms. Jones, I have no further
7 questions. Please answer any questions from opposing
8 counsel.

9 MR. RUCKER: May it please the Court?

10 THE COURT: Yes, sir.

11 CROSS-EXAMINATION

12 BY MR. RUCKER:

13 Q Ms. Jones, do you have your file or copies of your file
14 there with you in Oklahoma?

15 A Yes, they sent me most of the discovery but,
16 unfortunately, they didn't send me any of my notes---

17 Q Okay.

18 A ---that I had in the file. So, a lot of times I wrote
19 notes but you have some notes in speaking with Mr. Johnson
20 in the jail and some of those notes.

21 Q Okay. So, it's fair to say that you don't have the
22 complete file because it's missing some of your notes?

23 A That would be fair. I mean in terms of how many
24 times -- usually I kept pretty good notes in terms of
25 standard data in terms of how many times I met with

1 somebody. But I do recall meeting with Mr. Johnson at least
2 four or five times with him and going over this discovery.

3 Q Did you attempt to get a plea offer from the State in
4 this case?

5 A I don't recall if the State ever offered me one but I,
6 I had a lot of conversations with Mr. Johnson in terms of
7 asking him to give me -- to authorize me to give a number to
8 Mr. Johnson.

9 Q Did you, did you touch -- did you discuss with him the
10 possible---

11 A Excuse me. I meant the solicitor, you know. I think I
12 first asked -- telling him he should probably ask, you know,
13 counter or give an offer of 30 to do and see what Barry
14 Barnette would say to that.

15 Q Did you discuss with Mr. -- my client, Mr. Johnson,
16 your former client, the possibility of just pleading and
17 asking for mercy from the Court?

18 A I don't think we had that discussion. I knew that it
19 was Barry Barnette prosecuting the case and I know the
20 mom -- the victim's mom was really involved in the case. I
21 was kind of scared of that. I wanted to see if we could at
22 least get a solid number on the table. But, again, I could
23 not get Mr. Johnson to authorize me to do any type of plea,
24 whether it be a number, a term or number, or even a blind
25 plea.

1 Q what was your strategy going into trial then?

2 A Our strategy was basically what my client was saying,
3 that he didn't do it. And so, we just left it up to the
4 jury at hand in terms of who they see on that video was my
5 client.

6 Q Do you recall the video being clear enough to identify
7 Mr. Johnson?

8 A Yes, I do.

9 Q Okay. And was it -- what time of night was this?
10 Do you recall?

11 A It was nighttime. I don't recall the specifics at
12 night. It was probably around nine, ten o'clock at night.

13 Q The video from the convenience store or what or gas
14 station wasn't in high definition, was it?

15 A I don't know if you'd necessarily call it high
16 definition. I mean it was -- the convenience store was
17 really well lit for a convenience store. So, what you see
18 is the combination, if I recall correctly, and I didn't
19 review the video, but you can see this person walk over to
20 the store and they have a very, very unique walk. I
21 recognized immediately it was my client having been in --
22 interacted with him for so long, and then they -- you see
23 the person stick their head into the door, the door of the
24 convenience store to the left and they have another camera
25 that was pointed directly at that door. So, you can see,

1 that picture is very clear, it was my client.

2 Again, and then that person walks away, gets on a moped
3 waiting for the victim to come out, and then you see several
4 shots. You see somebody hit the ground and trying to crawl
5 and more shots are fired. It appears that it's like the
6 burst of color.

7 Q Do you recall the eye witness in this case, Crystal
8 Miller?

9 A I'm sorry. Say that again, sir.

10 Q I'm sorry. I was looking down.

11 Did, did -- I should say it this way.

12 Did you interview the eye witness in this case?

13 Her name is Crystal Miller.

14 A I don't remember if I did or not. I don't have a
15 specific memory of that and sometimes I do and sometimes I
16 don't. It just goes into trial strategy and
17 cross-examination in terms of whether I want to surprise
18 them or not.

19 Q Is it fair to say though, in, in viewing the video and
20 hearing Miss Miller's testimony, that Crystal Miller's
21 testimony was really the big issue here?

22 A Do I think it was the most important piece of
23 information -- evidence?

24 Q Yes.

25 A No, that video was really spot on.

1 Q well, well, did she solidify though what the -- who was
2 in the video?

3 I mean she's the eye witness that puts him there,
4 right?

5 A Yes, and I think there was an Amber Rice as well.

6 Q Did you discuss the case with Amber Rice either?

7 A I don't recall whether or not I specifically spoke with
8 them or not.

9 Q In your review---

10 A I just don't have an independent recollection at this
11 time.

12 Q Were statements by Miss Crystal Miller and by Amber
13 Rice given to the Solicitor's Office and then disclosed to
14 you in discovery?

15 A Yes, all of those statements were disclosed as far as I
16 know. I, I think we even probably sat down and went over
17 what the State had to make sure I got everything. Usually
18 we did that. Again, I don't have independent recollection
19 of that but that was kind of the standard practice that we
20 would just go through the State's file and make sure we had
21 everything.

22 Q All right.

23 A I'm sure that was done here. I just don't remember.

24 Q I believe you heard -- I want to make sure you heard my
25 client's statements about the closing argument and the jury

1 charges. I should say the jury charges.

2 A Yes.

3 Q Do you understand -- did you discuss with him a
4 possible voluntary manslaughter charge for the jury?

5 A I don't specifically recall that and I don't know
6 necessarily whether or not it would of -- if the evidence
7 would have fit that to be specific. I don't really recall
8 if we did or not.

