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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Newberry County

Honorable Donald B. Hocker, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RICKY BERNARD BROWN,

APPELLANT.

APPELLATE CASE NO. 2020-001600

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

- STATE’S EXHIBIT NO. 2 (SURVEILLANCE FOOTAGE)**
- STATE’S EXHIBIT NO. 3 (BODY CAM FOOTAGE)**

1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF NEWBERRY

4 State of South Carolina,
5 Plaintiff,

6 vs. Transcript of Record
7 2019-GS-36-00710;
8 2020-GS-36-00712;
9 2020-GS-36-00733;
10 2020-GS-36-00734 &
11 2020-GS-36-00736

12 Ricky Bernard Brown,
13 Defendant.

14 November 16, 2020
15 Newberry, South Carolina
16 Volume I of IV

17 B E F O R E:

18 The HONORABLE DONALD B. HOCKER

19 A P P E A R A N C E S:

20 Dale Scott, Deputy Solicitor
21 Taylor Daniel, Assistant Solicitor
22 Charles Verner, Representing the Defendant

23 SHARON G. HARDOON, CSR
24 Official Circuit Court Reporter, III
25

1 charges are about.

2 First of all, Mr. Brown has been indicted
3 of two offenses of kidnapping and the first
4 indictment reads that Ricky Bernard Brown did in
5 Newberry County, South Carolina on or about
6 October 2, 2019 did unlawfully seize, confine,
7 inveigle, decoy, kidnap, abduct or carry away
8 Sonya Byrd by any means whatsoever without the
9 authority of law all in violation of the code of
10 laws of South Carolina.

11 The second indictment for kidnapping
12 reads as follows: That Ricky Bernard Brown did in
13 Newberry County, South Carolina on or about
14 October 2nd, 2019 did unlawfully seize, confine,
15 inveigle, decoy, kidnap, abduct or carry away
16 Cheri H. Braswell by any means whatsoever without
17 the authority of law all in violation of code of
18 laws for South Carolina.

19 The third indictment is for pointing and
20 presenting a firearm and the allegations are:
21 That the defendant, Ricky Bernard Brown did on or
22 about October 2nd, 2019 in Newberry County, South
23 Carolina did point and/or present a firearm at
24 Cheri H. Braswell all in violation of the code of
25 laws of South Carolina.

1 Next indictment is pointing and
2 presenting a firearm, and it reads as follows:
3 The defendant, Ricky Bernard Brown, did on or
4 about October 2, 2019 in Newberry County,
5 South Carolina did point and/or present a firearm
6 at Sonya Byrd all in violation of the code of laws
7 of South Carolina.

8 And lastly, the last indictment is
9 possession of a firearm by a person convicted of a
10 violent crime, and it reads as follows: That the
11 defendant, Ricky Bernard Brown, did on or about
12 October 2nd, 2019 in Newberry County,
13 South Carolina did unlawful have in his possession
14 a firearm and/or ammunition after having been
15 previously been convicted of a violent crime all
16 in violation of the code of laws for South
17 Carolina.

18 Ladies and Gentlemen, this -- these
19 offenses allegedly took place at the Newberry
20 County vocational rehabilitation Center back on
21 October 2, 2019. And in just a moment, I'll be
22 asking you some questions as far as any prior
23 knowledge that you may have concerning this case.

24 Any member of the jury panel related by
25 blood or marriage to Ricky Bernard Brown? If so,

1 Okay. Madame Clerk.

2 MR. DANIEL: Number 65, Susan Reese,
3 number 13, Harry Burgess, Jr., Number 44, Amy
4 Kitchen, Number 89, Frank Watts, Number 64,
5 Neal Rawls, Number 59, Cheryl Owen, and Number 27,
6 Allison English.

7 THE COURT: Okay. Ladies and Gentlemen,
8 you seven report back no later than three o'clock.
9 And the rest of you, hopefully, I'll get to see
10 you again this week. Call back after six o'clock
11 tonight for further instructions. Thank you.

12 Social distance.

13 (Jury panes is excused at 2:08.)

14 THE COURT: Okay. Gentlemen, it's my
15 understanding we have two pretrial matters. One
16 is a Blair hearing that we're going to need to try
17 to do first to accommodate the schedule of the
18 evaluator, and then we have a short
19 Jackson v. Denno. Do you all want to take about a
20 ten-minute break and maybe see if you can find the
21 doctor and then we'll get started back?

22 MR. DANIEL: The doctor is here, Judge.
23 She's in our office.

24 THE COURT: Let's still take a little
25 short break anyway.

1 MR. VERNER: The set-up-wise, if there's
2 testimony, I'll propose maybe the center table so
3 we can see her.

4 THE COURT: That's where all the
5 witnesses are going to be.

6 MR. VERNER: Oh, it is. Okay. I was
7 going to say that looks like the perfect place.

8 THE COURT: All right. We're going to
9 take about a ten-minute break.

10 (A break was taken.)

11 (COURT EXH. 1, Evaluation, was marked and
12 entered into evidence.)

13 (COURT EXH. 2, Evaluation, was marked and
14 entered into evidence.)

15 (COURT EXH. 3, Notice, was marked and
16 entered into evidence.)

17 THE COURT: Solicitor.

18 MR. SCOTT: Your Honor, the State calls
19 Dr. Casey Gregiore for the purposes of a Blair
20 hearing.

21 THE COURT: Where do you want the
22 witnesses to be sworn in? Come to the witness
23 stand, please.

24 THE CLERK: Raise your right hand. Do
25 you solemnly swear or affirm that the testimony

1 you shall give the Court will be the truth, the whole
2 truth, and nothing but the truth, so help you God?

3 THE WITNESS: I do so affirm.

4 THE CLERK: Please have a seat and state
5 your name for the record.

6 THE WITNESS: My name is Casey,
7 C-a-s-e-y, Gregiore, G-r-e-g-i-o-r-e.

8 MR. VERNER: Can she testify without the
9 mask, Your Honor?

10 THE COURT: You may proceed, Solicitor.

11 MR. DANIEL: Thank you, Your Honor. May it
12 please the Court?

13 WHEREUPON:

14 CASEY GREGIORE, DO
15 after having been sworn to tell the truth, testified
16 as follows:

17 DIRECT EXAMINATION

18 BY MR. DANIEL:

19 Q All right. Doctor, you are currently employed the
20 South Carolina Department Mental Health?

21 A I am currently employed through the
22 University of South Carolina School of Medicine,
23 but we get contracts through the Department of
24 Mental Health.

25 Q Okay. And what are your qualifications to work

Testimony of Casey Gregiore, DO

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1 for -- to do evaluations for the Department of Mental
2 Health?

3 A Do you mean my educational background?

4 Q Yes. Your qualifications to conduct mental health
5 evaluations.

6 A I graduated with a bachelor's degree in
7 neuroscience from Stonehill College in Eastern
8 Massachusetts in 2012. I then went on to complete
9 four years of medical school at the University of
10 New England College of Osteopathic Medicine where
11 I graduated with a doctor of osteopathic medicine
12 degree in 2016. I moved down to Augusta, Georgia
13 where I completed four years of general psychiatry
14 residency at the Medical College of Georgia where
15 I finished up in June of 2020. And then I'm
16 currently in an additional one-year fellowship in
17 forensic psychiatry at the University of
18 South Carolina School of Medicine.

19 Q Okay. So your field is forensic psychiatry?

20 A Yes.

21 Q Yes. And you're contracted by the South Carolina
22 Department of Mental Health to conduct mental health
23 evaluations?

24 A Yes.

25 Q And, specifically, evaluations pertaining to the

1 State v. Blair decision; is that correct?

2 A Yes.

3 Q And that would be competency to stand trial?

4 A Yes.

5 Q And also would that relate to the applicability of
6 the insanity defense?

7 A Yes.

8 Q Did you conduct -- in this particular case, did
9 you have an occasion to conduct an evaluation for the
10 defendant, Ricky Brown?

11 A I did.

12 MR. DANIEL: Your Honor, I will go ahead
13 and tender the doctor as an expert in the field of
14 forensic psychiatry.

15 THE COURT: All right. Mr. Verner, do
16 you have any questions of this witness concerning
17 credentials, or do you have any opposition to the
18 Court declaring her an expert?

19 MR. VERNER: Your Honor, I didn't hear
20 it.

21 VOIR DIRE

22 BY MR. VERNER:

23 Q Doctor, have you been found to be an expert
24 witness in forensic psychiatry by a judge before in a
25 court setting?

Testimony of Casey Gregiore, DO

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1 A Yes, I have.

2 MR. VERNER: No objection, Your Honor.

3 THE COURT: I indicate that she was found
4 to be an expert by me as early as last week.

5 THE WITNESS: That is true.

6 THE COURT: Okay. She is an expert in
7 the area of forensic psychiatry, and certainly
8 competent to conduct a Blair evaluation.

9 Solicitor, you may proceed?

10 MR. DANIEL: Thank you, Your Honor.

11 CONTINUED DIRECT EXAMINATION

12 BY MR. DANIEL:

13 Q And, Doctor, I'm going to hand you what's been
14 marked for ID purposes Court's Exhibits 1 and 2. I'll
15 first start out with Court's Exhibit 1. Do you
16 recognize these? Court's Exhibit Number 1. I'm
17 sorry.

18 A Yes, I do.

19 Q What is that?

20 A This is my report regarding the capacity to
21 stand trial.

22 Q All right. Let's walk through this report.
23 Ultimately -- I guess let's just get to the point.
24 Ultimately, what was your finding regarding
25 Mr. Brown's competency to stand trial?

1 A I found Mr. Brown had the capacity to stand
2 trial.

3 Q And what is the legal standard that you apply to
4 determine Mr. Brown currently had the capacity to
5 stand trial?

6 A When evaluating Mr. Brown, I evaluated him
7 for a legal understanding -- a factual
8 understanding of the legal system, as well as a
9 rationale understanding of his own case, and his
10 ability to work with his attorney.

11 Q Okay. And what date did you conduct this
12 evaluation on Mr. Ricky Brown?

13 A I evaluated Mr. Brown on September 29th.

14 Q Okay. And then you subsequently issued the
15 written report, which is Court's Exhibit Number 1?

16 A I did.

17 Q All right. If you could, explain your basis for
18 arriving at that conclusion that Mr. Brown has the
19 competency to stand trial?

20 A I reviewed the discovery information that I
21 was provided. I additionally reviewed medical
22 records from Mr. Brown, and then I had an
23 in-person evaluation with him where I asked him
24 questions about how he was currently functioning,
25 his past history, and questions regarding the

1 court.

2 Q Okay. And did, Mr. Brown, exhibit any symptoms
3 that were consistent with any type of mental health
4 diagnosis or mental health disorder?

5 A I did diagnose him with a mental health
6 disorder.

7 Q And what was that?

8 A That was antisocial personality disorder and
9 several substance abuse disorders; specifically,
10 alcohol use disorder, cannabis use disorder, and
11 methamphetamine disorder.

12 Q Did any of these disorders that you diagnosed
13 Mr. Ricky Brown with having would they impact his
14 competency to stand trial?

15 A No, they would not.

16 Q Okay. And did he appear to have a lucid
17 understanding of the nature of these charges?

18 A He did.

19 Q And just for clarification what were -- what were
20 some of the core charges against Mr. Ricky Brown, your
21 understanding?

22 A Some of the core charges were the five counts
23 of the kidnapping, he had several weapons charges.
24 More specifically, if you'd like, he had two
25 counts of malicious injury to a courthouse or

1 jail, and a possession of methamphetamine
2 charge.

3 Q Okay. And you asked him case-specific questions
4 related to those charges?

5 A I did.

6 MR. DANIEL: Your Honor, at this time, I
7 know it's already a Court's Exhibit, but I would
8 ask the Court to make a finding consistent with
9 the doctor's findings, that Mr. Brown is competent
10 to stand trial.

11 THE COURT: Mr. Verner, any questions of
12 this doctor?

13 MR. VERNER: Not on the competency
14 portion, Your Honor.

15 THE COURT: All right. Based upon the
16 evaluation done and the testimony offered today, I
17 do find that Mr. Brown is competent to stand
18 trial.

19 MR. DANIEL: And lastly, Your Honor, she
20 -- the doctor indicated --

21 BY MR. DANIEL:

22 Q Well, first, Doctor, let me -- review Court's
23 Exhibit Number 2 for me. Tell me if you recognize
24 that.

25 A Yes, I recognize this.

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1 Q Okay. What is Court's Exhibit 2?

2 A This is my report regarding Mr. Brown's
3 criminal responsibility and capacity to conform.

4 Q Okay. So, essentially, you were conducting a dual
5 evaluation, correct?

6 A Yes.

7 Q And specifically, the criminal responsibility as
8 it pertains to the October 2, 2019 incident, which is
9 what Mr. Brown stands trial for, let's focus on that.
10 Because I know you evaluated him related to all his
11 pending charges; is that correct?

12 A That is correct.

13 Q I want to focus on the October 2, 2019 incident,
14 and I'm going to call it the kidnapping incident.

15 So I don't want to be redundant here, but
16 what was your ultimate opinion regarding
17 Mr. Brown's criminal responsibility?

18 A It is my opinion that Mr. Brown was
19 criminally responsible for his actions on that
20 date.

21 Q All right. On or about October 2, 2019?

22 A Correct.

23 Q What is the legal standard that you were applying
24 for criminal responsibility?

25 A That was the McNaughton standard; the ability

1 to determine right from wrong.

2 Q Okay. And, again, the mental health disorders
3 that you discussed previously related to his
4 psychiatric history, you said antisocial personality
5 disorder; is that correct?

6 A Yes.

7 Q And then disorders related to substance and/or
8 alcohol abuse; is that correct?

9 A Yes.

10 Q Did any of those disorders impact whether
11 Mr. Brown would have been criminally responsible for
12 his actions on or about October 2, 2019?

13 A No, they did not.

14 Q Okay. And let's go to the capacity to conform --
15 or excuse me, the guilty but mentally ill standard.
16 You also did an evaluation related to that; is that
17 correct?

18 A Yes.

19 Q And what is the legal standard for determining
20 whether somebody is guilty but mentally ill?

21 A Determining if they have the ability to
22 conform their actions to the requirements of the
23 law.

24 Q Okay. So, did you determine if Mr. Brown had any
25 type of mental disease or defect that would prohibit

1 him from conforming his behavior to the requirements
2 of the law?

3 A He did not.

4 MR. DANIEL: And, Your Honor, I know this
5 would be a matter for the actual trial itself, but
6 I guess I can't -- I can't ask His Honor since
7 this would be on the verdict form. This will be
8 an issue of fact for the jury, but I would just
9 like you to know that the doctor here did
10 conduct this evaluation as well as a dual
11 evaluation.

12 THE COURT: Well, her report is a Court's
13 exhibit. It's part of the record. I don't think
14 she can make any sort of findings or rulings.

15 I can certainly, you know, determine
16 whether or not this issue would go to the jury or
17 not. I can do that after all of the evidence is
18 in, but I don't think I can make any rulings at
19 this time.

20 MR. DANIEL: Yes, sir.

21 THE COURT: Any further questions,
22 Solicitor?

23 MR. DANIEL: No, Your Honor, unless the
24 defense has any questions. I don't know that.

25 THE COURT: Mr. Verner, any questions of

1 this witness?

2 MR. VERNER: Thank you.

3 CROSS-EXAMINATION

4 BY MR. VERNER:

5 Q Your name is Dr. Gregiore?

6 A Gregiore. Close enough.

7 Q Gregiore. This was your first time meeting with
8 Ricky Brown?

9 A Yes, on September 29th.

10 Q Okay. And did you have access to his prior
11 Department of Mental Health records?

12 A I did.

13 Q Okay. And it's not disputed that Mr. Brown has a
14 substantive history with the Department of Mental
15 Health?

16 A He has several encounters with the Department
17 of Mental Health.

18 Q He was currently a patient at the Department of
19 Mental Health when this incident happened in
20 October of 2019?

21 A He was.

22 Q When Mr. Brown was first arrested, he stayed on
23 suicide watch for about a month. Is that your
24 understanding?

25 A That's my understanding.

1 Q Since October 19th, the jail has prescribed him
2 mood stabilizers, antipsychotic medicine, and
3 antidepressants?

4 A Yes.

5 Q Okay. The antipsychotic medicine would be
6 Zyprexa?

7 A Initially, it was Zyprexa.

8 Q Okay. And just for layman's, what would
9 Zyprexa -- what kind of symptoms would somebody have
10 to take Zyprexa as a medicine?

11 A People can have a number of symptoms. It's
12 FDA approved for several conditions, so it's
13 commonly prescribed for people that have a
14 psychotic disorder, or problems arranging their
15 thoughts, maybe they see things, or hear things
16 that other don't. It's also prescribed sometimes
17 to help with mood symptoms.

18 Q So, presumably, Mr. Brown would have mood symptoms
19 or some kind of psychotic symptoms for him to have
20 that has a prescribed medication?

21 A Not necessarily. I can't comment on exactly
22 why the detention center physician prescribed it.
23 It didn't specifically say in the records, but
24 those are the some of the reasons that they be
25 prescribed.

1 Q It's fair to say Mr. Brown has an extensive
2 history of self-harm or self-mutilation?

3 A Yes.

4 Q Colloquially, I guess, we would call that cutting,
5 or he is a cutter?

6 A Yes.

7 Q Just maybe enlighten Judge Locker what a cutter is
8 for the record?

9 A A cutter or someone who engages in some
10 injurious behavior does it for a number of
11 reasons, but someone that harms themselves not as
12 means to commit suicide. But sometimes people do
13 it to relieve stress or in response to something
14 that they're in distress or overwhelmed. So
15 there's a number of reasons that people engage in
16 this behavior.