9 Q All right. Have you looked -- have you reviewed the
10 transcript?

11 A I reviewed it a little bit. I was just in jury trial
12 last week. So, things are somewhat a little behind but I, I
13 just don't recall whether or not I asked for a manslaughter.
14 But I don't know, necessarily, if it would of fit either
15 just because of the premeditation that the video showed.

16 Q Okay. Did -- do you recall what the State's motion --
17 argument as to motive was, if they had one?

18 A I don't -- they never alleged a motive. I remember
19 that the decedent and my client were really good child,
20 childhood friends and I remember Mr. Johnson giving me a
21 possible motive for the shooting. But, again, that never
22 came out in trial.

23 Q What was that motive?

24 A That basically---

25 MR. SCHMECKPEPER: Objection. Relevance.

1 A I'm sorry?

2 (Pause.)

3 Q Oh, I thought I heard something.

4 MR. SCHMECKPEPER: I object to that on the grounds of
5 relevance. It didn't come out in trial, Your Honor.

6 MR. RUCKER: This goes into the investigation, whether
7 she investigated any possible defenses.

8 THE COURT: All right. Go ahead.

9 A I'm sorry?

10 Q He said go ahead.

11 A Oh, sorry.

12 In speaking with Mr. Johnson, I have notes that he
13 indicated that Adrian, the decedent, was suppose to go to
14 Atlanta and get some drugs. Apparently the drugs were bad
15 and my client was out some money.

16 Q Okay. Did he ever express any kind of innocent motive?
17 Self-defense, for example.

18 A No, he indicated that this was basically about drugs
19 and that something was wrong with the drugs. Yes, Adrian
20 was suppose to pick up the package. He picked it up and the
21 drugs weren't, weren't real. He was out \$1,500 of 4,500.

22 MR. RUCKER: Your Honor, no further questions.

23 REDIRECT EXAMINATION

24 BY MR. SCHMECKPEPER:

25 Q Just briefly, Ms. Jones.

1 Just to clarify, the Applicant told you he was
2 innocent.

3 Is that correct?

4 A That is correct and, at some point, we got down to the
5 nitty gritty and gave first what -- he indicated to me what
6 happened. And so, you couldn't really put him on the stand
7 with that kind of information and I couldn't get him to
8 plead. And I really tried very hard for him to throw out a
9 number at Barry Barnette to see if Mr. Barnette would bite.

10 Q And you can't force a client to plead, correct?

11 A I cannot force them to plead, no, sir. I wish
12 sometimes I could.

13 Q Thank you, Ms. Jones.

14 I have no further questions.

15 Your Honor, if---

16 MR. RUCKER: No further questions based on that.

17 MR. SCHMECKPEPER: Your Honor, I'd request to hang up
18 the phone then.

19 MR. RUCKER: No objection.

20 THE COURT: Thank you, Ms. Jones.

21 MR. SCHMECKPEPER: Thank you, Ms. Jones.

22 THE WITNESS: All right. Thank you. Bye-bye.

23 MR. SCHMECKPEPER: Your Honor, the State rests.

24 THE COURT: Anything else?

25 MR. RUCKER: Nothing from us. We would just request --

1 my, my client wants to request that you review the tape to
2 see if you believe also there's some tampering.

3 THE COURT: I'll try. Yeah, I do want to go through
4 this transcript too. So---

5 MR. RUCKER: Sir, I apologize.

6 THE COURT: I want to go through this transcript. So
7 --.

8 MR. RUCKER: Yes, sir.

9 THE COURT: This one will be under advisement.

10 MR. RUCKER: Okay. Thank you, Your Honor.

11 MR. SCHMECKPEPER: Thank you, Your Honor.

12

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14 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas Nonjury for Spartanburg County, South Carolina, on the 19th day of September, 2016.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

May 18th, 2017

A handwritten signature in cursive script, reading "Pamela E. Green", is written over a horizontal line.

PAMELA E. GREEN, Court Reporter

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG)	FOR THE SEVENTH JUDICIAL CIRCUIT
)	
Dadrin J. Johnson #316909,)	Case No.: 2014-CP-42-204
Applicant,)	
)	
v.)	ORDER OF DISMISSAL
)	
State of South Carolina,)	
Respondent.)	

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This matter comes before this Court by way of Applicant's post-conviction relief application filed January 16, 2014. Respondent made its Return on August 21, 2014, requesting an evidentiary hearing be convened. An evidentiary hearing was held on September 19, 2016, at Spartanburg County Courthouse. J. Brandt Rucker, Esquire, represented Applicant. Assistant Attorney General Patrick L. Schmeckpeper represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Counsel Tanya Jones also testified through telephone. After reviewing all records and evidence before this Court, this Court finds Applicant cannot meet his requisite burden of proof of establishing he is entitled to post-conviction relief and denies and dismisses this application with prejudice. Findings of fact and conclusions of law are set forth below.

Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. In February 2010, the Spartanburg County Grand Jury indicted Applicant for Murder (2010-GS-42-1052). Tanya Jones, Esquire represented Applicant. Solicitor Barry J. Barnette and Amanda Morris Gallivan, Esquires, prosecuted the case. On December 13-14, 2010, Applicant proceeded to trial before the Honorable J. Derham Cole, circuit court judge, and a jury. Applicant was found guilty of murder

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and Judge Cole sentenced Applicant to life imprisonment.

A timely Notice of Appeal was filed on Applicant's behalf, dated December 16, 2010. On appeal, the following issue was addressed:

Whether the court erred by ruling the solicitor's reason for striking juror #49 was not racially pre-textual where the solicitor said this African-American woman juror had red streaks in her hair – "red hair" – that he thought was indicative of an "attitude". Since his peremptory challenge of this juror was impermissibly racially stereotypically based?