17 Q And while Mr. Brown was an inmate at the
18 Department of Corrections for his prior conviction, he
19 was in the cutter's program for at least five years?

20 A Yes.

21 Q And have you seen his arms?

22 A I have.

23 Q And is it fair for me to characterize that he has
24 noticeable and permanent scars on his arms consistent
25 with cutting?

Testimony of Casey Gregiore, DO

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1 A He does.

2 Q Multiple?

3 A Yes.

4 Q Okay. And, at one time, he had cut his stomach to
5 the point where his intestines were actually
6 exposed?

7 A That is what he told me.

8 Q He has been a DMH client since at least 1994?

9 A That was as far back as I indicated.

10 Q He has been diagnosed as of 2016 with bipolar
11 disorder?

12 A That was one of his diagnoses.

13 Q Now, I understand that you disagreed with that
14 diagnosis.

15 A I did.

16 Q But, by the Department of Mental Health, he had
17 been diagnosed as bipolar.

18 A That's true.

19 Q Okay. He's got a history of taking mood
20 stabilizers, antipsychotic medicines, antidepressants,
21 and anxiety medications?

22 A Yes.

23 Q Are all of those -- none of those would be
24 over-the-counter-type medications. Those would be
25 controlled substances for the most part?

1 A They are not technically controlled
2 substances, but they do require a prescription.

3 Q Okay. He also has some history of overdosing on
4 medications?

5 A According to my evaluation with the
6 defendant, yes.

7 Q Okay. And he's also been diagnosed as of 2017
8 with posttraumatic stress disorder?

9 A Yes, that was listed in some of the
10 records.

11 Q Now, you found that he met the criteria for
12 antisocial according to the DSM?

13 A Yes.

14 Q And just out -- what DSM? What's the current
15 DSM?

16 A 5.

17 Q Okay. A history of bipolar diagnosis, but I
18 understand that you disagree with that.

19 A I did.

20 Q Okay. And did you make any determination about
21 the PTSD diagnosis?

22 A I did ask him some questions about
23 posttraumatic stress disorder, because he does
24 have -- he mentioned some traumatic events in his
25 life, but he didn't fully meet the diagnostic

Testimony of Casey Gregiore, DO

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1 criteria for posttraumatic stress disorder.

2 Q Okay. But I may have missed it, but you didn't
3 specifically rule out or rule in that as a diagnosis
4 in the report?

5 A I didn't in the diagnostic formalization
6 section.

7 Q Is that because you just didn't have enough
8 information at the time, or that you didn't need to
9 based on your own findings?

10 A I addressed it early on in the report. I
11 don't know if I comment on why I didn't do
12 anything with that in the diagnostic section.

13 Q If someone did have a diagnosis that you agreed
14 with, the bipolar disorder, could that -- not all the
15 time, but could that at least sometimes rise to a
16 level of meeting the McNaughton standard?

17 A It can.

18 Q Okay. What about posttraumatic stress disorder?
19 I'm not asking about all PTSD clients, but could a
20 PTSD diagnosis sometimes lead to a finding under the
21 McNaughton, lack of capacity to conform?

22 A That's a possibility.

23 Q Okay. Now, what about the antisocial diagnosis?
24 Could someone who is classified as antisocial by the
25 DSM standards meet a McNaughton finding?

1 A If that was the only diagnosis, I would
2 believe that would be unlikely.

3 Q And there are several findings of drug abuse or
4 substance abuse disorders, and they're broken down
5 into the component drugs at the time. Could someone,
6 for instance, with the methamphetamine or cocaine
7 disorder reach the level of the McNaughton finding?

8 A In the State of South Carolina, the use of
9 substances precludes that.

10 Q But that would be as a matter of legal policy, not
11 necessarily medical?

12 A I'm not sure I can answer that.

13 Q In August of 2018, I noticed that you also noted
14 that he had a diagnosis for unspecified depressive
15 disorder?

16 A Which page are you on?

17 Q I am on page 8, middle paragraph, first full
18 paragraph starting, "Mr. Brown..." The bottom of the
19 paragraph where he's going to the Palmetto Baptist
20 Hospital on August 2nd.

21 A Yes.

22 Q The defendant's mood -- I'm quoting you, "The
23 defendant's mood improved and he was discharged with a
24 diagnosis of unspecified depressive disorder,
25 borderline personality disorder, and cocaine use

1 disorder."

2 A Yes.

3 Q Are all those three separate -- borderline
4 personality is a separate diagnosis as unspecified
5 depressive disorder?

6 A Correct.

7 Q And unspecified depressive disorder colloquial --
8 we just call it depression, or is that a unique
9 finding?

10 A It doesn't really meet the diagnostic
11 parameters for what we call major depressive
12 disorder, but it generally indicates that there
13 was some depressed mood that does not fully rise
14 to that type of diagnosis.

15 Q And for a layman that we are, how would you, in
16 short, characterize somebody with a borderline
17 personality? What does that mean in, kind of, a
18 colloquial meaning?

19 A Personality disorder in general is a pattern
20 of behavior that typically begins in childhood and
21 develops throughout the individual's life. And
22 borderline personality disorder is often
23 characterized by mood swings, impulsive behavior,
24 intense self-harm, fear of abandonment, those are
25 kind of the main things that we see.

1 Q Does that rise to the level of a mental health
2 diagnosis or is that more of a lifestyle-type based on
3 your environment?

4 A It's in our DSM-5.

5 Q All right. Same question as I asked earlier:
6 Could someone who meets the unspecified depressive
7 disorder reach the level of a McNaughton finding with
8 lack of capacity to conform?

9 A It's possible.

10 Q Okay. Same question for borderline personality
11 disorder.

12 A That's possible as well.

13 Q So Mr. Brown has, at least, five diagnoses for
14 true mental health. I'm not asking for the truth of
15 the whether he has them or not, but just verify what
16 would actually be mental health disorders, he's got,
17 at least, five diagnoses for separate mental
18 disorders?

19 A He's has been diagnosed with several things
20 throughout the years.

21 Q Not counting the substance abuse diagnosis?

22 A Correct.

23 Q Okay. You noted in that September 16, 2019 which
24 was about a month or so, not quite a month before this
25 crime was committed, Mr. Brown had reported

Testimony of Casey Gregiore, DO 114
1 experiencing auditory hallucinations?

2 A He did.

3 Q If someone has a profound mental health issue, the
4 use of illicit substances, such as methamphetamine and
5 cocaine, would that affect them and make them worse,
6 or that's not necessarily --

7 A It would typically make them worse.

8 Q Okay. Were you aware that Mr. Brown's brother was
9 killed in a car accident as Mr. Brown was on his way
10 to pick him up about a year prior to this incident?

11 A Yes.

12 Q Okay. And he would arrive on the scene while his
13 brother was being put in the ambulance?

14 A That is what he told me.

15 Q Okay. Are you aware that his fiancée had a
16 miscarriage a few weeks prior to this incident
17 happening?

18 A That was mentioned briefly in one of the
19 records I reviewed, but that was not something I
20 could tell you.

21 Q Could one or both of those incidents have
22 deleterious effects on someone with mental health?

23 A I think those might have effects on people
24 even that don't have a diagnosis of a mental
25 health condition.

1 Q I apologize. I didn't understand and completely
2 hear your answer?

3 A I think that those situations can be harmful
4 even for people that don't have a mental health
5 condition.

6 Q So the answer would be, yes --

7 A Yes.

8 Q -- it could be deleterious to almost anybody?

9 A Yes.

10 Q Now, Mr. Brown also suffers from diabetes type 2?

11 A Yes.

12 Q Okay. Does diabetes type 2 require medication to
13 stabilize?

14 A It can.

15 Q Could someone who is a severe diabetic, could that
16 exacerbate their mental health condition?

17 A It's possible.

18 Q Have you read the incident reports or the witness
19 statements pertaining to this case?

20 A I have.

21 Q It's fair to characterize that Mr. Brown
22 complained at the time that he wanted to kill himself
23 or that he was -- he expressed suicidal ideation?

24 A Yes, he did.

25 Q Prior to the time taking place?

Testimony of Casey Gregiore, DO

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1 A (Witness nods head up and down.)

2 Q Prior to the -- I'll withdraw that.

3 In fact, according to the social worker,
4 Miss Byrd, he was pleading with her to put him in some
5 kind of suicide unit?

6 A Yes.

7 Q And she was trying to get him admitted to the
8 Laurens County emergency room?

9 A That was my understanding.

10 Q For expressing suicidal ideations?

11 A Yes.

12 Q Okay. Are you aware that Mr. Brown was
13 complaining that his medicine had expired or was not
14 controlling his behavior?

15 A Yes.

16 Q Okay. And I understand the term "motive" is a
17 legal -- like McNaughton motive would be a legal
18 phrase and not a psychiatric or medical phrase. But
19 is it fair to say that there is, at least, some
20 indication that the reason for Mr. Brown's behavior in
21 October of 2019 was he was suicidal?

22 A He expressed to me that he frequently
23 experiences suicidal ideation, yes.

24 Q And that he possibly was -- this case could fit
25 into the suicide by police-type scenario?

1 A That was one of the explanations he
2 offered.

3 Q Now, just, for the record, clarify what you
4 understand as suicide by police?

5 A From my understanding, suicide by police
6 would be putting yourself in a situation where the
7 police may shoot you or end your life.

8 Q It's deliberately creating a dangerous scene that
9 would almost force the police to respond with deadly
10 force to control your behavior? That's no different
11 than suicide, other than you can't bring yourself to
12 do it yourself, right?

13 A It's a means of suicide.

14 Q Would you agree with me that that is not rational
15 behavior?

16 A I agree that it represents, perhaps, poor
17 judgment. However, it's based in reality. It's
18 not a decision based in delusion.

19 Q Now, motive, as I would explain it to you, is
20 basically the reason why people commit crimes, what
21 really their true purpose is. You would agree with me
22 that it does not -- you haven't seen anything that
23 this was like a robbery-type situation where he was
24 trying to get something of value from the victims?

25 A I didn't see any evidence of that.

Testimony of Casey Gregiore, DO 118

1 Q If someone is suicidal, is that the diagnosis
2 itself, suicidal, or would that go into discreet-type
3 characterization depending on what the cause is? Is
4 suicidal ideation itself mental health?

5 A No, we don't diagnose someone with suicidal
6 ideation, but it could fall under various mental
7 health conditions.

8 Q So a diagnosis would be that -- and just as a
9 hypothetical, Casey LeBrock is depressive but she's
10 also suicidal, and it's kind of a caveat to a major
11 disorder.

12 A It can be a sign or symptom of a mental
13 health disorder. It can also occur in people that
14 may not have been diagnosed with a mental health
15 disorder.

16 Q All right. What are the most common diagnoses
17 that you would find suicide or suicidal ideation as a
18 subcategory or behavioral part of?

19 A It is a part of several diagnoses. It's
20 classically found as part of major depressive
21 disorder.

22 Q As part of what? I apologize.

23 A Classified as a major depressive disorder.
24 That's one possible criteria.

25 Q Okay.

1 A But there are multiple diagnoses that he
2 received that that's in.

3 Q So the risk of suicide most commonly goes with
4 major depression?

5 A You mean completed suicide or suicide?

6 Q Both. Suicidal ideation, however you want to --
7 whether they complete it or not?

8 A I don't have the exact numbers in front of
9 me, so I can't --

10 Q Right.

11 A -- guess about that, but it also is very
12 common in personality disorders.

13 Q Well, we know Mr. Brown was diagnosed with
14 unspecified depression.

15 A He has been.

16 Q Okay. Would suicide be a -- or suicidal ideation
17 be a reabsorbable -- reasonably foreseeable behavior
18 or personality of somebody with depression?

19 A Would you clarify that question?

20 Q If somebody was classified as unspecified
21 depression, that could encompass suicidal ideation?

22 A Potentially.

23 Q Okay.

24 MR. DANIEL: Your Honor, just an
25 objection. If this relates to the Blair hearing,

1 Testimony of Casey Gregiore, DO 120
2 specifically, his competency to stand trial. I
3 don't know that any questions related to suicide
4 having any relevance.

5 THE COURT: I'm going to allow Mr. Verner
6 to explore whatever he needs to.

7 Proceed.

8 BY MR. VERNER:

9 Q Does suicide go with PTSD?

10 A It can.

11 Q Okay. Does suicide go with bipolar disorder?

12 A It can.

13 Q Okay. Does suicide go with borderline personality
14 disorder?

15 A It can.

16 Q Okay. All four of those, at least at some point
17 in his life, Mr. Brown had been diagnosed with?

18 A In previous mental health interviews.

19 Q At some point in his life, he had been diagnosed
20 with all four of those mental health conditions, all
21 four of which include suicide or attempted suicide as
22 a reasonably foreseeable condition?

23 A I don't know about reasonably foreseeable.

24 That's a specific thing we don't predict it that

25 well. I don't think we could always reasonably

 foresee suicide. It is a symptom that can be seen

1 in those diagnoses.

2 Q Okay. Given those four prior diagnoses of mental
3 illness, what, based on his behavior or interview,
4 pulls Mr. Brown out of the category of McNaughton, in
5 your opinion, given his mental health history and the
6 fact that this appears to be a suicide or suicide by
7 cop-type happening?

8 A That was one of the explanations that
9 Mr. Brown gave. There were several other
10 behaviors that would indicate a more legal
11 knowledge of wrongfulness. So, specifically, he
12 gave several different self-protective accounts of
13 the events on that day. He expressed -- in
14 addition to the suicidal motive, he had also
15 expressed being angry as one of them. He kept a
16 gun concealed in his pocket indicating a desire to
17 evade detection with that. He acknowledged that
18 he didn't look up -- or was not supposed to have a
19 firearm.

20 And during the video of the actual incident,
21 you could see Mr. Brown jumping down and below the
22 eyesight of -- I'll presume the law enforcement
23 officers. That's another means to evade detection.

24 Q I'll close with, having seen the videos and read
25 all the reports in the file and examined the mental

Testimony of Casey Gregiore, DO 122

1 health history, do you have a -- if you were asked as
2 a mental health provider, what would be the reason,
3 just layman's reason why he would have done this, what
4 would your account be?

5 A I'm not sure I can predict what his motives
6 were then.

7 Q Do you believe he would have been acting
8 rationally?

9 A Yes, I do.

10 MR. VERNER: Okay. I think that's it,
11 Judge. Let me just, real quick, double-check.

12 THE COURT: I'm going to ask a couple
13 questions and you check. And if you find some
14 more, I'll let you ask them.

15 MR. VERNER: Thank you, Judge.

16 THE COURT: Doctor, to a reasonable
17 degree of medical certainty, is it your opinion
18 that Ricky Brown is competent to stand trial?

19 THE WITNESS: Yes.

20 THE COURT: To a reasonable degree of
21 medical certainty, Doctor, is it your opinion that
22 on October 2nd of 2019 that Mr. Brown had the
23 ability to take criminal responsibility for his
24 actions and conform his actions to the law?

25 THE WITNESS: Yes.

1 THE COURT: Okay. And to a reasonable
2 degree of medical certainty, do you believe that
3 all of his mental health diagnoses and all of his
4 disorders, is it your opinion that those do not
5 affect his competency to stand trial and his
6 ability on October 2nd of 2019 to take criminal
7 responsibility for his actions and his ability to
8 conform to the law? I realize that was a really
9 long question.

10 THE WITNESS: Yes.

11 THE COURT: Okay. You don't believe that
12 his diagnoses or disorders would affect his
13 competency of the McNaughton factors?

14 THE WITNESS: Correct.

15 THE COURT: Okay. All right.

16 MR. VERNER: Briefly, Your Honor.

17 THE COURT: You got it.

18 BY MR. VERNER:

19 Q Are you familiar with Zyprexa?

20 A Zyprexa?

21 Q Yes.

22 A Yes.

23 Q Does that drug have a side effect, significant
24 side effects?

25 A It can.

Testimony of Casey Gregiore, DO 124

1 Q Okay. Have you looked at his history of what he's
2 been prescribed?

3 A I have.

4 Q Is it fair to say that some of these drugs do
5 carry side effects of -- unintended side effects that
6 can affect his mental personality?

7 A In general, some of those medications -- I
8 believe, you're referring to antipsychotic
9 medications as a whole. The drug's side effects,
10 like sedation, is a fairly common side effect that
11 people have.

12 Q Okay. Now, tell me what your understanding of
13 guilty but mentally ill is?

14 A My understanding of guilty but mentally
15 ill --

16 Q Yes, ma'am.

17 A -- is that they understood the moral and
18 legal right from wrong at the time of the crime,
19 but, for some mental health diagnosis, they had an
20 inability to conform their behavior to the
21 requirements of the law.

22 Q Okay. Did your report and examination address
23 this particular applicability to Mr. Brown?

24 A Yes.

25 Q Okay. Have you ruled that out, or have you not

1 been able to make a finding or what's your opinion as
2 far as the propriety of guilty but mentally ill?

3 A It was my opinion that he was not suffering
4 from symptoms of a mental illness that would have
5 impaired his ability to conform his behavior to
6 the requirements of the law on or about those
7 dates.

8 Q And just as a devil's advocate, I would ask you,
9 if someone is not acting rationally, the -- what
10 you're saying, they're not under the influence of a
11 mental illness, what's the other alternative?

12 A I'm not sure if I understand the question.

13 Q If someone is suicidal, but, in your opinion --
14 that the reason that they are suicidal is not directly
15 related to one of their mental illness findings -- and
16 I would think that the average person would consider
17 someone who is suicidal -- as a irrational decision,
18 unless there was something really -- you know, maybe
19 someone at the end of their life in a major illness,
20 like an assisted suicide-type situation. But,
21 generally, you would agree with me that suicide would
22 be an irrational thought process?