Applicant was represented by Robert M. Dudek, Esquire. The South Carolina Court of Appeals affirmed the conviction and sentence. *State v. Johnson*, Op. No. 2012-UP-528 (S.C. Ct. App. filed Sept. 19, 2012). Applicant filed a Petition for Rehearing, which was denied on October 18, 2012. Applicant then filed a Petition for Writ of Certiorari with the South Carolina Supreme Court. The Supreme Court of South Carolina dismissed the Petition, by written order, on December 19, 2013. The Remittitur was returned on December 27, 2013.

Summary of Relevant Facts

On October 9, 2009, Applicant was at a party when the party host, Amber Rice, stated they needed to go to the gas station. (Trial Tr. 74-75). Applicant asked the driver, Crystal Miller, if he could go as well. (Trial Tr. 75). While the driver and Applicant were waiting in the parking lot, the other defendant, Brandon Robbs, pulled up on his moped, and went over to the car. (Trial Tr. 77). At this time, Applicant exited the car and asked if he could borrow Brandon's coat and moped, which Brandon consented to. (Trial Tr. 77). Thereafter, Adrian Edwards, the victim, walked over by his car. (Trial Tr. 77-78). Edwards walked over to Applicant, extended his hand, and then Applicant began shooting at Edwards. (Trial Tr. 78). Thereafter, the witnesses fled the scene. (Trial Tr. 78). Two eyewitnesses observed the shooting, which was also captured on video footage. (Trial Tr. 79, 81-82, 102). Applicant was easily identifiable as the perpetrator upon

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review of the video footage. (Trial Tr. 83-84).

Current Action Before this Court

In his current PCR application, Applicant alleges he is being held in custody unlawfully because of ineffective assistance of counsel in that Counsel failed to "properly research and investigate the facts and laws surrounding . . . [Applicant's] whole case."

At the PCR hearing, Applicant proceeded forward on the following allegations:

1. Counsel was ineffective for:
 - a. Failure to regularly meet and communicate with Applicant about the case.
 - b. Failure to investigate the case.
 - i. Failure to investigate whether the video footage was tampered with.
 - c. Failure to pursue and present an alibi witness defense.
 - d. Failure to share evidence and discovery related to the case with Applicant.
 - e. Failure to secure a plea deal.
 - f. Failure to allow Applicant to choose his own jury.
 - g. Failure to allow Applicant to testify at trial.
 - h. Failure to request voluntary manslaughter instruction.

All other allegations raised in his initial application and amendments are deemed abandoned and, accordingly, will not be addressed in this order.

Summary of the Testimony

Applicant Dadrin Johnson Testimony

Applicant was sentenced to life imprisonment. (PCR Tr. 5). He was represented by Tanya Jones at trial. (PCR Tr. 5).

Applicant stated Counsel only visited him two or three times. (PCR Tr. 9). Applicant stated the meetings only lasted for about fifteen minutes, if that. (PCR Tr. 9). Applicant stated that when Counsel finally met with him, Counsel seemed like she was not listening to him. (PCR Tr. 6-7). Applicant stated he was upset that he was charged with murdering someone he cares about and that he did not kill them, but Counsel did not listen to him. (PCR Tr. 7).

Applicant stated he requested Counsel obtain the discovery and evidence against him and

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she did not. (PCR Tr. 5). Applicant stated he received a copy of the discovery, which was incomplete, on the second day of trial. (PCR Tr. 5-6). Applicant testified he did not know anything about the crime he was charged with. (PCR Tr. 6).

Applicant alleged Counsel failed to properly research and investigate the facts of the case. (PCR Tr. 5). Applicant had a difficult time specifically stating what Counsel failed to do or investigate, even when pressed. (PCR Tr. 8, 10-11). When pressed further on what Counsel failed to investigate, Applicant just stated he "requested so much stuff, man." (PCR Tr. 8). Applicant stated he did not feel that Counsel defended him at all. (PCR Tr. 11). Eventually, Applicant stated that if Counsel had investigated further, he would have discovered it was not him on the video footage and that the video was tampered with. (PCR Tr. 11-12). He stated he thought it had "different settings" and did not show the murder. (PCR Tr. 16). Applicant stated he wished Counsel investigated the video evidence and asked for a private investigator and specialist on the film. (PCR Tr. 12).

Applicant also stated that if she investigated further, Counsel would have discovered his whereabouts at the time of the murder. (PCR Tr. 8). Specifically, Applicant stated he discussed an alibi witness, his now deceased Aunt Penny, with Counsel who could verify "the situation" but Counsel did not pursue this defense. (PCR Tr. 7). Applicant stated he gave Counsel his aunt's contact information, but did not give Counsel her real name because he did not know her name. (PCR Tr. 16-17). Applicant stated she was not called to testify. (PCR Tr. 7-8). Besides his Aunt's alleged testimony, Applicant stated no other evidence existed indicating he was somewhere else at the time of the incident. (PCR Tr. 8).

Applicant stated he was never presented a plea offer and, to the best of his knowledge, Counsel never tried to get a plea offer for him. (PCR Tr. 6). Additionally, Applicant stated he

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never went to court for a plea hearing before trial week. (PCR Tr. 6).

Applicant stated Counsel told him he could pick his own jury, but ultimately was unable to. (PCR Tr. 10). Applicant also stated that during voir dire the State was striking jurors from the culture or area of town he lived in, which prejudiced him. (PCR Tr. 14). Applicant conceded Counsel challenged this, but believed she should have challenged it more. (PCR Tr. 14-15).