23 A I would not. I think, in the medical sense,
24 there's a different definition of rational and
25 irrational. And so when we mean rational, we mean

Testimony of Casey Gregiore, DO

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1 based in reality and they point to a specific
2 reason to these things.

3 Q And I will have you -- you have a contract through
4 your employer or through your physicians group to work
5 with the Department of Mental Health or Department of
6 Corrections?

7 A We have both assignments. Department of
8 Mental assigns us cases.

9 Q Do you also testify on behalf of defendants?

10 A Yes.

11 Q So you have also, as a private physician, come in
12 and -- not as a State's witness but as a defendant's
13 witness?

14 A I testified once before and I was subpoenaed
15 by the defense.

16 Q Okay. In that case, who had initially contracted
17 your services?

18 A The State.

19 Q Okay. So in fairness -- while you have testified
20 under the penalty of the subpoena for the defendant,
21 in fairness you have always been hired by the State as
22 a State's witness?

23 A No. It's the Court orders an evaluation, so
24 we are assigned to that through the South Carolina
25 Department of Mental Health. It's not on either

1 side.

2 Q All right. My question is just very simple. Have
3 you ever been hired privately?

4 A No.

5 Q Okay.

6 MR. VERNER: Thank you. The State may
7 have a few brief questions.

8 THE COURT: Solicitor, do you have any
9 further questions?

10 MR. DANIEL: No, Your Honor.

11 THE COURT: Thank you, Doctor, for your
12 testimony. You can step down.

13 We got the jury pool. Is everybody ready
14 to go ahead and get them in? And we're going to
15 select a jury the old-fashion way, with the
16 exception of providing any witness strike sheets
17 to assist. So is everybody ready?

18 MR. SCOTT: Yes, sir.

19 MR. DANIEL: Your Honor, I would ask that
20 the DMH personnel be excused.

21 THE COURT: Oh, sure. Yeah. You're
22 welcome to remain with us, but if you need to go,
23 you're certainly free to go.

24 THE WITNESS: Thank you, Your Honor.

25 THE COURT: Let's bring the pool in,

1 MR. DANIEL: At least any related to
2 that.

3 THE COURT: All right. Very good. We'll
4 take a look at these and then we'll regroup on
5 this.

6 The list item of business, Mr. Verner, I
7 understand Mr. Brown needs to be arraigned on the
8 two pointing and presenting.

9 MR. DANIEL: Yes, Your Honor. Two counts
10 of pointing and presenting and then the possession
11 of a firearm by a person convicted of a violent
12 crime.

13 THE COURT: Okay.

14 Mr. Verner, do you and your client waive
15 the publication of those three indictments?

16 MR. VERNER: We do.

17 THE COURT: And does your client wish to
18 -- well, how does your client plead to those three
19 charges?

20 MR. VERNER: To all five charges, he
21 pleads not guilty, certainly the ones waived.

22 THE COURT: All right. And does your
23 client wish to be tried by God and his country?

24 MR. VERNER: That is his desire, yes, it
25 is.

1 THE COURT: Mr. Brown, will you please
2 stand.

3 Will you swear Mr. Brown in, please?

4 MR. DANIEL: Yes, sir.

5 Raise your right hand. Do you swear to
6 tell the truth, the whole truth, and nothing but
7 the truth so help you God?

8 MR. BROWN: I do.

9 THE COURT: You can put your hand down.
10 Do you agree with everything Mr. Verner just
11 told me?

12 MR. BROWN: Yes, sir.

13 THE COURT: Thank you very much.

14 All right. We will regroup in the morning,
15 take care of those other few matters we got and then
16 we can start back on this. Whenever we got some time,
17 we can talk about the Jackson v. Denno.

18 Is it anticipated that Captain Goodman
19 would be first up in your line of witnesses, or
20 maybe --

21 MR. DANIEL: Your Honor, he's -- I'm,
22 kind of, saving the best for last. I got him as a
23 next-to-the-last witness. Perhaps the doctor,
24 Gregoire, would be our very last witness.

25 THE COURT: All right.

1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF NEWBERRY

4 State of South Carolina,
5 Plaintiff,

6 vs. Transcript of Record
7 2019-GS-36-00710;
8 2020-GS-36-00712;
9 2020-GS-36-00733;
10 2020-GS-36-00734 &
11 2020-GS-36-00736

12 Ricky Bernard Brown,
13 Defendant.

14 November 17, 2020
15 Newberry, South Carolina
16 Volume II of IV

17 B E F O R E:

18 The HONORABLE DONALD B. HOCKER

19 A P P E A R A N C E S:

20 Dale Scott, Deputy Solicitor
21 Taylor Daniel, Assistant Solicitor
22 Charles Verner, Representing the Defendant

23
24 SHARON G. HARDOON, CSR
25 Official Circuit Court Reporter, III

1 the jury? Okay. Your name, ma'am?

2 JUROR 15: Sarah Lyon.

3 THE COURT: Okay, very good.

4 Congratulations.

5 Okay. Ladies and Gentlemen, I just want
6 to give you some preliminary instructions before
7 the lawyers make their opening arguments to you.

8 As I told you yesterday, get a good rest
9 because we need for you to be attentive and alert
10 throughout the trial. I don't permit jurors to
11 take notes during the trial. And the reason for
12 that is, is that I have found when jurors take
13 notes that they're paying more attention to the
14 note-taking than they are listening to the
15 witnesses, which will be over there.

16 Nothing wrong for you, when you go home
17 at night, if you want to jot down some notes.
18 Don't bring them with you the next day. But if
19 you want to jot down some notes at home and keep
20 them at home, that's fine. But it's really
21 important that you remain alert and attentive at
22 all times, so at the end of the case when you
23 begin your deliberations correctively, you will be
24 able to remember everything that's been presented
25 to you. Okay? So please keep that in mind.

1 What is your role as a jury? You are the
2 sole judge of the facts in this case. You are the
3 sole judge to determine what took place as it
4 relates to the charges made against the defendant.
5 The same law that makes you the sole judge of the
6 facts, makes me the sole judge of the law. I'll
7 go over this at the end of the case when I give
8 you the Court's charge. But I can't tell you what
9 the facts are. That's for your determination.
10 You can't tell me what the law is. That's my
11 determination. So that's your role. That is my
12 role.

13 All right. Now, I mentioned this
14 yesterday and I'm going to mention it again, the
15 burden of proof is on the State. It's up to the
16 State to prove these charges to you beyond a
17 reasonable doubt beyond standard. That's the
18 highest standard of proof that we have. The
19 defendant does not have to prove anything,
20 especially does not have to prove his sentence in
21 this case. So just keep in mind that the burden
22 is on the State and the State alone.

23 As the defendant sits in this courtroom,
24 he is presumed innocent, and that presumption of
25 innocence carries with him throughout unless you

1 determine at the end of the case when you begin
2 your deliberations, unless you determine that
3 there is sufficient evidence to find him guilty.

4 Now, there may be times where one of the
5 lawyers has an objection or a matter of law for
6 the Court. We try to deal with it. I'll just go
7 over to the side and talk with the lawyers.
8 Sometimes I may have to send you to the jury room
9 so I can deal with the legal issue presented to
10 me. And several reasons, but the primary reason,
11 I may need to discuss the facts with the lawyers
12 to make a ruling on that legal issue. I certainly
13 don't want to discuss the facts in your presence.
14 But we'll use that when necessary, but sparingly.
15 Okay, keep that in mind.

16 Now, if you remember yesterday, I said no
17 discussion among yourselves about this case until
18 I instruct you to begin your deliberations. No
19 discussion with anybody that you see when you
20 leave here, either for lunch break or at night. I
21 also told you about not doing any independent
22 research into any aspect of this case.

23 And I told you I'd give you a real-life
24 story. I'm not going to bore you with all the
25 details, but, several years ago, I was trying a

1 very significant case in Laurens and I gave the
2 jury the same instruction I've given you. Don't
3 go on the Internet. Don't go on social media.
4 And I had four jurors completely disregard my
5 instruction. And it was just, really, a matter of
6 luck actually that the Court found out about what
7 they had done and they received some information
8 that was not correct, and it really could have
9 turned out very, very bad for the people involved
10 in this case.

11 So don't be like those four people,
12 because when someone disobeys a Court order or
13 Court instruction that, unfortunately, is contempt
14 of court. Now, I'm not standing here making any
15 threats to you, because I trust you all. I trust
16 you. I'm just stating as a fact that when people
17 disregard for Court orders, unfortunately, there
18 are consequences associated with that, so don't do
19 it.

20 And like I said yesterday, after this
21 case is over with if you want to do some research
22 into it, you can do that, but not until the case
23 is completely over with.

24 And lastly, Ladies and Gentlemen, what is
25 so important is that you keep an open mind. Don't

1 Opening Statement-Mr. Daniel
2 make any rash decisions early on.

3 Listen to all the evidence. Listen to what the
4 lawyers have to say before you make any judgments,
5 make any decisions. Okay?

6 Does the State have any exceptions to the
7 Court's preliminary charge?

8 MR. DANIEL: No, Your Honor.

9 THE COURT: And the defense.

10 MR. VERNER: No, Your Honor.

11 THE COURT: Thank you very much.

12 All right. Ladies and Gentlemen, the
13 lawyers are going to make their opening arguments
14 to you and these arguments are not evidence. It's
15 just what they believe the evidence will show and
16 what they believe this case is about.

17 Is the State ready?

18 MR. DANIEL: We are, Your Honor.

19 THE COURT: Okay.

20 MR. DANIEL: May it please the Court?

21 THE COURT: Yes, sir.

22 OPENING STATEMENT

23 MR. DANIEL: Madame Forelady, members of
24 the jury, good morning.

25 JURY PANEL: Good morning.

 MR. DANIEL: Again, I'm Taylor Daniel.

Opening Statement-Mr. Daniel

1 I'm an assistant solicitor or prosecutor in this
2 case trying this case alongside Dale Scott. You
3 know, I was thinking about my opening remarks to
4 you guys on the car ride here. I live in
5 Spartanburg so I had about 45 minutes in I-26 to
6 think about what I'm going to say, and,
7 ultimately, I just get myself more nervous
8 thinking about it.

9 But I guess, if you were to ask me -- say
10 a colleague of mine were to ask me, said, Taylor,
11 how would you describe this trial, The State vs.
12 Ricky Brown in a few sentences, I would probably
13 say Ricky Brown is going to go on trial for five
14 charges stemming from an October 2, 2019 incident
15 date. I'm talking about two counts of kidnapping,
16 two counts of pointing and presenting a firearm,
17 and one weapons violation.

18 And I would start out by saying, on that
19 date in question, October 2nd of last year,
20 Ricky Brown -- it was an unseasonably hot day for
21 October. Around lunchtime, he entered the
22 vocational rehabilitation building. It's the
23 Newberry County branch of the vocational
24 rehabilitation department. Entered that building
25 around lunchtime with a fully loaded 357 snub nose

Opening Statement-Mr. Daniel
1 pistol and additional ammunition, and entered that
2 building, fired his weapon multiple times, and
3 ultimately took two people hostage. Held them
4 against their will at gunpoint and it created a
5 hostage situation where law enforcement, of
6 course, had to arrive, and a standoff ultimately
7 culminated. And this standoff with law
8 enforcement lasted about an hour and 15 minutes.

9 I think -- if you want to be specific, I
10 think the police received a call at about
11 1:13 p.m., and I think, ultimately, the
12 South Carolina Law Enforcement Division's SWAT
13 team and other units made entry into that building
14 at about, I want to say 2:28 p.m., so about an
15 hour and 15 minutes, and Ricky Brown is taken into
16 custody. No one is hurt. No one is hurt
17 physically. Certainly, emotionally. The two
18 kidnapping victims, Sonya Bird and Cheri Braswell,
19 both employees of the vocational rehabilitation
20 department. Emotionally, psychologically they're
21 injured. But, physically, no one is harmed,
22 including Mr. Ricky Brown. Thank goodness no one
23 is harmed.

24 Because I think what the evidence -- I
25 submit to you what the evidence will show you is,

Opening Statement-Mr. Daniel

1 we are on the precipice, we are on the cusp of
2 having a dramatically different outcome that would
3 have been catastrophic. And we're talking, worst
4 case scenario -- even based on Ricky Brown's own
5 statements, this could have ended up much
6 differently.

7 And this will be ultimately a trial about
8 unsung heroes. And most notably Sonya Byrd, who
9 is an employee of for vocational rehab. And I'm
10 going to call it voc rehab.

11 The mission statement of vocational
12 rehabilitation is to help South Carolinians with
13 disabilities find employment. So it's a very
14 noble mission statement of that agency. And so
15 you have to be an individual, a very caring
16 individual who wants to serve people, help people.

17 And one point in time Sonya Byrd had a
18 professional relationship with Ricky Brown, and
19 Ricky Brown had utilized her services to help find
20 employment.

21 But, ultimately, the evidence I submit to
22 you will show Ricky Brown on that date had come to
23 a point in his life where he was desperate. He
24 was angry, frustrated, and unhinged. And you
25 don't have to be a psychiatrist or any doctor, for

1 instance, to know this man was unraveling. And
2 it's one thing to be -- to internalize your
3 frustrations. No one condones self-harm, suicide.
4 Certainly not. But it's one thing to internalize
5 your frustrations, but when your actions impact
6 other people, and put, essentially, an entire city
7 block on lockdown and create a combustible
8 situation, that totally changes the dynamic.

9 And that's the case in a nutshell.
10 Obviously, you will be getting the full details
11 and the context of the case, but that's I would --
12 the cliff notes version of the case. That's
13 essentially it.

14 And addressing the elephant in the room,
15 COVID-19, we haven't had a jury trial in
16 Newberry County since February. And so,
17 obviously, it's added health -- jury service has
18 always required a bit of sacrifice away from your
19 jobs, away from your families, and now it's adding
20 extra time because of the six feet protocols that
21 the CDC has announced. And we're trying our best
22 to mitigate the risks.

23 And we're not downplaying the
24 significance of the pandemic. No. You or someone
25 you know has been affected by this, hospitalized,

Opening Statement-Mr. Daniel

1 or even died, our heart, thoughts and prayers go
2 out to you.

3 But at the same time we recognize that we
4 have to move on with life. We can't stay in this
5 permanent lockdown state. And that would include
6 the criminal justice system, so that's why we
7 resumed jury trials. And we're going to do
8 everything we can to mitigate and minimize risk.
9 But, again, there are no guaranties. There are no
10 guaranties when you go grocery shopping.

11 When I was in law school, a
12 constitutional law professor handed me this
13 pocket-size constitution. And the first day of
14 the constitutional law, he challenged all of us to
15 read the constitution verbatim. And there's a
16 preamble. It's got seven articles, 27 amendments.
17 And nowhere in the constitution -- and I'm
18 actually talking about the 6th Amendment, because
19 that relates to criminal trials -- it has no
20 exception to COVID-19, so that's why we're here.
21 That's why you've been summoned, even in the midst
22 of a pandemic, to be here, because this is the
23 only way to resolve this case.

24 And I want Mr. Ricky Brown to be treated
25 fairly. He's entitled to a presumption of

1 innocence. He's entitled to confront the
2 witnesses against him. That's why we can't just
3 phone it in. We can't have Webex or Zoom. We
4 can't FaceTime the witnesses. And as traumatic
5 and difficult as it is to bring in these
6 witnesses, and it is, it's going to be tough for
7 them, they have to be here, physically present,
8 because of the 6th Amendment.

9 And he's entitled to the assistance of
10 counsel. Charles Verner represents him.

11 But the evidence in this case is
12 compelling and overwhelming. And no matter the
13 strength of the case or the weaknesses of the
14 case, Mr. Ricky Brown can demand a jury trial, and
15 a trial to be had by an impartial jury of his
16 peers. That's you guys. People that can be fair
17 and impartial and are from Newberry County,
18 residents of Newberry County. And that's you
19 guys. Only you guys can make that call. Issues
20 of fact, what Judge Hocker alluded to, that just
21 means guilt or innocence. So only you guys can
22 determine that.

23 But it's our position that the evidence
24 is compelling and overwhelming. But even so, we
25 have to have a jury trial because that's, kind of,

Opening Statement-Mr. Daniel
1 the beauty of our system. Because I can't just,
2 in chambers, read out an incident report to the
3 judge and he says, well, Taylor, it sounds like
4 the guy is guilty. No. We have to do this
5 process right now. And I want Mr. Brown to be
6 treated fairly. But also, at the same time, I
7 want the evidence to prevail. I want the truth to
8 prevail in this proceeding.

9 And I'll tell you this: The facts of the
10 case, we have surveillance footage. The crime was
11 caught on camera, a large portion of it.
12 Eyewitness testimony. It's all direct evidence.
13 We'll discuss the difference between direct and
14 circumstantial, but this is a direct evidence
15 case. Make no mistake about it. Incriminating
16 statements by Mr. Ricky Brown.

17 But those are essentially the allegations
18 in this case. But, again, it didn't happen in a
19 vacuum. We're going to provide plenty of context
20 for you. And it's not a trick question. The case
21 is that straightforward.

22 You know, if you were to go into an upper
23 level math class and the teacher pulls out on the
24 first day of class a quiz and you're thinking it's
25 going to be tough because it's an upper level math

Opening Statement-Mr. Daniel
1 class, go back to high school, but the question on
2 the test is, "Two plus two, what does that equal?"
3 So you almost wonder, is this a trick question.
4 Does two plus two really equal four? Well, I'm
5 here today to tell you that the evidence in this
6 case is two plus two equals four. But it's the
7 process we're undergoing here. This is not a
8 trick question. That's how compelling and
9 overwhelming the evidence is.