Applicant stated he did not testify at trial and did not have a chance to defend himself. (PCR Tr. 10). Applicant stated that Counsel wanted to have the last word before the jury and, thus, did not want Applicant to testify. (PCR Tr. 10).

Applicant stated he thought the jury instruction given was incorrect and Counsel was ineffective for failing to object to them. (PCR Tr. 13-14). Applicant stated he thought he could have been charged with the lesser included offense. (PCR Tr. 14).

Counsel Tanya Jones Testimony

At the PCR hearing, Counsel appeared by telephone while in Oklahoma. (PCR Tr. 23). Counsel stated that, in preparation for the PCR hearing, she was provided with a copy of the discovery prior to the PCR hearing by the office she practiced at when representing Applicant, but they did not locate notes she took while speaking with Applicant at prison. (PCR Tr. 23).

Counsel stated she became a licensed attorney in 2000 and began her public defender work in Georgia starting in 2007. (PCR Tr. 18). By the time of the PCR hearing, she stated she had been doing defense work for eight years. (PCR Tr. 18). Counsel stated that Applicant was not a difficult client, but was quiet and consistently stated he was not guilty. (PCR Tr. 19). Counsel stated he did not remember them ever having a contentious relationship. (PCR Tr. 20).

Counsel stated that typically when people are arrested they are interviewed regarding whether or not they will need an attorney appointed and if they qualify the public defender would

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get a file. (PCR Tr. 18). Counsel stated that she got the file shortly after the arrest; probably in or around October 2009. (PCR Tr. 18-19).

Counsel stated that Applicant never told her that he felt they did not meet enough. (PCR Tr. 19-20). Counsel also stated Applicant never told Counsel he thought she was not showing him enough of the evidence on the case. (PCR Tr. 20).

Counsel stated she did not remember how many times she met with Applicant, but it was a number of times, probably at least four or five times. (PCR Tr. 19, 23-24). Counsel stated that at the meetings, they went over all the discovery, including autopsy photographs, video footage, photographs, and all evidence. (PCR Tr. 19). Counsel stated there was a lot of discovery in the case and she could not recall anything specific that was missing. (PCR Tr. 19).

Counsel stated she reviewed the video of the murder with Applicant several times. (PCR Tr. 21). Counsel stated she did not remember thinking the video seemed like it was tampered with. (PCR Tr. 21). Counsel testified it was undisputed that the victim was shot at a gas station. (PCR Tr. 21). Counsel stated that the video was not high definition and was filmed at nighttime, but the convenience store was well lit and you could clearly see someone walking in a unique walk that matched with how her client walked. Counsel stated the video showed someone stick their head in the door of the convenience store and that the camera was directed at the door he walked through. (PCR Tr. 25). Counsel stated the video clearly identified Applicant as the perpetrator, who walk away, got on a moped waiting for the victim, and then when the victim exited the store, fired several shots. (PCR Tr. 26). Counsel testified that, thereafter, the footage shows someone hitting the ground and trying to crawl away and then more shots were fired, which was shown as a burst of color on video. (PCR Tr. 26).

Counsel also stated that there were two eye witnesses who were both close friends of

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Applicant. (PCR Tr. 22). When asked if she thought an eyewitness's testimony was the big issue in the case, Counsel stated she thought the video was the biggest obstacle. (PCR Tr. 26). Counsel stated she does not remember whether or not she spoke with the eyewitnesses about the case. (PCR Tr. 27). Additionally, one officer recognized Applicant from the video. (PCR Tr. 22). Counsel stated that, at the time, Applicant went by the nickname Worm, which was used to track down Applicant. (PCR Tr. 22).

Counsel stated she did not remember the Solicitor offering a plea offer in the case, but remembered talking with Applicant about potentially contacting the Solicitor and asking how he felt about an offer of thirty years imprisonment. (PCR Tr. 24). Counsel stated that she thought the case was weak and would lose at trial. (PCR Tr. 21). Counsel also stated that she was also worried about the case because Solicitor Barnette was prosecuting the case and the victim's mother was very involved. (PCR Tr. 24). However, Counsel stated that she could not get Applicant to authorize any type of plea, whether it be a number, term or number, or a straight up without recommendation. (PCR Tr. 24).

Counsel testified that the trial strategy was for Applicant to say he did not do it and then leave it in the hands of the jury. (PCR Tr. 25). Counsel stated she did not remember Applicant mentioning an alibi witness. (PCR Tr. 20). Counsel stated that, typically, if she is told about an alibi witness she will investigate it. (PCR Tr. 20). However, Counsel then testified that, typically, when a client tells her about a potential alibi witness they do not know their first name or an exact address. (PCR Tr. 20). Thus, Counsel stated that potential alibi witnesses usually use up a lot of time and resources for little gain, because she rarely has luck with locating them. (PCR Tr. 20). However, Counsel stated that if Applicant told her about an alibi witness she would have investigated it. (PCR Tr. 20).

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Counsel stated that it is not generally her practice to let her clients pick their juries, but stated she does consult with them in case there is a juror they do not like or who is sending them a bad look. (PCR Tr. 20-21). Counsel stated she did not specifically remember discussing a possible voluntary manslaughter jury instruction because she did not remember the evidence being so specific. (PCR Tr. 28). Counsel stated she was unsure whether the instruction fit the charge, since the video showed premeditation. (PCR Tr. 28).