10 But, again, just to give you a little
11 more background. The evidence in this case is
12 going to show you that, actually, Ricky Brown
13 started off his day going by the Newberry Mental
14 Health Department. And that's actually about 400
15 yards away as the crow flies from the vocational
16 rehabilitation. This is right near the
17 Newberry County hospital.

18 He actually -- Ricky Brown goes there
19 first that day to the Newberry Mental Health
20 office where he had been receiving
21 psychiatric-type services. And he went over there
22 that day first at about 12:30 or so to the
23 Newberry Mental Health building. And, as we'll
24 reveal, according to Mr. Ricky Brown, he actually
25 went over there that day to Newberry Mental Health

Opening Statement-Mr. Daniel
1 with the intent to actually harm other people,
2 specifically a mental health therapist and a
3 psychiatrist. He had plans to kill those people.

4 But, you know, whether it was divine
5 intervention, luck, whatever you want to attribute
6 it to, those two people that Ricky Brown went
7 there with the intent to kill were not -- one was
8 on lunch and one just wasn't there that day.

9 So Ricky Brown's next step is to go to
10 the neighboring vocational rehabilitation building
11 where he had also received services. Sonya Byrd
12 had been his counselor. That was his next move.

13 So minutes or so, less than 30 minutes or
14 so, after he goes to Newberry Mental Health and
15 goes to the neighboring voc rehab building, asks
16 to see Sonya Byrd, which he had actually contacted
17 earlier in the day and he was expressing the fact
18 that he was disgruntled about the lack of mental
19 health he had been receiving, medication not
20 working, can't find a job, suicidal, things like
21 that, and Sonya Byrd, being his former counselor
22 to help him find work, she understood these
23 problems. She sympathized. She wanted to
24 facilitate helping Ricky get the help he needed,
25 and whether that meant hospitalization, she was

1 actually planning on helping him that day.

2 But at some point, once he arrives at the
3 vocational rehabilitation building, something
4 triggers in Ricky to where he's sitting out in the
5 lobby talking to Sonya Byrd, stands up and fires
6 his pistol. And the bullet hole, you'll see, is
7 in the ceiling. And, of course, Sonya, at that
8 moment -- I think she's probably shot. She's
9 stunned.

10 The next thing she knows, Ricky is going
11 back into the office area where the rest of the
12 staff is with the gun in hand, and this is his 357
13 loaded gun, going back there to find other people.

14 And the co-workers you'll hear from.
15 You'll hear from Kendall Armstrong. She was
16 actually working the receptionist desk and checked
17 Ricky in when he was there to see Sonya.
18 Chad Ulmer who was a -- had supervisory duties at
19 the voc rehab building. And Tammy Wood, another
20 employee. And then, of course, Cheri Braswell.
21 Those are all the employees who were affected that
22 day.

23 But he goes -- Ricky Brown proceeds to
24 the back area. Kendall Armstrong and Chad Ulmer
25 actually run out as Ricky is coming after them

Opening Statement-Mr. Daniel
1 with gun in hand. They were able to actually
2 escape the building. But Cheri Braswell, as she's
3 proceeding to leave, is grabbed by Ricky Brown.
4 And you'll see the surveillance footage. Grabs
5 her by the neck, holds the gun to her up against
6 her rib cage area and won't let her leave. So, at
7 that point, she's kidnapped. She is forcibly
8 confined. That's, especially, the legal
9 definition of kidnapping, forcible confinement,
10 especially at gunpoint.

11 Sonya Byrd is, of course, in fear for her
12 life as well, but she's also -- I mean, she's got
13 a very concerning spirit to her. She is there
14 concerned about Cheri, but she's also in fear for
15 her life. She is still on the scene, and Ricky is
16 holding Cheri Braswell in place. And you will
17 hear the testimony from Cheri Braswell about being
18 held at gunpoint.

19 After a few minutes, Sonya is trying to
20 plead with Ricky to let Cheri go. Proceeds to
21 make a 911 call, Sonya Byrd does immediately. And
22 you'll hear the 911 call. It's about six minutes.
23 And you will hear Ricky get on the phone and tell
24 the 911 dispatcher he's got a hostage. You will
25 hear that.

1 Eventually, Cheri is able to -- at some
2 point, she is able to exit the building when Ricky
3 is, I guess, preoccupied to a certain extent. She
4 is able to exit. So that leaves just Sonya Byrd
5 with Ricky. And, actually, Tammy Wood I
6 mentioned, she was the only one not to try to
7 leave through the front entrance to pass by Ricky.
8 Her move was to actually -- because they're all
9 eating lunch at this point, the workers, when the
10 gunshot -- they hear the gunshot in the lobby.
11 Tammy Wood actually escapes out the back, but
12 feels like Ricky is hot on her trail. She hides
13 in the women's bathroom for a period of time, and
14 you'll see some surveillance footage there.

15 MR. VERNER: Your Honor, reluctantly, I
16 do object. I don't mind the summary of State's
17 case, but he's getting into specific testimony.
18 Maybe we should call witnesses and actually hear
19 it. This is 25 minutes now.

20 THE COURT: Try just to summarize the
21 case and let's not get into specific items of
22 testimony from witnesses.

23 MR. DANIEL: Yes, sir.

24 In any event, Cheri -- excuse me, Tammy
25 exits the building. But all in all, you'll see it

Opening Statement-Mr. Daniel

1 all play out in the surveillance footage. And
2 that is the testimony. That is the summation of
3 the testimony.

4 All in all, police negotiators are
5 working on the scene. Eventually, Sonya Byrd is
6 able to leave at the conclusion of this standoff.
7 She's able to actually leave unscathed. Ricky
8 does essentially let her go. The SWAT team makes
9 entry and you'll see Ricky discharge the remaining
10 bullets in his loaded pistol. There is evidence
11 that there is additional ammunition that
12 Ricky Brown had on him, 15 rounds. You'll hear
13 testimony about that.

14 But, lastly, this trial is not about any
15 type of character assassination on Ricky Brown.
16 This is not to hurt his feelings. This is not to
17 throw stones. This is simply, we have evidence of
18 a crime, and we're asking you to go to wherever
19 the evidence leads you. And it's our position
20 that the evidence can only lead you to one logical
21 and reasonable verdict, and that is guilty in this
22 particular matter.

23 The defense has no burden of proof. I
24 don't know what, if any, case the defense will
25 present. They don't have to. It's solely our

Opening Statement-Mr. Verner

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1 completely finessed, completely glossed over what
2 this case is about, that we live in a country with
3 a great judicial system. We live in a country
4 with a crappy system for mental health for poor
5 people.

6 What this -- and I'll just ask you to
7 help me -- here's the benefit of you. By being
8 selected jurors, you got a voice that you can help
9 me work out a difficult situation. Ricky Brown
10 has been a mentally ill man since about age 11.
11 He is a current -- or was a current patient at the
12 Department of Mental Health. Suicide attempts
13 throughout his life. They know that. They worked
14 with him. If you look at his arms, which he will
15 show you, they are just grisly self-mutilations,
16 self-cutting his arms throughout his life, just
17 multiple documented attempts of seriously
18 attempting to kill himself.

19 We're not dealing with armed robbery
20 stuff, or somebody who gets mad with somebody for
21 messing with his girlfriend. What this case is --
22 and I'll just ask you -- I understand it's a
23 serious-sounding case. It is. But just help me
24 look past the bells and whistles and see what this
25 case is about. It is about a man who is suicidal

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1 who goes and sees his doctors. He says, I can't
2 stop myself. I am losing control. He goes to see
3 his psychiatrist. You all got to help me, put me
4 in a hospital, give me something that would make
5 me quit trying to harm myself.

6 Fortuitously, the doctor was not there.
7 Nobody at mental health was able to help him and
8 so he left.

9 He had also been calling that week Miss
10 Sonya Byrd who is a sweet lady. She is a social
11 worker who works with all kinds of people at voc
12 rehab center. She knows him. She's tried to help
13 him before. She knows Ricky is suicidal. She is
14 trying to get emergency room placement for Ricky
15 at the emergency room for suicide.

16 When we think of motive, and the State
17 never has to prove motive, but just common sense,
18 why do people do this. I put a gun against
19 somebody because I want to take his money. I
20 shoot somebody because he is messing with my wife.
21 I vandalize somebody's garage just as a cheap
22 thrill or I'm mad at him, but -- rational people
23 do things for a reasons. Mentally ill people do
24 things for irrational reasons. He's having a
25 mental health breakdown. He goes to mental health

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1 and says, help me, stop me. He is a long-time --
2 he's 42. He's been a mental health patient since
3 he was 11. Just broken home and crappy -- you can
4 imagine where he is.

5 Miss Sonya recognizes his condition and
6 she is trying to place him to stop him from
7 suicide. I guess what happens, I don't know
8 anything more than you do, but my guess what
9 happens is that, at some point while he's in the
10 patient's waiting room, and she is trying to put
11 him in the emergency room, she starts taking care
12 of other clients or customers at mental health and
13 he gets left alone and he starts acting
14 irrationally and he shoots through the roof as
15 just a demand for attention.

16 Now, it is a -- I mean, the SWAT team
17 comes. I was in Newberry that day. I remember
18 going up Evans Street. This is the medical park
19 right across from the hospital. I remember being
20 detoured away. I mean, I understand the would
21 haves, could haves, that this could have been
22 another situation; Ricky could have killed himself
23 or harmed other people. He didn't. He really
24 doesn't even make an attempt to. What he's doing
25 is, he's asking for medical attention.

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1 I would ask you to consider just what are
2 the motives for doing this. If you think, after
3 hearing this case, that Ricky is guilty, then you
4 got an obligation, you took a sworn oath to find
5 him guilty. If he's got the criminal intent to do
6 these crimes, you got no other choice but to find
7 him guilty. There may be -- I don't know how this
8 case is going to play out, but there maybe other
9 options. It may be guilty but mentally ill. Or
10 on some of these charges it might be not guilty by
11 reason of insanity, and insanity is legally the
12 failure to control your behavior. It's not
13 realizing right from wrong. It's just an
14 inability to confirm your behavior to the law
15 based on mental health reasons. I will tell you,
16 Ricky has had a host of diagnoses. I don't know
17 if they're all right or they're all wrong, but
18 just --

19 This isn't a conventional, I go into a
20 convenience store and I rob the clerk because I
21 want money. This is a man who is suicidal. The
22 doctors know he's suicidal. He's got a history of
23 suicide attempts. He goes to the doctors for
24 help. Nobody is there to help him. Miss Sonya
25 Byrd who's been talking to him by phone for

Opening Statement-Mr. Verner

1 several days knowing he's going through an
2 emotional breakdown and suicidal, she is really
3 the only one who is saying, Ricky, I will find you
4 someplace to go, so he goes next door to speak to
5 her. He doesn't go there with the intent to kill
6 anybody. He had a gun. If he wanted to kill
7 somebody, he would have killed somebody. He
8 wanted attention. He wanted placement in a
9 hospital. He wanted to stop going through this
10 mental health crisis and suicide.

11 Some of these charges, I submit he might
12 be not guilty by reason of insanity, or he might
13 be factually not guilty, or he might be guilty but
14 mentally ill.

15 I would just ask you -- I know there are
16 bells and whistles to this case, but I would ask
17 you just, at the end of the day, to look at the
18 root cause and see what kind of crime this is,
19 because it's a -- that's -- unfortunately, that's
20 just where we live right now.

21 And, as jurors, you got elected to a
22 position that whatever you all say goes. If you
23 all decide Ricky needs help, there are avenues to
24 help. I don't know --

25 MR. DANIEL: Your Honor, objection the

1 alluding to the penalty, any kind of penalty
2 aspect.

3 THE COURT: Don't refer to anything along
4 those lines.

5 MR. VERNER: I don't think I did, but I
6 understand the ruling.

7 I would ask you all just to keep an open
8 mind until the end of the case. I know these
9 people went through a traumatic event, but to some
10 extent that is part of their job, dealing with
11 suicidal people. I'm sorry at the Department of
12 Mental Health, that is part of their job. It's
13 not part of the job to have somebody pull a gun or
14 anything like that, but we have to look and see
15 what was going on. I would ask you just to keep
16 an open mind until you all hear everything and
17 just understand how things like this can happen
18 with the mental health system designed the way we
19 have it. Thank you.

20 THE COURT: Thank you, Mr. Verner. The
21 State ready to call their first witness once we
22 have the witness chair come around.

23 MR. DANIEL: Do we need to sanitize or
24 anything?

25 MR. SCOTT: Nobody sat in it.

Opening Statement-Mr. Verner

1 MR. DANIEL: We're ready to call our
2 first witness, Your Honor.

3 THE COURT: Okay.

4 MR. DANIEL: The State calls Shelley
5 Remion.

6 THE CLERK: Miss Remion, can you raise
7 your right hand, please. Do you solemnly swear or
8 affirm that the testimony you shall give the court
9 and jury shall be the truth, the whole truth, and
10 nothing but the truth so help you God?

11 THE WITNESS: I do.

12 THE CLERK: Have a seat and state your
13 name for the record.

14 THE WITNESS: My name is Shelley
15 Remion.

16 THE COURT: Okay. Are we going to have
17 witnesses remove the masks since they do have the
18 shield? I can hear her very well.

19 MR. SCOTT: Your Honor, I would request
20 the mask be removed, not only because it aids in
21 hearing, but also facial expressions and whatnot.

22 THE COURT: Miss Remion, if you would
23 please remove your mask.

24 And, certainly, if at any time you need
25 to approach the witness, then you can put it back

1 on, of course you have your mask on too.

2 THE WITNESS: Your Honor, Paragraph 2 of
3 South Carolina Code Section 44-22-100, we are not
4 allowed to disclose information about a patient or
5 form or the mentally ill or a person for who the
6 commitment has been sought, until the court
7 directs that disclosure is necessary for the
8 conduct of the proceedings before and that failure
9 to make the disclosure is contrary to public
10 interest.

11 THE COURT: Okay. You're so directed.
12 Thank, you ma'am.

13 THE WITNESS: Okay.

14 MR. DANIEL: Thank you, Miss Remion, for
15 complying with any HIPAA regulations.

16 Your Honor, does she need to -- would it
17 be okay if she tilts toward the jury? I don't
18 know if they will be able to see her.

19 THE COURT: Let me ask the jury. The
20 position of this witness, is that okay? You need
21 for her to turn any?

22 JUROR: Turn a little.

23 THE COURT: All right. Solicitor, if you
24 could assist this witness and just turn a little bit.
25 I don't want her getting any closer to the jury, but

Opening Statement-Mr. Verner

1 turn it a little bit.

2 MR. DANIEL: Yes, Your Honor.

3 THE COURT: Is that a little better?

4 Well, she's going to have her back completely to
5 you, so just have it angled.

6 Mr. Verner, you okay with that position?

7 MR. VERNER: Whatever the witness and the
8 jury and the solicitor agree to.

9 THE COURT: Let's --

10 MR. VERNER: Although, the back to the
11 attorneys doesn't make a whole lot of sense, since
12 we're asking her questions, Judge.

13 THE COURT: Just turn it a little bit.
14 But it's going to be -- try that. I don't want to
15 have her, you know, get a crick in her neck to
16 turn and take a look at you, Solicitor.

17 MR. VERNER: Judge, it makes the most
18 sense to let the witness face the court and she's
19 at liberty to turn and face the jury after she
20 hears the question if she needs to be clear on it.

21 THE COURT: Let's do this: Let's go
22 ahead and put it back to where it was. If it's
23 really difficult for the jury, please let me know.
24 Let's just try it this way first. Okay? And then
25 we'll try to adjust, if necessary.

Examination of Shelley Remion

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1 MR. VERNER: Just in fairness, this is
2 the first time we tried a COVID trial.

3 THE COURT: That's right. This is the
4 first one in Newberry. We are adjusting. I
5 appreciate everyone's understanding and
6 patience.

7 Have a seat, ma'am.

8 MR. DANIEL: Thank you, Your Honor.

9 WHEREUPON:

10 SHELLEY REMION,
11 after having been sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. DANIEL:

14 Q Miss Remion, where are you currently employed?

15 A I'm employed with the Department of Mental
16 Health in Newberry.

17 Q So you work at the Newberry County branch at the
18 Department Mental Health?

19 A Yes.

20 Q Where is that located?

21 A That is located at 2043 Medical Park Drive,
22 that is at the end of the a street behind the
23 hospital.

24 Q Okay. It's part of a plaza of health care
25 providers right near the hospital?

Examination of Shelley Remion

225

1 A Yes.

2 Q That is in close proximity of the Department of
3 Mental Health to the vocational rehabilitation
4 building; is that correct?

5 A That is correct.

6 Q Approximately, how close?

7 A Voc rehab is at the start of Evans Street and
8 we're at the end of the street.

9 MR. DANIEL: Your Honor, may I approach?

10 THE COURT: Sure.

11 BY MR. DANIEL:

12 Q This is State's Exhibit 4. That's just --
13 Miss Remion, just describe where your office is.

14 A We are at the very far end. If you see
15 Dr. McCarther's office with the red dot, we're
16 right behind it.

17 Q And it's appropriately labeled? That's a Google
18 search image, correct?

19 A Yes.

20 Q But everything is appropriately labeled?

21 A Yes.

22 Q I want to go back to October 2nd of 2019. Were
23 you working that day?

24 A Yes, sir.

25 Q And what was your position at the Department of

1 Mental Health specifically?

2 A I'm an administrative specialist. I work the
3 front desk.

4 Q Okay. And on that particular date, did you have
5 an occasion to come into contact with a man named
6 Ricky Brown?

7 A Yes, sir.

8 Q All right. Approximately, what time did you
9 encounter Ricky Brown?

10 A He came into the clinic. It was close to
11 12:30.

12 Q Okay. And what was the purpose of him coming into
13 the clinic that day?

14 A When he got there he came up to the window
15 and he asked me if his counselor was there. He
16 said that his medicine was not -- it was making
17 him feel weird and that she had always told him
18 that if he needed anything that he could come to
19 the clinic and she would see him.

20 Q And who was Ricky asking for specifically?

21 A His counselor, Melody.

22 Q Melody?

23 A Waters.

24 Q Say that again. I'm sorry.

25 A Melody Waters.

Examination of Shelley Remion

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1 Q That would be Ricky's mental health counselor?

2 A Yes.

3 Q Okay. Continue with any other statements that
4 Ricky Brown made to you?

5 A Basically, that was really all he said to me.
6 He did sign in. I let him know Melody was at
7 lunch. This was approximately about 12:30. And I
8 told him that once she got back from lunch that I
9 would let her know that he was there. I told him
10 he was welcome to wait. He sat down in the lobby
11 and...

12 Q All right. And describe Ricky Brown's demeanor at
13 that point?

14 A He seemed fine. He walked in and he signed
15 in. He didn't show any signs of aggression. He
16 was nice, polite. He didn't seem agitated. He
17 didn't seem -- I didn't feel like there was any
18 type of threat.

19 Q So he was not in a state of crisis, in your
20 opinion?

21 A No.

22 Q Did he appear to be intoxicated in any way?

23 A I don't recall. I don't believe so.

24 Q All right. And you said he was there to see his
25 therapist, Melody Waters?

1 A Melody Waters.

2 Q And she was at lunch. Where was she having lunch,
3 to your knowledge?

4 A At the time, I believe it was outside.

5 Q So Melody was on the premises, correct?

6 A Yes. But at the time, I did not know that.
7 She had left the grounds.

8 Q And approximately how long did Ricky wait on
9 Miss Waters?

10 A I'm not really sure because where I sit --
11 where he was sitting, he was not really visible to
12 me. It's almost like the walls come up, so I
13 couldn't see him from where I was sitting.

14 Q Okay. But at some point in time, you no longer
15 saw Ricky in the waiting room area; is that correct?

16 A I don't remember. I don't remember him
17 leaving.

18 Q All right. Please answer any questions the
19 defense has for you.

20 THE COURT: Mr. Verner.

21 CROSS-EXAMINATION

22 BY MR. VERNER:

23 Q Good morning, Miss Remion.

24 A Good morning.

25 Q Now, you were not -- as an employee of the

1 Department of Mental Health, we, a lot of times, call
2 it DMH for short?

3 A Yes, Newberry Mental Health.

4 Q Okay. Now you are not actually a psychologist or
5 social worker?

6 A No, sir.

7 Q Do you answer phones as part of your
8 responsibilities?

9 A Yes, I do.

10 Q Do you know Ricky Brown? Did you know Ricky prior
11 to this case, or recognize him?

12 A Yes, I recognize him.

13 Q You recognize him as a patient?

14 A I can't answer that.

15 Q I thought the judge said you could.

16 A Oh, yes.

17 Q I appreciate your caution.

18 The department -- what kind of people does
19 the Department of Mental Health -- is that also called
20 the Veterans center?

21 A Yes, it is.

22 Q Okay. Veterans center and DMH are one and the
23 same?

24 A Yes.

25 Q What kind of people does the Veterans center

1 treat?

2 A Mental health patients.

3 Q Do you recall Ricky calling in that week trying to
4 see the doctor?

5 A I don't recall that.

6 Q Okay. Are those logs that, ordinarily, would be
7 kept by the Department of Mental Health, or not always
8 the case?

9 A I'm not sure what logs it would be.

10 Q You don't remember how long Ricky waited in the
11 lobby?

12 A Well, he got there at 12:30, and Melody got
13 back from lunch, you know, close to 1:00, maybe a
14 little bit or after one o'clock.

15 Q Okay. At some point, when you looked through -- I
16 assume you're kind of like behind a window-type
17 situation.

18 A Yes.

19 Q I assume at some point, when you looked through
20 the window, you know longer saw Mr. Brown.

21 A I did not see him leave.

22 Q Okay.

23 MR. VERNER: Thank you, Miss Remion. I
24 appreciate your time.

25 THE COURT: Any redirect, Solicitor?

Examination of Shelley Remion

1 MR. DANIEL: No, Your Honor. I just ask
2 she be excused.

3 THE COURT: Thank you.

4 THE WITNESS: You're welcome.

5 THE COURT: You're welcome to remain with
6 us or you're free to leave.

7 THE WITNESS: Thank you.

8 THE COURT: All right. Ladies and
9 Gentlemen, let's take a short morning break.
10 We'll kind of do things like we did yesterday.
11 For those who need to use the restroom, just
12 remain in your seat. If you don't need to use the
13 restroom, then just go on down to the jury room
14 downstairs.

15 Will somebody walk them down?

16 If you need to use the restroom, just keep
17 your seat. Okay.

18 (Jury exits the courtroom at 11:40 a.m.)

19 (A break was taken from 11:40 a.m. to 12:02 p.m.)

20 (Jury enters the room at 12:02 p.m.)

21 THE COURT: Let the record reflect the
22 jury is back in the courtroom.

23 MR. VERNER: Your Honor, may we approach?

24 THE COURT: Sure.

25 (Bench conference off the record.)

1 THE COURT: Call your next witness,
2 please.

3 MR. DANIEL: Thank you, Your Honor. The
4 State calls Kendall Armstrong.

5 THE COURT: Come around, Miss
6 Armstrong.

7 THE CLERK: Miss Armstrong, raise your
8 right hand, please. Do you solemnly swear or
9 affirm that the testimony you shall give the Court
10 and the jury shall be the truth, the whole truth,
11 and nothing but the truth so help you God?

12 THE WITNESS: I do.

13 THE CLERK: Just have a seat and state
14 your name for the record, please.

15 THE WITNESS: My name is Kendall
16 Armstrong.

17 WHEREUPON:

18 KENDALL ARMSTRONG,
19 after having been sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. DANIEL:

22 Q Miss Armstrong, lower your mask so the jury can
23 see your facial expressions and things like that.

24 Miss Armstrong, where are you currently
25 employed?

Examination of Kendall Armstrong

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1 A I'm currently employed at the Newberry County
2 branch of the South Carolina Vocational
3 Rehabilitation Department.

4 Q Quickly, tell us what the Vocational
5 Rehabilitation Department is, what's its mission
6 statement?

7 A Yes, sir. Our mission statement is to repair
8 and assist eligible South Carolinians with
9 disabilities to achieve and maintain competitive
10 employment.

11 Q So you all are a state agency.

12 A Correct.

13 Q So a government agency and you work at the
14 Newberry branch, correct?

15 A Yes, sir.

16 Q What is the address where your office is in
17 Newberry?

18 A 2601 Medical Street.

19 Q That's in the city of Newberry, correct?

20 A Correct.

21 Q I got to ask this question. Is that also in
22 Newberry County?

23 A It is.

24 Q All right. I want to go -- how long have you been
25 employed with voc rehab?

1 A I began an internship in May of 2017. After
2 graduating, I became employed.

3 Q So give or take over three years, essentially.

4 A Correct.

5 Q All right. I want to go back to October 2nd of
6 last year. Were you working that day at the voc rehab
7 building?

8 A Yes, sir.

9 Q And, again, that was a very memorable day for you;
10 is that correct?

11 A Absolutely.

12 Q That day, did you have an occasion to come into --
13 have an encounter with a man named Ricky Brown?

14 A Yes.

15 Q Tell me how that came about. When that came
16 about.

17 A That afternoon we were eating lunch in our
18 back conference room. And we had a doorbell on
19 our front door that let's us know when it's
20 opened. And the doorbell sounded like someone
21 entered our lobby, and I went to go see who that
22 was.

23 Q So you're eating lunch in the conference room and
24 the doorbell rings to notify you that someone has come
25 into the office, correct?

1 A Correct.

2 Q So you were the first employee to respond to that
3 doorbell ring?

4 A Correct.

5 Q So you go to the front and that's when you
6 encounter Ricky Brown; is that correct?

7 A Yes, sir.

8 Q Tell us what happens next.

9 A So I go to Mr. Brown and ask how we could
10 help him. He said he was there to see
11 Miss Sonya Byrd. I let him know that Miss Byrd
12 was currently at lunch and asks if he had an
13 appointment. He said he had spoken with her and
14 she had asked for him to come see her. I let him
15 know I would notify her and that she was at lunch
16 and I was unsure how long it would be before she
17 could come speak with him.

18 Q Who is Sonya Byrd?

19 A Sonya Byrd, at the time, was another
20 counselor in my office.

21 Q So she had been somebody, to your knowledge, who
22 had been working with Ricky Brown?

23 A Yes, sir.

24 Q So she had been Ricky Brown's counselor to help
25 him find gainful employment, right?

1 A Previously, yes, sir.

2 Q So you delivered the message to Sonya Byrd that
3 Ricky was there to see her?

4 A Yes.

5 Q And where was Ricky at the time you were
6 delivering the message to Sonya?

7 A He would have been seated in our lobby.

8 Q All right. Tell us what happens at that point
9 when you notify Sonya that Ricky is there?

10 A So I go back in the conference room and I let
11 Miss Byrd know that he was here to see her, and
12 she said, oh, good, and she stood up to go speak
13 with him and I sat back down and continued eating
14 my lunch.

15 Q Do you remember approximately what time Ricky
16 Brown entered the voc rehab building?

17 A It would have been close to 1:00 p.m.

18 Q All right. So you deliver the message. Sonya
19 goes out to the lobby to greet Ricky; is that
20 correct?

21 A Yes, sir.

22 Q And you continued to eat lunch in the conference
23 room with your co-workers?

24 A Correct.

25 Q Now, walk us through what happens next.

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1 A So we continued to eat our lunch and what
2 seems like a few moments passes by to where I hear
3 a loud sound that at the time -- I mean, I imagine
4 a large metal cabinet had fallen over, and we
5 responded what was that. And I immediately got
6 out of my seat and walked towards the lobby so I
7 could see what happened.

8 Q So you continue eating lunch and Sonya,
9 presumably, is with Ricky, correct?

10 A Yes, sir.

11 Q And you hear a very loud noise at some point?

12 A Yes, sir.

13 Q Describe how it sounded to you.

14 A It was -- to me, it was like a metallic crash
15 sound, and my initial thought was the metal
16 cabinet had fallen over.

17 Q But it was so loud is startled you and your
18 co-workers, correct?

19 A Yes, sir.

20 Q All right. So you all get up and what happens
21 next?

22 A So, we get up and proceed towards the lobby
23 area. And there's multiple doors to our lobby,
24 and as I approached one of the sides,
25 everything -- I hear my boss -- my supervisor

1 shout, "Heads up," and he rushes past me, tries to
2 grab me and, kind of, pulls me out of the door and
3 exit the building.

4 Q And who is this supervisor that you're referring
5 to?

6 A Chad Ulmer.

7 Q You hear Chad at some point -- after you hear the
8 loud noise and you're walking towards the lobby area,
9 you hear Chad yell, "Heads up?"

10 A Correct.

11 Q Do you see Ricky Brown at this point?

12 A No, sir.

13 Q And you said Chad Ulmer grabbed you?

14 A Correct.

15 Q And what happens next?

16 A I, instinctively, kind of, yank away because
17 I wasn't sure why he grabbed me. He then goes
18 again to grab me and pulls me out of the lobby and
19 through the front door to exit our building.

20 Q Are you all walking, running?

21 A It's really -- it was very, very motion -- I
22 would say running.

23 Q Where do you all run to?

24 A So I'm still unsure what exactly is
25 happening. My gut instinct is to just follow my

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1 supervisor's lead. And he asks -- or, you know,
2 run towards the back of our building and so I do.
3 He then instructs that we run behind the back of
4 our building. There is an EMS station next to us
5 and I should go there and ask for help.

6 Q All right. Let's just go through some photos real
7 quick. They're already admitted into evidence.

8 I want to show you State's Number 7. It's
9 going to be on the TV screen for the jury to look at,
10 but you can look at your photo, Miss Armstrong.

11 All right. Again, tell us what we're looking
12 at.

13 A That's our main parking lot to -- our parking
14 lot.

15 Q And would that be the front entrance?

16 A Yes, sir, on the right of the photo.

17 Q And that would be where you and Chad exited after
18 you heard this loud noise?

19 A Correct.

20 Q Okay. Let's look at State's Number 6. What is
21 that?

22 A That is the view from Evans Street of the
23 building.

24 Q Okay. And then State's Number 5. I'll just go
25 through them quickly.

1 A That is Evans Street. It is showing the sign
2 identifying our building.

3 Q Anything else we can see in that photo?

4 A Yes, sir. So that EMS station that I
5 previously mentioned is right there. You can see
6 the signage identifying it as so.

7 Q So that would be where you and your supervisor,
8 Chad Ulmer, when you all exited the building, you all
9 ran to that particular EMS station?

10 A Correct.

11 Q And that was when you all notified them of the
12 situation?

13 A Correct.

14 MR. SCOTT: Judge, would you ask the jury
15 if they can see the screen. I see some of them in
16 a weird position.

17 THE COURT: Anybody having difficulty
18 seeing the screen? If you need to turn your
19 seats, these people over here, feel free to, if
20 you'd like. They're good.

21 MR. DANIEL: And, Your Honor, we can also
22 zoom in on the photos, if they are having trouble.
23 They can let us know.

24 THE COURT: All you have to do is just
25 let us know.

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1 BY MR. DANIEL:

2 Q All right. States Number 8, was is Kendall? I'm
3 sorry.

4 A That is the front door to our building and
5 front lobby.

6 Q And then do you all allow weapons? People who
7 have concealed weapons, do you all allow them to enter
8 the building?

9 A No, sir.

10 Q All right. State's Number 9, what is that?

11 A That's the sign posted on our front window
12 describing that we do not allow concealed
13 weapons.

14 Q And then let's do State's Number 11.

15 A That is our lobby area.

16 Q So that's where Ricky Brown would have entered and
17 the doorbell would go off?

18 A Yes, sir. The photo is taken from the point
19 of view as if you were standing inside of the
20 threshold of the door.

21 Q Okay. So it's a fairly small lobby. Is that
22 accurate?

23 A Yes, sir.

24 Q State's 14, what are we looking at?

25 A So, to the left of the previous photo was the

1 reception area, and you will see the glass window
2 that, kind of, separates us from the lobby.

3 Q Okay. So the previous photo I gave you showed the
4 lobby, and on the left side is where the reception
5 desk is?

6 A Correct.

7 Q And the photo the jury is looking at right now is
8 the actual reception desk.

9 A Yes, sir.

10 Q Let's do State's 15. What is that?

11 A That is a partitioned wall that sits directly
12 behind the chair in the previous photo.

13 Q So that's the wall behind the receptionist desk?

14 A Correct, separating the rest of our office
15 from that other area.

16 Q So the lobby is for the public, but then beyond
17 that partition wall we're looking at is where the
18 office for the employees is?

19 A Yes, sir.

20 Q And why couldn't you see Ricky Brown once you and
21 Chad were attempting to exit?

22 A As I mentioned previously, there are multiple
23 doors coming from our area to the lobby area.

24 From my current perspective, I exited the one on
25 the right which is closest to the front entrance

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1 of our building. But because there was another
2 door leading to the lobby, there's a possibility
3 that they came in through the back door, and,
4 because of that partitioned wall, you wouldn't be
5 able to see them.

6 Q So your view could have been obstructed because of
7 wall?

8 A Correct.

9 Q And State's 16?

10 THE COURT: I thought it was 15.

11 MR. DANIEL: This is 16 I just handed her.

12 THE WITNESS: Yes, sir.

13 BY MR. DANIEL:

14 Q And what is that?

15 A That is a view from that white door next to
16 our lobby leading to our general office area.

17 Q Okay. And that just shows the narrow pathway you
18 would have exited with Chad Ulmer?

19 A Yes, sir.

20 Q And then State's 17?

21 A That is -- that would have been standing in
22 the center of our office area and going towards
23 the right side of this photo which is the back
24 exit. That's typically where people would enter
25 and exit the building. And then toward the left

1 of that is the conference room where we would have
2 been eating.

3 Q So on the left side of this photo is the
4 conference room where you all are having lunch?

5 A Correct.

6 Q And on the right side is the hallway that leads
7 out to the exit?

8 A Correct.

9 Q And that would be where the employees would enter
10 and exit?

11 A Correct.

12 Q All right. And then, lastly, State's Number 18?

13 A That's our conversation room.

14 Q At the time you heard this loud noise, who all was
15 in the conference room eating lunch?

16 A It would have been myself, my supervisor,
17 Chad Ulmer, Cheri Braswell, Sonya Byrd, and Tammy
18 Wood.

19 Q But at the time you heard the loud noise, would
20 Tonya Byrd --

21 A Oh, excuse me, no, sir. At the time of the
22 sound, Sonya Byrd was up front in the lobby.

23 Q Okay. So Cheri Braswell, Chad Ulmer, and
24 Tammy Wood and yourself were eating in that conference
25 room at the time you heard the loud noise?

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1 A Yes, sir.

2 Q Okay.

3 MR. DANIEL: Beg the Court's
4 indulgence.

5 BY MR. DANIEL:

6 Q The last question I have for you: Do you see
7 Ricky Brown in the courtroom today?

8 A Yes, sir.

9 Q Okay. If you could, could you identify him for
10 the jury?

11 A That gentleman there.

12 Q You got to describe him.

13 A He's wearing a plaid shirt. He has a mask
14 over his face and he's clasping the mask with his
15 left hand.

16 Q He's sitting by defense counsel?

17 A He is sitting to the right of Mr. Verner.

18 Q Some of the jurors can't see necessarily.

19 THE COURT: Let the record reflect that she
20 has identified the defendant.

21 MR. DANIEL: Thank you, Your Honor.
22 Miss Armstrong, please answer any questions
23 defense counsel may have.

24 CROSS-EXAMINATION

25 BY MR. VERNER:

1 Q Miss Armstrong, I didn't hear. What was your
2 position at voc rehab?

3 A Counselor.

4 Q Counselor. Is that like a doctor or a social
5 worker-type --

6 A We are master's degree-level professionals.
7 My degree specifically is in rehabilitation
8 counseling, counseling people with disabilities.