Counsel stated that the State never alleged a motive. (PCR Tr. 28). Counsel stated Applicant stated he had a motive, but it never came out at trial. (PCR Tr. 28). Counsel stated Applicant told Counsel that he killed the victim because the victim was supposed to go to Atlanta for drugs, but the drugs were bad in that they were not real and Applicant was thus out of money in the range of \$1,500-\$4,500. (PCR Tr. 29). Once this was revealed to Counsel, she stated that she did not think the case should proceed to trial. (PCR Tr. 29-30).

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 and arguments presented at the PCR hearing. Before this Court are the Spartanburg County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, the trial transcript, direct appeal records, and this PCR action's records. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusion of law as required by South Carolina Code Annotated Section 17-27-80 (2003).

Ineffective Assistance of Counsel

In a PCR action, the applicant bears the burden of proving allegations contained in the

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application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show "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, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel's performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel's actions fell outside of the zone of "reasonableness under prevailing professional norms." *Strickland*, 466 U.S. at 688. See also Rule 71.1(e), SCRCP ("The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."). Reasonableness is determined by the "variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant," and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). Judicial scrutiny of counsel's performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually "countless" ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel's deficient performance must have prejudiced the applicant so that

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"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. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Realistically, this matters "'only in the rarest case'" because "[t]he likelihood of a different result must be substantial, not just conceivable." *Harrington v. Richter*, 562 U.S. 86, 111-12 (2011) (quoting *Strickland*, 466 U.S. at 697).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.

Failure to Communicate

Applicant alleges that Counsel was ineffective for meet enough times and consistently communicate with Applicant. "[B]revity of time spent in consultation with a defendant alone is not indicative of inadequate trial preparation." *Smith v. State*, 404 S.C. 493, 500, 745 S.E.2d 378, 382 (2012). Applicant must show evidence indicating "how additional preparation or communication would have resulted in a different outcome." *Id.* See *Jackson v. State*, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998) (where application failed to show ineffective assistance of counsel based on lack of preparation by neglecting to show evidence of what counsel failed to discover or what defenses counsel could have pursued had he more fully prepared for the case); *Skeen v. State*, 325 S.C. 210, 214-15, 481 S.E.2d 129, 132 (1997) (where applicant failed to

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show ineffective assistance of counsel when he did not present evidence showing how additional preparation would have impacted the trial).

This Court finds Counsel's PCR hearing testimony credible. Counsel credibly stated that she met with Applicant several times and Applicant never told her he felt they did not meet enough. (PCR Tr. 19-20, 23-24). Additionally, though Applicant complained about not meeting with Counsel enough and that Counsel did not seem to be listening enough, he never stated what impact, if any, further communication or additional meetings would have had on the trial's outcome. (PCR Tr. 6-7, 9). Thus, because there is no evidence beyond Applicant's own assertion that Counsel did not sufficiently communicate with Applicant and there was no showing of prejudice consequent to the alleged failure, this Court finds this allegation is without merit.

Failure to Investigate

Applicant's allegation that Counsel was ineffective failure to investigate is without merit. *Strickland* makes clear that counsel "has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." 466 U.S. at 691. When highlighting failure to investigate as a ground for a larger ineffective assistance of counsel claim, judicial determination of this claim's validity is evaluated for "reasonableness [under] all the circumstances" with "a heavy measure of deference to counsel's judgments" applied. *Id.* Counsel is required to, at minimum, "interview potential witnesses and make an independent investigation of the facts and circumstances of the case", *Ard v. Catoe*, 372 S.C. 318, 331-32, 642 S.E.2d 590, 597 (2007) (quoting *Troedel v. Wainwright*, 667 F.Supp. 1456, 1461 (S.D.Fla.1986), *aff'd*, 828 F.2d 670 (11th Cir.1987)), including aggressively re-examining all the government's forensic evidence and conducting analyses of all other available forensic evidence." *Id.* (quoting *American Bar Association Guidelines For The Appointment And*

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Performance Of Defense Counsel In Death Penalty Cases, reprinted in 31 Hofstra L.Rev. 913, 1015 (2003) (emphasis added)).

Counsel is not obligated to “investigate lines of defense that he has chosen not to employ at trial.” *Strickland*, 466 U.S. at 682 (quoting *Washington v. Strickland*, 693 F.2d 1243, 1255 (5th Cir. 1982)). Further, “[w]hen counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” *Yarborough*, 540 U.S. at 5 (citing *Strickland*, 466 U.S. at 690).

Applicant alleges Counsel failed to properly research and investigate the facts of the case. (PCR Tr. 5). When pressed, Applicant stated he thought Counsel was ineffective for failing to investigate the video footage, which he thought was tampered with. (PCR Tr. 11-12). Applicant alleged that if Counsel investigate the evidence further she would have discovered it was not him on the video. (PCR Tr. 11-12). Conversely, Counsel stated she did not remember thinking the video seemed like it was tampered with or altered and that the video clearly identified Applicant as the shooter. (PCR Tr. 21, 25).

This Court finds Counsel’s testimony is more credible than Applicant’s. Counsel, after viewing the video several times, did not find any indication the video was tampered with. (PCR Tr. 21). Additionally, two eyewitnesses who were both close friends of Applicant’s identified Applicant as the shooter, substantiating the video’s veracity. (Trial Tr. 79, 81-82, 102). Counsel did not act unreasonably in failing to further investigate the video when there was no evidence of tampering, eyewitness testimony from two witnesses substantiated the video’s showing of Applicant as the perpetrator, and the video otherwise clearly identified Applicant as the shooter. Further, because there was more evidence beyond the video indicating Applicant was the perpetrator, this Court finds no indication of prejudice. Finally, Applicant failed to produce any

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evidence or witnesses to show what additional information could be gleaned from additional investigation. Thus, this Court declines to grant relief on this ground.