9 Q Okay. And just -- I don't want a long answer, but
10 just what are some of the things that you do as your
11 responsibilities for people?

12 A Yes, sir. We assist folks with disabilities
13 so they can achieve and maintain employment.
14 Those disabilities can vary from ADHD, spinal cord
15 injury, mental health concerns, diabetes. Any
16 type of impediment that is employment and
17 disability related, we assist to help those folks
18 overcome their limitation so they can become
19 employed.

20 Q Okay. And I take it it's fair to say that there
21 are many -- or that there are, at least, both clients
22 of the department of mental and vocational rehab?

23 A That's correct.

24 Q Were you personally familiar with Ricky Brown
25 prior to October 2nd of last year?

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1 A Not to my knowledge, no, sir.

2 Q And I just want to clarify, the man who grabbed
3 you and pulled you out of the building or assisted you
4 out the building, that was your co-worker, Chad --

5 A My direct supervisor, yes, sir. Chad Ulmer.

6 Q All right. And just to clarify, voc rehab is,
7 may be not directly, but it's essentially across the
8 street from the hospital. Is that fairly accurate?

9 A Yes, sir. Behind the hospital.

10 Q And when you were pointing out the EMS station,
11 that is the emergency -- that's the ambulance?

12 A Medical services, yes, sir.

13 Q Okay. So right next door to voc rehab is where
14 the ambulance -- it's basically where the ambulances
15 run from, right next to the voc rehab?

16 A There is an ambulance station there, yes,
17 sir.

18 Q And I believe when you encountered Mr. Brown
19 initially, didn't he say that I need to speak to her
20 fast or it's an emergency?

21 A I can't recall those exact words.

22 Q Do you recall him using ASAP?

23 A I do. I do recall him saying, I need to
24 speak with her. And when I mentioned that she was
25 at lunch, he said, I called her and she told me to

1 come here ASAP.

2 Q Okay.

3 MR. VERNER: Thank you, Miss Armstrong.

4 Unless the prosecutor has any more questions --

5 MR. DANIEL: No, Your Honor.

6 THE COURT: You can step down. Thank
7 you. You're free to leave the courtroom, but you
8 are more than welcome to remain with us.

9 Okay. Solicitor.

10 MR. DANIEL: Thank you, Your Honor. The
11 State calls Chad Ulmer.

12 THE CLERK: Mr. Ulmer, raise your right
13 hand. Do you solemnly swear or affirm that the
14 testimony you shall give the Court and jury will
15 be the truth, the whole truth, and nothing but the
16 truth so help you God?

17 THE WITNESS: I do.

18 THE CLERK: Have a seat and state your
19 name for the record.

20 THE WITNESS: Chad Ulmer.

21 WHEREUPON:

22 CHAD ULMER,
23 after having been sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. DANIEL:

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1 Q All right. Mr. Ulmer, where are you currently
2 employed?

3 A Vocational Rehabilitation.

4 Q What's your position over there?

5 A Area supervisor.

6 Q What area do you supervise?

7 A Laurens and Newberry.

8 Q How long have you been with voc rehab?

9 A I'm in my 23rd year now.

10 Q We've already heard what voc rehab, the purpose of
11 that agency. You've been there 23 years?

12 A Yes, sir.

13 Q All right. I want to go back to October 2nd of
14 last year. Were you working that day?

15 A I was.

16 Q All right. And what particular branch were you
17 working?

18 A In the Newberry office.

19 Q Okay. Did you have a chance to encounter a man by
20 the name of Ricky Brown?

21 A I did.

22 Q Okay. Well, tell us what led up to that.

23 A We were in the breakroom. We were in the
24 conference room having lunch. Sonya Byrd had been
25 called to the front. So, you know, we have people

1 coming in and out all day, so thought nothing
2 about it. Just a normal work day.

3 She had been gone for a few minutes, and then
4 heard the loud sound what sounded to me, the best I
5 can describe it, would be an empty metal cabinet and
6 somebody slammed their hand against it as hard as they
7 could. That's the sound it made.

8 Q But it was -- describe the decibel level?

9 A You know, it was -- you know, about like
10 slamming your hand against a cabinet. It didn't
11 sound like a gun to me.

12 Q But, at that point, you hear this loud noise and
13 you and your co-workers get up; is that correct?

14 A That's correct.

15 Q All right.

16 A So next, we got up, and, not thinking about
17 it being a gunshot or I'm sure I would have
18 reacted differently, when I walked out of the
19 conference room, just at a regular pace coming
20 out, Ricky was coming down one side of the
21 building. And you see the size of the lobby.
22 It's not that big. It's an open floor plan. When
23 I was coming out, the first I saw him was when he
24 was coming around the other side -- there's a
25 partition up front where you can't see directly

1 out from.

2 So I'm on one end. He's on the other. When
3 he comes around, he's got his gun on his right side.
4 And it's not down on his side. He's, kind of, got it
5 off the hip, and to me it looks like he was, kind of,
6 struggling a little bit. I didn't -- you know, during
7 my managerial time, you know, I had plenty of times
8 where I negotiated and calmed things down. But when I
9 saw him, I started to say something, but just the look
10 in his face, he didn't have that look like, hey, this
11 is somebody who wants to negotiate.

12 So my assumption was -- Sonya Byrd had come
13 behind him. When I saw him, he had his gun up on his
14 side. I assumed Sonya had been shot. And so he
15 wasn't saying anything. I wasn't saying anything.
16 And so we both just kept walking.

17 And then when I got up, there's a desk out on
18 the open floor. It's about six foot long. When we
19 got right across from each other, he turned and looked
20 slowly, came around with the gun, and that's when I
21 yelled heads up. I was hundred percent sure -- in my
22 mind at the time, the assumption Sonya had gotten
23 shot. I said, hey, he's getting ready to start
24 shooting.

25 When I yelled heads up, I wasn't trying to

1 get out the door. I was trying to get to the other
2 side, and I was thinking, man, I don't want anyone
3 else getting shot. So when I started to make my dash
4 to get out of the shot, I knew I didn't want to go by
5 myself. The worst thing I could have done is get out
6 of the building by myself, so that's what I grabbed
7 Kendall. I think she was, kind of, caught up -- you
8 know, I wasn't really sure what the moment entailed,
9 but I lost grasp of her and then I grasped her again.

10 And then when I realized we hadn't gotten
11 shot, we got out the side door. And then that's when
12 we made our run to the EMS.

13 Q Just to clarify, when you all hear the loud noise,
14 you exit the conference, and who all is exiting the
15 conference room after hearing the loud noise?

16 A All of us are, kind of, filing each other.
17 More like a casual stroll to see, you know, what
18 was that loud noise, not thinking it was a
19 gunshot.

20 Q But who all got up from the conference room?

21 A Myself, Kendall Armstrong, Cheri Braswell,
22 and Tammy Wood.

23 Q Okay. Where is everyone positioned to your
24 recollection?

25 A To my recollection, I was thinking Kendall

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1 was behind me. But they were all -- we were all
2 filing out together. And then when we got out, we
3 was, kind of, spread out about two, three feet
4 apart, it felt like. That's what I recall.

5 Q Kendall Armstrong, was she closest in proximity to
6 where you were?

7 A She was.

8 Q And did anyone else yell out that they saw a gun,
9 or anything like that?

10 A I don't remember anybody yelling anything
11 out. It was quiet. No one said anything that I
12 remember.

13 Q But you clearly saw a handgun in Mr. Brown's
14 possession?

15 A I did. It was off his hip and it just --
16 with the strut that he had coming in, it looked
17 like it was for a purpose to me.

18 Q Okay. And why did you need to grab
19 Kendall Armstrong?

20 A At the time, I was a hundred percent sure he
21 was getting ready to start shooting, because the
22 assumption was he had already shot Sonya Byrd so
23 he's not playing around. And, you know, Kendall
24 was the closest one to me. So he seemed slow down
25 for me at the time.

1 And, you know, during that second, you
2 know, I just -- I wouldn't have wanted to go out
3 myself. That would have been hard to live with,
4 so I wanted to make sure I was getting somebody
5 with me.

6 Q Okay. And are there surveillance -- is there a
7 surveillance system at your Newberry voc rehab
8 building?

9 A There is.

10 Q Is it a fairly sophisticated system?

11 A Yes, sir.

12 Q And what all different cameras angles does it
13 show?

14 A You know, it's got the front entrance, the
15 front lobby, the back entrance, and then it has
16 one camera that goes down the -- if you're facing
17 the front of the building, down the right side,
18 inside the lobby.

19 Q Have you had an occasion to review some of the
20 surveillance footage in this case?

21 A I have.

22 Q And was it a fair and accurate representation of
23 what occurred on October 2nd?

24 A It was.

25 Q And Ricky Brown, do you see Ricky Brown in the

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1 courtroom today?

2 A I do.

3 Q Could you please identify him for the jury?

4 A In the plaid shirt with a mask on beside his
5 lawyer.

6 MR. DANIEL: Your Honor, let the record
7 reflect he's identified the defendant.

8 THE COURT: He has.

9 MR. DANIEL: Mr. Ulmer, please answer any
10 questions defense counsel has.

11 THE COURT: Cross-examination.

12 CROSS-EXAMINATION

13 BY MR. VERNER:

14 Q I don't really have questions about the event, but
15 so we can get a general idea of the building, the voc
16 rehab is a one-story building?

17 A Yes, sir.

18 Q Okay. Where do people typically enter the
19 building from?

20 A Front entrance.

21 Q Which faces what?

22 A Faces the hospital.

23 Q Evans Street?

24 A Yes, sir.

25 Q Okay. And is the parking lot behind the building

1 or --

2 A Beside the building and behind it.

3 Q And this is at the medical park across from the
4 hospital?

5 A Yes, sir.

6 Q Is it fair to say that the medical park is not
7 entirely, but almost exclusively doctors or dentists?

8 A Yes, sir.

9 Q Or psychiatrists or psychologists?

10 A Yes, sir.

11 Q The so the main entrance faces Evans Street?

12 A Yes, sir.

13 Q Is there one main entrance or multiple?

14 A Just one main entrance, and then they have a
15 back door also.

16 Q If I walked in the front door of the vocational
17 rehab area, how big is the lobby area?

18 A Probably 8 by 20.

19 Q The little wall behind it, do you see the -- the
20 half wall behind the chair?

21 A Probably about the same size as the jurors'
22 box up there.

23 Q So it's a fairly small?

24 A Yes, sir.

25 Q And I would assume that there are, like regular,

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1 doctors, there is a partition window or a glassed-in
2 window?

3 A Yes, sir.

4 Q And how many entrances from the lobby to go back
5 into the building?

6 A There's two.

7 Q One on the left side, one on the right side?

8 A Yes, sir.

9 Q And they both lead into a public --

10 A Both of those doors lead into the open floor
11 office.

12 Q Okay. And so if you had entered the lobby, from
13 the way they were walking in, you would have entered
14 the door on your right or the door on your left?

15 A I would have -- if I'm coming, I would have
16 entered on the left.

17 Q And is that where you saw Ricky Brown initially,
18 was in the hallway behind the hallway?

19 A The first time I saw him, he came in the door
20 on the right. Our conference room door is on the
21 far left. So when I was coming in this way, he
22 was on the opposite corner.

23 Q But he's walking from the lobby into the room
24 behind -- or the hallway behind the lobby?

25 A Yes, sir.

1 Q Are those doors locked?

2 A One has a keypad on it. The other one you
3 had to open it manually. And at the time, we had
4 that one door open.

5 Q Did I hear you right, when you first saw Ricky
6 walking, he had a gun, you said Mrs. Byrd was walking
7 behind him?

8 A No, sir. When I saw Mr. Brown, he was coming
9 in, and I didn't see Miss Byrd.

10 Q Okay.

11 A And that's why I assumed that she had been
12 shot because I saw the gun and I didn't see her.

13 Q That was mistaken assumption?

14 A Yes, sir.

15 Q I'm sorry. I thought you said you saw her
16 briefly, though?

17 A No, sir.

18 Q So, from the moment you saw Ricky Brown until the
19 moment that you and Kendall left the building, you
20 never saw Miss Sonya?

21 A No, sir.

22 Q Was he saying -- or did you hear anyone speaking
23 to Ricky?

24 A No one spoke to him.

25 Q Okay. And I take it you were startled when the

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1 walked out from the cafeteria to see Mr. Brown?

2 A Yes, sir.

3 Q And you testified Mr. Brown had a gun at his side?

4 A Yes, sir.

5 Q If he wanted to shoot you, did he have enough time
6 to shoot you between you leaving the building and you
7 initially seeing him?

8 A He had enough time, initially.

9 Q Okay. I understand you left that fast, but not
10 fast enough where somebody was really intending to
11 shoot you. He could have taken a shot at you.

12 A In the building, I think it would have
13 startled him and probably expected us to flee.

14 Q All right. Now, Mr. Ulmer, I don't want your
15 curriculum vitae, but just what is your basic
16 educational background.

17 A I got a master's in management.

18 Q So you are not a psychologist or social worker?

19 A No, sir.

20 Q You were, kind of, the guy to make sure that
21 employees show up to work, that the lights are
22 working, the building is in good repair, but you are
23 not an individual counselor?

24 A I'm not.

25 Q But I suppose in 23 years of working for

1 vocational rehab you're used to dealing with people
2 who come in from the public?

3 A That's right.

4 Q Now, people who come in to vocational rehab, do
5 you call them clients or customers?

6 A Consumers.

7 Q Consumers?

8 A Yes, sir.

9 Q Is there a unique meaning to why they're
10 consumers?

11 A No, sir.

12 Q And in the past you have had to calm things down
13 between consumers at voc rehab and the counselors?

14 A Yes.

15 Q And then when you left the building, you
16 immediately went next door to the EMS and that was
17 largely the extent of your involvement with
18 Ricky Brown that day?

19 A Yes, sir.

20 MR. VERNER: I want to thank you for
21 being here. They may have some follow-up.

22 THE COURT: Any redirect, Solicitor?

23 MR. DANIEL: No, Your Honor.

24 THE COURT: You may step down, sir.

25 You're free to leave. However, you are welcome

Examination of Chad Ulmer

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Examination of Tammy Wood
remain with us.

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THE COURT: Solicitors, we got one more witness before we'll probably break for lunch.

MR. DANIEL: Yes, sir.

THE COURT: Call your next witness then.

MR. DANIEL: Your Honor, the State calls Tammy Wood.

THE COURT: Okay. Come around, Miss Wood.

THE CLERK: Raise your right hand, please. Do you solemnly swear or affirm that the testimony you shall give the Court and jury shall be the truth, the whole truth, and nothing but the truth so help you God?

THE WITNESS: I do.

THE CLERK: State your name for the record, please.

THE WITNESS: Tammy Wood.

WHEREUPON:

TAMMY WOOD,
after having been sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DANIEL:

Q All right. Miss Wood, where are you currently

Examination of Tammy Wood

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1 employed?

2 A South Carolina Vocational Rehabilitation.

3 Q Okay. And what's your position at that agency?

4 A At present or at that time?

5 Q Well, what is your current position today?

6 A Transition coach.

7 Q What does that mean?

8 A I work with transition students to transition
9 from high school into college or work, and I help
10 them learn what skills and do job tryouts and
11 stuff like that.

12 Q All right. How long have you been working for
13 Vocational Rehabilitation?

14 A Eight years.

15 Q Okay. And where do you work? What particular
16 office?

17 A I work in the Laurens and Newberry offices.

18 Q So October 2nd of last year, you would have been
19 working in the Newberry office?

20 A Correct.

21 Q All right. Were you working on the date in
22 question?

23 A I was.

24 Q Okay. So you understand what we're here for
25 today, correct?

1 A Yes, sir.

2 Q Okay. I want to go back -- you all were eating
3 lunch that day in the office; is that correct?

4 A Yes, sir.

5 Q Okay. And you all had lunch in the conference
6 room; is that correct?

7 A Yes, sir.

8 Q Okay. And tell us at that point in time what, if
9 anything, happened that day while you all were eating
10 lunch in the conference room?

11 A We heard the loud noise when Sonya was in the
12 lobby with Mr. Brown.

13 Q All right. Describe this loud noise when you all
14 were eating lunch.

15 A Okay. Unlike some of my co-workers, I
16 thought it was a gunshot, I guess just because
17 I've been around guns all my life. I thought it
18 was a gunshot.

19 Q So you immediately recognize this noise as a
20 gunshot; is that correct?

21 A I assumed. I mean, I thought that's what it
22 sounded like when we all got up to go
23 investigate.

24 Q Okay. Now, when you say you all got up to go
25 investigate, did you want to go and investigate?

Examination of Tammy Wood

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1 A I didn't want to go and investigate, but I
2 wasn't going to stay there.

3 Q Well, tell us where your co-workers went after
4 they heard the loud noise?

5 A So I was sitting on the back side of the
6 conference room table, so it took me longer to get
7 around the table. So I was the last one to come
8 out of the conference room.

9 Q Okay. And tell us what happens at that point when
10 you're exiting the conference room.

11 A Okay. As I get to the conference room door,
12 I looked up and I saw Mr. Brown standing with the
13 gun. He looked at me and I looked at him, and all
14 I could think was run. I saw my co-workers
15 running to the front, but I was -- I decided to
16 run to the back door.

17 Q Okay. So your co-workers, who are your
18 co-workers?

19 A Kendall, Chad, Cheri were all running towards
20 the front.

21 Q Okay. So your three co-workers you just
22 mentioned, they ran to the front?

23 A Yes.

24 Q You were the only one to stay in the back?

25 A Right.

1 Q Okay. And I guess -- I want to put up a photo
2 here.

3 MR. DANIEL: Walter, if you would go to
4 State's 17.

5 BY MR. DANIEL:

6 Q And I know you may -- it's probably one of the
7 COVID issues we're having. I know you're probably not
8 able to see that TV, Tammy.

9 MR. VERNER: She can stand up and move
10 closer.

11 BY MR. DANIEL:

12 Q No, I can --

13 A I can see it.

14 Q Okay. I can show you a photo. Okay. I'm going
15 to hand you State's 17.

16 A Okay.

17 Q All right. As we're looking at the photo,
18 describe where you are at the point in time after you
19 hear the loud noise.

20 A Okay. So the conference room door is on the
21 left, all the way in the back, and the back exit
22 is on all the way to the right. And I came out --
23 and Mr. Brown was more towards the front. You
24 can't see that desk in this picture.

25 So I ran behind that desk that's in the

Examination of Tammy Wood

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1 picture towards the back door. But as I started to
2 run, everything went black, and I thought I'm going to
3 pass out. He's going to shoot me laying here on the
4 floor.

5 So I -- instead of going out the back door
6 because I thought he was behind me because we did make
7 eye contact, I ran into the women's bathroom, which is
8 right by the back door. I had to get my thoughts
9 together because I thought, if I go out this door,
10 where am I going and he's is right behind me. So I
11 went and locked myself in the women's bathroom.

12 Q All right. How far was Ricky Brown from you when
13 you first saw him?

14 A He was -- I was at that far left door and he
15 was on the right side. You see the filing
16 cabinets over on the right? You can barely see
17 them. He was more back that way at another desk.

18 Q Approximately, how many feet? You don't have to
19 be precise?

20 A Twenty. I don't know.

21 Q And what, if any, weapon did you see?

22 A He had a pistol in his hand.

23 Q You clearly saw that?

24 A Yes.

25 Q And you knew from the loud noise that you

1 immediately recognized that to be a gunshot, correct?

2 A Yes.

3 Q All right. Let me show you -- I'm going to show
4 you three photos. Number 19, what is that?

5 A That's the back door, and to the left of the
6 back door is the women's restroom. You can see
7 the door handle there.

8 Q And then State's 20?

9 A That's the door to the women's bathroom.

10 Q Okay. So we just -- the previous photo was the
11 hallway leading to that women's bathroom, correct?

12 A Correct.

13 Q And that's where you entered and sought refuge in
14 that women's bathroom; is that correct?

15 A Correct.

16 Q All right. And then State's 21.

17 A That's inside the women's restroom.

18 Q All right. So once -- did you say you locked
19 yourself in the women's bathroom?

20 A I did.

21 Q Approximately how long were you in that
22 bathroom?

23 A It felt like a long time. It felt like
24 forever, but I really don't think it was that
25 long.

Examination of Tammy Wood

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1 Q How long did it feel to you, if you had to
2 estimate?

3 A Maybe 10, 15 minutes. It was probably, in
4 reality, less than five.

5 Q All right. Have you had a chance to review the
6 surveillance footage from the vocational
7 rehabilitation building?

8 A I have.

9 Q Okay. And is that a fair and accurate
10 representation of what occurred on October 2nd?

11 A Yes.

12 MR. DANIEL: And, Your Honor, at this
13 time, I would play State's Number 2, the portion
14 related to Miss Wood's testimony.

15 THE COURT: Okay. About how long is it,
16 Solicitor?

17 MR. DANIEL: Your Honor, for our
18 purposes, it will be about -- and I can actually
19 -- it won't be long. I can skip around.

20 THE COURT: Sure.

21 MR. DANIEL: Walter, if you can pull that
22 up.

23 THE COURT: Mr. Verner, if he skips over
24 certain parts that you feel like need to be
25 played, then we can do that at some point in time.

1 I was just trying to gauge the amount of time.
2 We're trying to break for lunch around 1:00 or
3 thereabouts.

4 MR. VERNER: I understand.

5 MR. DANIEL: Walter, if you would go to
6 about 13:12:50 on the time stamp.

7 (Video played the 13:12:50.)

8 MR. DANIEL: Stop there.

9 BY MR. DANIEL:

10 Q Did you see that, Miss Wood.

11 A I did.

12 Q That's you entering the women's bathroom,
13 correct?

14 A Right.

15 Q All right. And that's approximately, on the time
16 stamp 13:13, and that's military time, would that be
17 approximately 1:13 p.m.; is that correct?

18 A That's correct.

19 MR. DANIEL: Walter, if you could --

20 BY MR. DANIEL:

21 Q So, at that point, did you lock that door to the
22 bathroom?

23 A Yes, I did.

24 Q Did you assume Ricky was behind you at that
25 point?

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1 A I did. I thought he was chasing me.

2 MR. DANIEL: Okay. Walter, go to

3 13:16:20.

4 (Video played 13:16:20.)

5 MR. DANIEL: Stop it right there, Walter.

6 BY MR. DANIEL:

7 Q Miss Wood, what did we just see?

8 A We just saw Mr. Brown deadbolt that bathroom.

9 Q Okay. Mr. Brown had to manipulate the deadbolt to
10 lock it?

11 A Yes, sir.

12 Q All right. And you're still in the women's
13 bathroom at that point?

14 A Correct.

15 MR. DANIEL: Walter, if you could
16 fast-forward from the point -- could you go
17 10 seconds fast-forward, roughly. And stop it,
18 please, Walter.

19 (Video played.)

20 BY MR. DANIEL:

21 Q All right. What did we just see there, Miss Wood.

22 A I just finally exited the restroom and go out
23 the back door.

24 Q And did you have to unlock that deadbolt to
25 exit?

1 A I did.

2 Q And all in all it looks like, according to the
3 timestamps, you entered the bathroom at about
4 1:13 p.m. Would you agree with that?

5 A Yes, sir.

6 Q And then about three and a half minutes later, we
7 see Ricky Brown going down the hallway to lock the
8 back door; is that correct?

9 A That's correct. I wasn't aware of that at
10 the time.

11 Q Correct. You wouldn't have been aware of that.

12 Let me ask you this: Did you hear any
13 commotion from anyone, Ricky Brown or anyone else,
14 while you were locked inside that bathroom?

15 A I did.

16 Q Tell us about that.

17 A I heard Sonya call 911, and then I heard her
18 holler, "Don't hurt her," and I didn't know who
19 she was talking about. And then I also heard
20 Mr. Brown say, "I'm not going to hurt her."
21 That's all I heard him say. I heard Sonya on the
22 phone.

23 And then I heard her call his sister and ask
24 her to come up there. And I heard her tell his sister
25 that Ricky wanted to talk to her. And that's when I

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1 realized now is my chance to get out of here. If he's
2 distracted on the phone, then I can get out this back
3 door and he wouldn't see me.

4 Q And as you're exiting from that footage we just
5 watched, did you have Ricky Brown in eye view of
6 you?

7 A No.

8 Q All right. So you would agree, you were locked in
9 that bathroom for just shy of four minutes, would that
10 be accurate to say?

11 A Probably. Like I said, it felt like forever,
12 but, in reality, it was probably less than four
13 minutes.

14 Q Okay. When you exited the building, what, if
15 anything, did you encounter?

16 A There was a police officer over to the left
17 in the parking lot near our mailbox hollering for
18 me to come that way. I had recently had knee
19 surgery and sprained my ankle, so I wasn't going
20 very fast, but I did go to him. And Cheri was
21 there with him.

22 Q Okay. Cheri Braswell your co-worker --

23 A Yes.

24 Q -- was already with this police officer?

25 A Yes, sir.

1 Q And, again, we're seeing you walk, but you're
2 saying you had an injury?

3 A Yeah, I had had surgery on my right knee and
4 completed physical therapy for that and then fell
5 and sprained my left ankle, so I wasn't moving too
6 fast.

7 Q Yes, ma'am, I understand.

8 MR. DANIEL: Beg the Court's indulgence.

9 BY MR. DANIEL:

10 Q Please answer any questions defense counsel has,
11 thank you.

12 THE COURT: Mr. Verner, any cross?

13 MR. VERNER: Just briefly, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. VERNER:

16 Q Now, Miss Wood, the door that you left the
17 building in --

18 A Yes, sir.

19 Q Is that on the back side of the building away from
20 Evans Street or is that one of the side doors?

21 A Yes, sir. It's on the back side.

22 Q On the far side of the building from
23 Evans Street?

24 A Yes, sir.

25 Q And there was already a police officer in the

1 parking lot?

2 A Yes, sir.

3 Q Within three minutes --

4 A Yes, sir.

5 Q Okay. I didn't quite understand you. You said
6 somebody called Ricky Brown's sister?

7 A Sonya did.

8 Q Did you hear her call his sister from the
9 bathroom, or how do you know that?

10 A I heard her on the phone with his sister.

11 Q Okay. Did you hear the gist or the nature of that
12 conversation?

13 A She was telling her what was going on and
14 told her that Ricky wanted to talk to her.

15 Q Okay. And the doors, the deadlocks, would keep
16 people from the outside of building from entering the
17 building, but they would not keep people who are in
18 the building from leaving, would they?

19 A I would have to turn the deadbolt to open
20 it.

21 Q Which you did and you left?

22 A Right.

23 Q So, you also heard Miss Sonya dialing 911?

24 A I heard her talking to the 911 operator.

25 Q Do you remember the gist of that conversation?

1 A She was telling them that there was -- I
2 don't remember exactly how she worded it. She was
3 telling them there was a shooter in the
4 building.

5 Q Okay. Was she in the same room as Mr. Brown at
6 the time she made the call?

7 A I don't know. I was locked in the
8 bathroom.

9 Q Okay. And, again, just so I'm clear, if you walk
10 out the bathroom door, you walk into the conference
11 room?

12 A No, sir.

13 Q Okay. What room -- the picture with the desk in
14 the middle of it, what do you call that room?

15 A That was our office area.

16 Q Just like a big open room?

17 A Yes, sir. There's two desks in that room.

18 Q Okay. And that's, kind of, the center in the back
19 of the building?

20 A Kind of the center.

21 Q Okay. But you don't remember if Miss Sonya was in
22 the main room or the -- again, I apologize. What do
23 you call the main room of the building again that you
24 walk out the bathroom into?

25 A Just the office area.

Examination of Tammy Wood

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1 Q The office area.

2 A Yes.

3 Q Was Miss Sonya in the office area when she made
4 the call, or you heard it from all the way up front?

5 A She was -- I mean, I heard her. I don't know
6 where she was.

7 Q Okay. Did you hear Ricky speaking to anybody?

8 A The only thing I heard him say was, when she
9 said, "Please don't hurt her," he said, "I'm not
10 going to hurt her."

11 Q Okay. Do you know who he was talking about by
12 "her"?

13 A No, I do not.

14 Q So who the "her" was, you do not know?

15 A No.

16 Q And by the time you got out of the building,
17 Miss Cheri Braswell had already made it out because
18 she was with the officer?

19 A Yes, sir.

20 Q Okay. Just out of curiosity, was that a police
21 officer who appeared to have been dispatched to the
22 building, or was that just someone who, by coincidence
23 happened to be in the parking lot, or do you know?

24 A I would assume he had been dispatched.

25 Q So ordinarily, there would not be a security guard

1 or an officer in the parking lot?

2 A No, sir.

3 Q He was either on patrol or he got called?

4 A Yes, sir. But he was stopped in our parking
5 lot.

6 Q Okay. Was it a city policeman?

7 A Yes, sir.

8 Q And he was not in his car. He was already out of
9 his car?

10 A He was already out.

11 Q Now, you told the prosecutor a few minutes ago
12 that you're currently the transition coach?

13 A Yes, sir.

14 Q And, at that time, in October 2nd of last year,
15 what was your position?

16 A Administrative team support specialist.

17 Q And by team, I assume that -- does vocational
18 rehab employ psychologists?

19 A I believe we have one psychologist on
20 staff.

21 Q Okay. And then would you just, as a layman's
22 term, would you classify most the people there as
23 social workers, or how would you characterize the
24 typical --

25 A Counselors.

Examination of Tammy Wood

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1 Q Counselors?

2 A (Witness nods head up and down.)

3 Q Okay. Were you familiar with Ricky Brown prior to
4 October 2nd of 2019?

5 A Yes, we had worked together before.

6 Q All right. Miss Wood, it was a traumatic event,
7 wasn't it?

8 A It definitely was.

9 Q Okay. I appreciate you being here today. The
10 prosecutor may have some follow-up.

11 A Thank you.

12 THE COURT: Anything in redirect?

13 MR. DANIEL: No, I don't, Your Honor.
14 Thank you.

15 THE COURT: Thank you, ma'am. You may
16 step down.

17 THE WITNESS: Thank you.

18 THE COURT: All right. Ladies and
19 Gentlemen, it is almost after the one o'clock
20 hour. This would be a good time to break for
21 lunch. If you plan to go to a local restaurant to
22 eat lunch, would you keep your juror badges
23 visible. The reason for that is if some lawyers,
24 or maybe some of the people out here, court staff
25 maybe, if they are at that same restaurant talking

Examination of Tammy Wood

1 about this case, they may not recognize you being
2 on the jury. If you have that visible, then
3 they'll know not to speak to where you can hear
4 what they were saying, if that were to happen.
5 So, if you do go out to a local restaurant, just
6 keep that visible.

7 Again, I'll remind you about no
8 discussions among yourselves or anybody that you
9 come into contact with and we'll start back at
10 2:30. Have a good lunch.

11 (Jury exits the courtroom at 12:09 p.m.)

12 (A recess was taken from 12:10 p.m. to 2:49 p.m.)

13 THE COURT: Solicitor Scott, you want to
14 call your next witness.

15 MR. SCOTT: Yes, Your Honor. The State
16 would call Cheri Braswell.

17 THE COURT: Okay.

18 MR. DANIEL: Miss Braswell, will you
19 raise your right hand, please. Do you solemnly
20 swear or affirm that the testimony you shall give
21 the Court will be the truth, the whole truth, and
22 nothing but the truth so help you God?

23 THE WITNESS: Yes, ma'am.

24 MR. DANIEL: Have a seat and state your
25 name for the record.

Examination of Cheri Braswell

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1 THE WITNESS: My name is Cheri Braswell.

2 THE COURT: All right. Solicitor, you may
3 proceed.

4 WHEREUPON:

5 CHERI BRASWELL,

6 after having been sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. SCOTT:

9 Q All right. Cheri, I just want to start a little
10 bit with your employment. Where are you currently
11 employed?

12 A I'm currently employed with South Carolina
13 Vocational Rehabilitation. I work in the finance
14 department.

15 MR. SCOTT: Can you guys hear?

16 MR. VERNER: She's going to have to speak
17 up just a little bit louder.

18 THE COURT: Is that on?

19 MR. SCOTT: No, it's not.

20 BY MR. SCOTT:

21 Q Cheri, I'm sorry. Would you repeat that,
22 please?

23 A I work for South Carolina Vocational
24 Rehabilitation Center, and I work in the finance
25 department.

1 Q Okay. And you are currently in the Columbia
2 campus out by the airport; is that right?

3 A Yes, sir.

4 Q I want to go back to October 2nd of last year.
5 Where were you employed then?

6 A I was employed as a counselor at the Newberry
7 vocational and occupation office.

8 Q Did the events of that day have anything to do
9 with you transferring out of counselor and becoming
10 finance director?

11 A Yes, sir.

12 Q All right. Well, let's go to October 2nd of last
13 year. You're counselor at Newberry branch of voc
14 rehab, and I understand there was pizza for lunch that
15 day; is that right?

16 A Yes, sir.

17 Q Was there some kind of a special event going on?

18 A Yes, sir. It was Chad's anniversary.

19 Q Okay.

20 A Work anniversary.

21 Q That's Chad Ulmer who we heard from earlier?

22 A Yes, sir.

23 Q Okay. Let's go to -- the office as a whole were
24 celebrating his anniversary?

25 A Yes, sir.

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1 Q And you guys typically eat lunch in the conference
2 room in the back of the building; is that right?

3 A Yes, sir.

4 Q If I'm in the lobby and I'm facing what you guys
5 have been talking about a partition, kind of where the
6 reception sits, that conference room would be the back
7 left part of the building; is that right?

8 A Yes, sir.

9 Q And so who all was back there eating pizza for
10 Mr. Ulmer's anniversary?

11 A It was me, Tammy, Kendall, Sonya, and Chad.

12 Q Okay. Now, we heard some testimony that at some
13 point there was -- well, how would you describe the
14 noise you heard?

15 A It was a gunshot.

16 Q Did you feel like it was a gunshot at the time? I
17 think Chad said it sounded liked a metallic sound?

18 A No, sir. It was a gunshot.

19 Q Okay. How did you know that?

20 A I have a concealed weapons permits, and I
21 have lots of years of experience in shooting.

22 Q Okay. So prior to the gunshot, where had Sonya
23 gone?

24 A Out to the front lobby.

25 Q Okay. Who was up there asking for her, to your

1 understanding?

2 A Ricky Brown.

3 Q Was Ricky somebody you were familiar with?

4 A I was not familiar with him. I mean, I don't
5 know him, but I was familiar with him.

6 Q Okay. Well, correct me if I'm wrong, but he would
7 have been a consumer with voc rehab in the past; is
8 that right?