Failure to Contact the Alibi Witness

Applicant's allegation that Counsel was ineffective for failure to pursue and assert an alibi defense is without merit. At a minimum, counsel must interview potential witnesses and make independent investigations regarding the facts and circumstances of the case. *Ard v. Catoe*, 372 S.C. 318, 642 S.E.2d 590 (2007). One component of the duty to reasonably investigate the case includes a "duty [] to investigate alibi witnesses identified by a defendant, and the failure to make some effort to contact them to ascertain whether their testimony would aid the defense is unreasonable." *Walker v. State*, 407 S.C. 400, 405, 756 S.E.2d 144, 147 (2014). To show counsel was ineffective by failing to call a witness, the witness(es) must be produced at the PCR evidentiary hearing or their testimony must otherwise be presented, consistent with the rules of evidence. *Glover v. State*, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). Mere speculation regarding the witness's testimony is insufficient to establish prejudice. *Clark v. State*, 315 S.C. 385, 434 S.E.2d 266 (1993). "In most PCR cases in which the applicant seeks relief for trial counsel's failure to call witnesses, the PCR court's analysis—and the analysis by the appellate court—is focused on the strategic considerations of counsel in balancing the potential benefits of calling a particular witness against the identifiable risks." *Buckson v. State*, 423 S.C. 313, 320, 815 S.E.2d 436, 440 (2018).

Counsel's performance is not deficient if he decided not to present a witness as a tactical and strategic move, nor if the witness was unlikely to appear or present testimony that could have made a difference at trial. *See e.g. Smith v. State*, 404 S.C. 493, 502, 745 S.E.2d 378, 383 (2012) (finding that counsel was not deemed ineffective when petitioner failed to introduce any

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evidence that established prejudice to the petitioner); *Edwards v. State*, 392 S.C. 449, 457-58, 710 S.E.2d 60, 65 (2011) (stating that counsel was not ineffective because the witness could not withstand cross-examination due to his prior vacillation and the cumulative nature of his testimony and he knew the petitioner's statement to the police would be entirely consistent with the supposed witness's statement at trial); *Glover*, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995) (finding that counsel was in deficient by failing to call all alibi witnesses when two witnesses who testified did not establish the alibi).

Further, prejudice will generally be found if the testimony was significant and favorable enough to the Applicant so that the trial proceedings results may have been different because of the testimony. See e.g. *Lounds v. State*, 380 S.C. 454, 670 S.E.2d 646 (2008) (finding that counsel was deficient by failing to call witnesses, for no other reason than lack of preparation, that may corroborated with the defendant or bolstered his credibility so that the findings at trial could have been favorable to the defendant); *Thomas v. State*, 308 S.C. 123, 417 S.E.2d 531 (1992) (finding that uncalled witness' testimony would have cast doubt on the sole witness' identification of the petitioner and, thus, would have made a difference at trial).

Applicant alleges he discussed an alibi witness, his now deceased Aunt Penny, with Counsel who could verify "the situation" but Counsel did not pursue this defense. (PCR Tr. 7). Besides his Aunt's alleged testimony, Applicant stated no other evidence existed indicating he was somewhere else at the time of the incident. (PCR Tr. 8). Applicant stated he gave Counsel his aunt's contact information, but did not give Counsel her real name because he did not know her name. (PCR Tr. 16-17). Alternatively, Counsel stated she did not remember Applicant mentioning an alibi witness, but, typically, if Counsel is told about an alibi witness she will investigate it and would have investigated it in this case if told of one. (PCR Tr. 20).

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This Court finds Applicant's assertion that he provided Counsel an alibi witness to investigate lacks merit. Counsel was not deficient for failing to contact a witness she was unaware of. However, even if this witness existed at the time of trial, the testimony likely would have been incredulous, because of the strength of the evidence placing him at the scene and identifying him as the shooter. Specifically, two eyewitnesses, both of whom were close friends with him, identified him as the perpetrator and video footage existed that clearly identified Applicant as the shooter. Any testimony counter to this would have likely been false and Counsel has no duty to call a witness knowing they would perjure themselves on the stand by testifying to something easily refused by the remaining evidence. Thus, Counsel was not deficient for failing to investigate and call this alibi witness.

Further, because the witness did not testify and no sworn to statements were presented at the PCR hearing, any prejudicial effect of the failure to contact the alibi witness is speculative, at best. Thus, prejudice is not found. Consequently, this Court finds Counsel's allegation is without merit and Applicant is not entitled to relief on this ground.

Failure to Show Applicant Evidence and Discovery

This Court finds that Applicant's allegation that Counsel was ineffective for failure to show Applicant the discovery and evidence against him is without merit. This Court finds Counsel's assertions that she reviewed all discovery with Applicant, including autopsy photographs, video footage, and photographs with Applicant and, specifically, reviewed the video with Applicant several times which was the most damning part of the discovery against him. (PCR Tr. 19, 21). This is substantiated by the fact that Applicant alleges he was discontent with Counsel's investigation into the potential tampering with the video footage leading up to trial; indicating that Applicant had a chance to review the video footage before trial. (PCR Tr.

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SHERMAN, OREGON

11-12). This Court also finds Counsel's assertion that Applicant never indicated to her that he was discontent with the amount of discovery and specific discovery items shared with him. (PCR Tr. 20). Additionally, this Court finds Counsel credible in that the discovery on the case was plentiful and nothing notable was missing. (Tr. 19). Thus, this Court finds Applicant's allegation lacks merit and denies relief based on this ground.

Failure to Secure Plea Deal

Applicant's allegation that Counsel was ineffective for failure to obtain a plea deal is without merit. "[A] defendant has no constitutional right to plea bargain." *Reed v. Beeka*, 333 S.C. 676, 684, 511 S.E.2d 396, 400-01 (Ct. App. 1999). (citing *State v. Easler*, 322 S.C. 333, 471 S.E.2d 745 (Ct. App. 1996), *aff'd as modified*, 327 S.C. 121, 489 S.E.2d 617 (1997)). "Prosecutors have broad powers in the plea bargain process[.]" *Id.* Prosecutors may pursue a case to trial, or they may plea bargain it down to a lesser offense, or they can simply decide not to prosecute the offense in its entirety." *Id.*, 333 S.C. at 684, 511 S.E.2d at 400-01. "The Judicial Branch is not empowered to infringe on the exercise of this prosecutorial discretion; however, on occasion, it is necessary to review and interpret the results of the prosecutor's actions." *Id.* Yet, plea offers must be analyzed within the bounds of judicial restraint. *Id.*

Both Applicant and Counsel testified that no formal plea offer was made in this case. (PCR Tr. 6, 21, 24). Counsel credibly testified that she did not throw out an offer to the Solicitor because Applicant was unwilling to accept a plea deal, regardless of whether it was a number, a term or number, or a blind plea. (PCR Tr. 21, 24). Regardless of whether a plea offer was desired or not, Applicant was not entitled to a plea offer, as the decision not to extend a plea offer and to proceed to trial without offering a better deal falls squarely within the prosecutor's discretion. Thus, Applicant is not entitled to relief on this ground because he was not entitled to an offer to

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begin with and any consideration on the part of Counsel to ask for an offer on the case was quashed when Applicant informed Counsel he was unwilling to accept any offer Counsel attempted to obtain. Thus, Applicant's allegation that Counsel was ineffective for failure to obtain a plea deal remains without merit and, consequently, Applicant is not entitled to relief on this ground.

Failure to Allow Applicant to Pick the Jury

Applicant's allegation that Counsel was ineffective for failing to let him pick a jury without merit. "[A] criminal defendant has no right to a trial by any particular jury, but only a right to a trial by a competent and impartial jury." *Palacio v. State*, 333 S.C. 506, 517, 511 S.E.2d 62, 68 (1999). Further, "[i]n PCR proceedings, a defendant must provide credible evidence that the trial attorney's refusal to strike a juror prejudiced the defense." *Id.*

Both Applicant and Counsel stated that Applicant did not choose the jury. (PCR Tr. 10, 21-22). Applicant stated Counsel told him he could pick his own jury, whereas Counsel stated that she, as a standard procedure does not allow her clients to pick the jury, but instead confers with clients regarding whether there is a particular juror they do not like or someone who is sending them a bad look. (PCR Tr. 10, 20-21). Regardless, under law, Applicant did not have the right to pick his jury, absent a showing of prejudice. *See id.* Though Applicant stated that during voir dire the State was striking jurors from the culture or area of town he lived in, which prejudiced him, he did not show exactly how it prejudiced him, who was struck, or specifically state what Counsel did during voir dire that was ineffective. (PCR Tr. 14). Consequently, because no prejudice was shown, Applicant did not meet his burden of proof and has not shown he is entitled to relief on this ground. Thus, relief on this ground is denied.

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Failure to Allow Applicant to Testify

Applicant's allegation that Counsel was ineffective for prohibiting Applicant from testifying is without merit. "The decision to testify or not is a perilous one. If a defendant does not testify, he foregoes the opportunity to tell the jury his version of events. On the other hand, if a defendant chooses to testify, he subjects himself to cross-examination, including possible impeachment with prior convictions." *Brown v. State*, 340 S.C. 590, 594, 533 S.E.2d 308, 310 (2000). "If a defendant chooses not to take the stand in his own defense, the trial judge must, if requested, instruct the jury that the defendant's failure to testify cannot be held against him or considered by the jury in any manner during its deliberations." *Id.* "A defendant's decision to testify or not must be made with knowledge of the consequences of either choice." *Id.*

Applicant's decision not to testify was made freely, voluntarily, knowingly and intelligently. Applicant stated that he discussed this decision with Counsel, that he understood he had the right to remain silent, that he was waiving his only chance to provide testimony in his own defense. (Trial Tr. 207). Applicant stated that he discussed the advantages and disadvantages of testifying with Counsel and how he would open himself up to cross-examination if he pled. (Trial Tr. 207-08). Applicant also stated he understood the presiding judge would instruct the jury not to hold his lack of testifying against him. (Trial Tr. 208). Applicant stated he reached his decision not to plead of his own free will and accord after weighing the options and no one pressured him into entering the decision. (Trial Tr. 208-09). Thus, this Court finds Applicant freely, voluntarily, knowingly, and intelligently waived this right and is not entitled to relief upon this ground.

Failure to Request Voluntary Manslaughter Instruction

Applicant's allegation that Counsel was ineffective for failure to request a voluntary

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manslaughter instruction is without merit. Concerning deficiency, Counsel must articulate a valid reason for employing a certain strategy, which is measured under an objective standard of reasonableness. *Roseboro v. State*, 317 S.C. 292, 294, 454 S.E.2d 312, 313 (1992). Counsel is not ineffective for failing to request a lesser included offense jury instruction when there is no evidence that the defendant committed the lesser, as opposed to the greater offense. *Bozeman v. State*, 307 S.C. 172, 176, 414 S.E.2d 144, 146 (1992).

In determining whether a defendant was prejudiced by improper jury instructions, the court must find that, viewing the charge in its entirety and not in isolation, there is a reasonable likelihood that the jury applied the improper instruction in a way that violates the Constitution. *Battle v. State*, 382 S.C. 197, 203, 675 S.E.2d 736, 740 (2009). The law to be charged must be determined from the evidence presented at trial. *State v. Knoten*, 347 S.C. 296, 302, 555 S.E.2d 391, 394 (2001).

“Voluntary manslaughter is the unlawful killing of a human being in the sudden heat of passion upon sufficient legal provocation.” *State v. Cooley*, 342 S.C. 63, 67, 536 S.E.2d 666, 668 (2000). “Both heat of passion and sufficient legal provocation must be present at the time of the killing.” *Id.* “The provocation must be such as to render the mind of an ordinary person incapable of cool reflection and produce an uncontrollable impulse to do violence.” *Id.* “[B]oth heat of passion and sufficient legal provocation must be present at the time of the killing.” *State v. Starnes*, 388 S.C. 590, 596, 698 S.E.2d 604, 608 (2010).

Here, Counsel credibly testified that she did not pursue a voluntary manslaughter instruction because the video clearly showed premeditation when Applicant waited outside for the victim to emerge from the store before firing multiple shots at Applicant. (PCR Tr. 28). This was supported by video evidence. (PCR Tr. 25-26). Because premeditation was shown, a

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voluntary manslaughter instruction was improper in this case. Counsel was not ineffective for failing to request an improper jury instruction. Thus, this allegation lacks merit and Applicant is not entitled to relief on this ground.

Conclusion

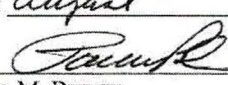
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this PCR application must be denied and dismissed with prejudice.

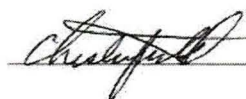
This Court notifies the Applicant that he must file and serve a notice of appeal within thirty days of receipt by counsel of the judgment entry's written notice to secure appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has the right to appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate appellate procedures.

IT IS THEREFORE ORDERED:

1. The PCR Application be denied and dismissed with prejudice; and
2. Applicant remain remanded to the custody of Respondent.

AND IT IS SO ORDERED this 30th day of August, 2021.


PAUL M. BURCH
Presiding Judge
Seventh Judicial Circuit

, South Carolina.

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SPARTANBURG COUNTY
AMY W. COX

WITNESSES	
1. SENTENCE MADE	☒
2. REPORT ENDED	☒
3. CARD PULLED	☒
4. CHECKED SIGNATURE	☒
5. CHECKED SIGNATURE	☒
6. ASSESSMENT AND FILE CARD MADE	☒
7. TRAFFIC VIOLATIONS CORN	☒

ARREST WARRANT NUMBER
M089848

ACTION OF GRAND JURY
True Bill
M. Hery
Foreperson of Grand Jury
Date: 2/18/10

VERDICT
Guilty

Shaffer
Foreperson of Petit Jury
Date: 12/14/10

DOCKET NO. **10-GS-42-1052**
The State of South Carolina
County of Spartanburg
Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS
FEB 22 2010
TERM

THE STATE
VS.

Dadrin Johnson

Indictment for
MURDER

SC Code 16-03-0010, 0020
CDR Code 116
Class FEL-EXM

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SPARTANBURG COUNTY
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STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

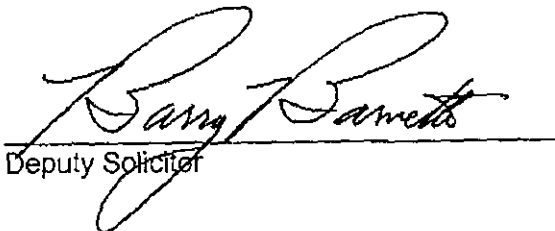
INDICTMENT

At a Court of General Sessions, convened on FEB 18 2010, the
Grand Jurors of Spartanburg County present upon their oath:

MURDER

The Defendant, Dadrin Johnson, did in Spartanburg County on or about October 9, 2009, feloniously, willfully, and with malice aforethought, kill Adrian D. Edwards, by shooting the victim with a handgun and the victim died as a proximate result thereof, all in violation of Section 16-3-0010, 0020, Code of Laws of South Carolina, (1976, as amended).

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


Deputy Solicitor

STATE OF **332** SOUTH CAROLINACOUNTY OF SPARTANBURG
STATE VS.Dadrin Jerome Johnson

AKA:

Race: B Sex: M Age: 25DOB: [REDACTED] SS#: [REDACTED]Address: S Center StreetCity, State, Zip: Spartanburg, SC 29306DL#: [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 / Murder

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS4201052A/W#: M089848Date of Offense: 10/9/2009S.C. Code §: 16-03-0010CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0010, of the S.C. Code of Laws, bearing CDR Code # 0116☐ 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: Barnette, Barry SC Bar# 13039/10133 X Dadrin Johnson [Signature] 77355
BARNETTE, BARRY 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 life 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	\$ <u>100.00</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>25.00</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>5.00</u>
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)		\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

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

SCCA/217 (06/2010)

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: ☐ Condition Discharge, § 44-53-450(C) requires
\$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.Presiding Judge [Signature]Judge Code: 2053Sentence Date: December 14, 2010