9 A Prior to me coming there, yes, sir.

10 Q Did you have knowledge that he had worked with
11 Sonya Byrd in the past?

12 A No.

13 Q All right. Did you recognize him if -- would you
14 have recognized him if you saw him?

15 A No.

16 Q Okay. Were you just familiar with his name then.
17 Is that what I'm to understand?

18 A Yes.

19 Q So she had been called up front and your
20 understanding was, she was meeting with Ricky Brown
21 and then you hear the gunshot. Tell me what happens
22 next.

23 A We all get up and we start heading out into
24 the main entrance, the main part of the office.

25 Q Well, help me out. Who, to your recollection,

Examination of Cheri Braswell

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1 left the table first?

2 A I don't know.

3 Q Okay. Do you remember seeing Kendall and Chad?

4 A Uh-huh.

5 Q Okay. Were they in front of you or were they
6 behind you?

7 A They were in front of me.

8 Q And they were moving up towards the front of the
9 building to where the gunshot shot came from?

10 A It was -- we had heard it. We all got up.
11 It was Chad and Kendall and I was behind Kendall.
12 Tammy was last. And Sonya was coming in the -- if
13 you're looking at the partition, on the left side
14 with Ricky.

15 Q Tell me what your first observations were when you
16 saw Sonya and Ricky?

17 A Ricky had a gun, waving it. Sonya was
18 screaming his name. Chad and Kendall and I were
19 trying to get out the front door.

20 Q Okay.

21 A He was coming around to the left side of the
22 partition, if you're looking at the partition.

23 Q All right. Did you see Chad and Kendall get out
24 the door to the outside?

25 A No, sir, because Ricky stopped me before I

1 could see him.

2 Q He stopped you before you could see him?

3 A (Witness nods head up and down.)

4 Q Tell me what you recall about that.

5 A I recall his hand on my head.

6 Q Okay.

7 A And him telling me I can't leave.

8 Q All right. So he grabbed you by the back of the
9 head.

10 A Yes, sir.

11 Q And you were trying to follow Kendall and Chad out
12 of the building?

13 A Yes, sir.

14 Q So he grabs you by the hair and says you're not
15 leaving.

16 MR. VERNER: Your Honor, that's twice the
17 Solicitor made a statement that he did say --

18 THE COURT: Okay.

19 MR. VERNER: -- and he's leading her
20 twice now where he said he grabbed you by the back
21 of head.

22 THE COURT: Okay.

23 MR. VERNER: And then he said he grabbed
24 her by the hair and she didn't say that. That's
25 twice he's led this witness.

Examination of Cheri Braswell

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1 THE COURT: All right. Try not to lead,
2 and specifically what happened in this part of the
3 events, Miss Braswell.

4 MR. SCOTT: Okay.

5 MR. SCOTT: So you're saying he doesn't
6 want me to say what she's saying --

7 MR. VERNER: Your Honor, that's
8 absolutely -- what I want or don't want is not a
9 question for the witness.

10 THE COURT: Okay. We just need to make
11 sure we all hear what you have to say. And if at
12 any time you need to take a break, I know you're
13 nervous and emotional, that's fine. I understand.
14 Not a problem. Let us know if you need to take a
15 break.

16 Specifically, what happened in this
17 event. What was either done or said by the
18 defendant. That's the point we're at. So would
19 you relay that to us, please.

20 THE WITNESS: He said, "You can't leave."

21 BY MR. SCOTT:

22 Q Okay. And where did he grab you?

23 A In the back. I was bent down. He had
24 here -- on the back of my head. He had his hand
25 here, and I stood up with my hands like this

1 (indicating). Okay, I'm not going anywhere. I'm
2 not doing anything. I know you have a gun. So I
3 stood up.

4 When I stood up, I turned -- we turned around
5 and he brought his left arm across my chest. He
6 grabbed my shirt and my bra and my badge and the gun
7 was right to my right side. And he kept -- he
8 grabbed -- pushed like you were going to pull
9 something until my back hit his chest. That's when
10 Sonya was on the phone with 911 telling them that we
11 had an active shooter in the building and kept telling
12 him not to -- her words were, "Don't hurt her."

13 Q So he is behind you and he's got his left arm
14 around you, is what you're describing?

15 A His left arm.

16 Q Okay. You said he's holding you. I guess your
17 back is to his chest?

18 A Yes.

19 Q Is he saying anything at this time?

20 A She's on the phone with 911 and he's made a
21 comment, go ahead and call them. They're going to
22 have to come in here and get me. I am not going
23 out there.

24 Q All right. So, at this point, he's physically
25 restraining you?

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1 A At this point, he physically has me, yes.

2 Q All right. Tell us again, where is the gun at
3 this point?

4 A It's on my right side.

5 Q Is he touching you with the gun?

6 A It's right in my shirt, side.

7 Q Okay. Now, he's not going to let me repeat what
8 you said. Is it pressing into your side?

9 A No, it was laying on my shirt at my side. He
10 doesn't -- it's just there.

11 Q Okay. I'm sorry. Were you about to say
12 something?

13 A The distance between me and him, I could look
14 down and tell you exactly. It was a small black
15 revolver, not shiny, it had five or six rounds in
16 it, and it was a very small handgun.

17 Q Okay. So you're able to -- as he's holding you,
18 you did look down and see the pistol?

19 A The gun. Right here.

20 Q Okay?

21 A He's got it at an angle so you can tell it
22 was a revolver.

23 Q Cheri, I'm going to show you pictures of a gun,
24 okay? This is State's 22 and 23.

25 A Yes, sir.

1 THE COURT: What are the exhibits
2 numbers, Solicitor.

3 MR. SCOTT: 22 and 23.

4 THE COURT: Okay.

5 BY MR. SCOTT:

6 Q Do you recognize those pictures?

7 A Yes, sir.

8 Q All right. What are those pictures of Cheri?

9 A The pictures of the black small handgun
10 revolver that he had in my side.

11 Q All right. Cheri, can I ask, what are you
12 thinking at this time?

13 A I was going to die. Everything was true. My
14 family, if the last thing I ever saw was staring
15 at a gun on my side.

16 Q Okay. Did you ever think that you could pull away
17 from him and run out of the building?

18 A No, sir.

19 Q Why not?

20 A Because he had ahold of my shirt, or my
21 badge, or my bra strap. I couldn't get out
22 without knowing that I was going to get shot.

23 Q And was Sonya eventually able to get through to
24 911?

25 A She was on the phone calling 911 while we

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1 were standing there. She was in front of us. It
2 was her, and it was me, and it was him.

3 Q How do we move on past that situation where he's
4 got you with his left arm across his chest, he's got
5 the pistol at your side, what happened next?

6 A Sonya begged for him to let me go, and he
7 finally let me go to where I could go out the side
8 door.

9 When I was outside, I was met by the nicest
10 police officer who asked me if I could describe and
11 told that officer exactly what kind of gun Ricky had
12 in his possession, what kind of shirt. I don't think
13 it was black. And the officer said, thank you for the
14 information because now that gives them -- it's a
15 different mind frame of how they do things.

16 Q Okay. The officer was just asking for information
17 on what was going on inside?

18 A Yes, sir. And he wanted to know what I could
19 tell him about it, so I described the gun so that
20 he would know what he had.

21 Q Okay. And Sonya was helpful into getting him to
22 release so you could go outside?

23 A Yes, sir.

24 Q And when you went outside, was it just Sonya and
25 Ricky left inside?

1 A Yes, sir.

2 Q Do you know about how long it was between him
3 grabbing you by the hair -- or the head, wherever he
4 grabbed you, and the time you were released?

5 A It felt like forever. I would say probably
6 ten minutes, five or ten minutes.

7 Q All right. The key questions are, did he present
8 that pistol to you? Did you feel threatened by him?

9 A Yes, I did.

10 Q And did you feel like you were free to leave?
11 When he was in there holding you, did you feel free to
12 leave?

13 A No.

14 Q All right. Let me just make sure, Cheri, I didn't
15 forget anything.

16 A All right.

17 THE COURT: Cross-examination, Mr. Verner?

18 MR. SCOTT: Answer any questions

19 Mr. Verner has.

20 MR. VERNER: Thank you.

21 CROSS-EXAMINATION

22 BY MR. VERNER:

23 Q Miss Braswell, in October of last year, you were a
24 counselor for voc rehab?

25 A I was.

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1 Q What kind of -- did you have a specialty or a
2 particular type of counseling you were doing?

3 A I have a master's degree in rehabilitation
4 counseling.

5 Q Okay. But my question was: What kind of
6 counseling were you doing for your consumers last
7 year? Were you helping them to get jobs?

8 A Jobs.

9 Q Would it also involve --

10 A My case load was with traumatic brain
11 injuries, spinal cord injuries.

12 Q So, the kind of people who had been in a car wreck
13 and were struggling to walk again?

14 A In a wheelchair.

15 Q Does voc rehab -- you tried to find them places
16 that will hire them, but did you also, kind of, work
17 with them about their issues in the office?

18 A We also work with them to modify their
19 vehicles.

20 Q Okay. Is it fair to say that a significant number
21 of the voc rehab patients are also DMH patients?

22 A Yes, sir.

23 Q You know, I thought I heard, you had a CWP?

24 A Yes, sir.

25 Q Okay. Which is a concealed weapons permit, or a

1 gun permit?

2 A Concealed weapons permit.

3 Q Now, I would assume that voc rehab probably has a
4 policy that the employees can't come to work with a
5 weapon?

6 A Right. It's not supposed to be in your
7 vehicle.

8 Q All right. Where you had the encounter with
9 Mr. Brown was in the front room, or which room was it
10 in?

11 A Between the main lobby and the partition.

12 Q Is that kind of a hallway or is that a separate
13 room?

14 A It's a hallway between -- once you come in
15 the double doors, there's a hallway and then the
16 petition and the rehab room.

17 Q So this would not have been in the reception
18 area?

19 A It was behind the -- well, what you're
20 calling the reception area is behind the glass.
21 But then there's a partition, and then there's
22 another lady who sits at the desk.

23 Q Okay. So it's more like a second room after you
24 first walk in, the first small room which I called the
25 reception area?

1 A Yes.

2 Q There's not a hallway on the other side of the
3 partition. There's actually another room on the other
4 side?

5 A No, sir. It's an open area with two desks in
6 that open area.

7 Q And you had entered into that area with Chad and
8 Kendall?

9 A And Tammy.

10 Q And Tammy. It's fair to say that this was a
11 traumatic event for you?

12 A Traumatic would not be the word, I would say.
13 Life-changing, traumatic.

14 Q And I understand you said it lasted several
15 minutes but felt it lasted much longer than that?

16 A Yes, sir.

17 Q Because of the excitement or the trauma, whatever
18 the appropriate word is, do you have a clear
19 recollection of the events, or it just happened so
20 fast --

21 A No, sir. I relive this every night.

22 Q I'm not challenging your statement, but working in
23 rehab, is it fair to say that people's memories can --
24 about events can include other things that sometimes
25 don't happen? Like, I'm not asking about you

1 specifically, but when people go through traumatic
2 experiences, as a rehabilitative -- you don't know
3 whether they sometimes in their dreams or in their
4 thoughts they get a lot of convoluted emotions that
5 kind of --

6 A No.

7 Q Did Mr. Brown point the gun at you?

8 A Yes, sir, he did.

9 Q Did he say anything threatening to you?

10 A Just told me I can't leave.

11 Q Do you remember Miss Sonya in the room at the
12 time?

13 A Yes, sir.

14 Q Do you remember what Miss Sonya was wearing at the
15 time?

16 A No, sir.

17 Q Do you remember what you were wearing at the
18 time?

19 A No, sir.

20 Q I think I heard someone, it might have been
21 Mr. Ulmer, indicated there were fairly sophisticated
22 camera video surveillance set up in the building?

23 A Yes, sir.

24 Q Okay. Are you aware of whether there's video of
25 the room that you were in?

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1 A I know that we have them around the building,
2 but I'm not very familiar with where they are.

3 Q Okay. You were with Sonya and Mr. Brown, but you
4 heard Miss Sonya call 911?

5 A Yes, sir. She was on the phone with them.

6 Q Okay. Do you recall her telling 911, or trying
7 to -- did you -- Miss Sonya had been dealing with
8 Ricky for a while, right?

9 A In the lobby.

10 Q Were you aware that Ricky had indicated that he
11 was suicidal and that Sonya was trying to place him in
12 the emergency room?

13 A Yes, I did, because I was the one who made
14 the phone call to the emergency department.

15 Q Well, tell us about -- I don't think you told the
16 solicitor about that. So tell us.

17 A Sonya had come in my office that morning and
18 asked that I call the contact person that I knew
19 at Laurens County Memorial Hospital because that
20 was in the area. I gave Sonya the information and
21 she called from my office. She talked to Shannon
22 who is the social worker at the hospital. She let
23 Shannon know that we had a person that was
24 suicidal and that we were going to be sending him
25 their way, to put security on alert.

1 Q So, Miss Sonya was aware that she was working with
2 somebody who was emotionally unstable at the time?

3 A Yes, sir.

4 Q Or at least going through an emotionally unstable
5 period at the time.

6 A Yes, sir.

7 Q I certainly know that what you went through is not
8 an everyday or ordinary or expected occurrence, but
9 the -- but part of the people that you work with are
10 emotionally -- are going through emotionally unstable
11 or mental health episodes. Is that fair to say?

12 A Yes.

13 Q Do you all have training to work with people who
14 are going through suicidal --

15 A Yes, sir, we are taught that when we go
16 through our vocational rehabilitation counselor
17 degree.

18 Q Now, your -- initially, you are focusing on
19 rehabilitative therapy for people who had traumatic
20 brain injuries?

21 A Traumatic brain injuries, spinal cord
22 injuries, people who were at work who had issues
23 at work. I would help them maintain their job.

24 Q What kind of consumers was -- Miss Sonya, what
25 would her typical consumer be?

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1 A Miss Sonya's case load was probation and
2 parole.

3 Q Were you still with them by the time that
4 Miss Sonya had called Mr. Brown's sister?

5 A No, sir.

6 Q Do you know how long Miss Sonya was on the phone
7 with 911?

8 A For a while. She was on the phone with them
9 when I walked out the door.

10 Q So, when you left she was still on the phone with
11 911?

12 A Yes.

13 MR. VERNER: One second, Your Honor.

14 THE COURT: Sure. Take your time.

15 BY MR. VERNER:

16 Q Do you recall telling Mr. Brown something to the
17 extent of, please don't hold the gun next to me?

18 A No, I do not.

19 Q Do you remember writing a voluntary statement in
20 this case?

21 A Yes.

22 Q Okay. You don't recall, after you said something
23 like that to Mr. Brown, he actually walked away from
24 you?

25 A No, sir.

1 Q And then when you asked him not to hold the gun
2 near you, he walked away, and Sonya told me to go, and
3 I unlocked the door and did.

4 A I don't remember that.

5 MR. VERNER: May I approach the witness,
6 Your Honor?

7 THE COURT: Keep your mask up.

8 BY MR. VERNER:

9 Q Do you recognize the paper I'm handing you?

10 A Yes, I do.

11 Q I'm not sure I heard your answer. Do you
12 recognize the paper I handed you?

13 A Yes, sir.

14 Q Okay. Does that appear to be your handwriting?

15 A Yes, sir.

16 Q Does that appear to be your statement?

17 A Yes, sir.

18 Q Okay. Do you recall writing something about
19 telling -- when did you write this statement to law
20 enforcement?

21 A Right after the event.

22 Q And you had a clear memory of event, even after
23 all the stress and trauma at the time?

24 A This part where you're seeing --

25 Q Yes, ma'am.

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1 A If you'll see in the video, I go to --

2 Q I'm just -- I'm sure the State played the video,
3 but is that your statement?

4 A Yes.

5 Q Is that an accurate statement --

6 A Yes.

7 Q -- or refresh your recollection on how it
8 happened?

9 A Yes.

10 Q Okay.

11 A But --

12 THE COURT: She can explain her answer.

13 BY MR. VERNER:

14 Q I asked her to.

15 A That sentence is, if you go and -- you see
16 the video, you'll see me where I go to the corner
17 of the petition and I make sure that I can walk
18 out without him coming in my back. And he was
19 standing in front of my office door and I asked
20 him to please take his finger off the trigger and
21 lay it next to the barrel, because my co-worker
22 was still standing there in front of him.

23 Q And you indicated he did?

24 A He did.

25 Q And then Miss Sonya said you need to leave and you

1 did?

2 A I did.

3 Q Thank you. Miss Braswell, the prosecutor may have
4 follow-up.

5 THE COURT: Solicitor.

6 REDIRECT EXAMINATION

7 BY MR. SCOTT:

8 Q Cheri, did you understand that he complained of --
9 or did someone tell you that he was suicidal?

10 A Yes, sir.

11 Q And you said you had called Laurens Memorial
12 Hospital; is that right?

13 A Yes, sir.

14 Q And you had arranged for a bed for him?

15 A We had told -- we had told them that he was
16 coming. The way the hospital works is, you sign
17 into the emergency room with a complaint of
18 suicide and altered status, and you're being seen
19 by an emergency room doctor, and then the
20 emergency doctor calls Telehealth, and then
21 Telehealth -- it depends on if they need to be
22 placed into a certain place for them to get help.

23 Q Okay. So on October 2nd of last year, you were
24 trying to get him help, Mr. Ricky Brown help?

25 A Yes, sir.

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1 Q Was there anything he asked of you that you did
2 not do?

3 A No, sir. She -- he wanted help.

4 Q And you were trying to get him help?

5 A We were trying to get him help.

6 Q All right. Cheri, I'm going to ask you, do you
7 see Ricky Brown here today?

8 A Yes, sir, I do.

9 Q Where is he?

10 A He's sitting to the right with a plaid shirt
11 on.

12 Q Okay.

13 THE COURT: Let the record reflect she's
14 identified the defendant.

15 MR. SCOTT: Thank you, Miss Braswell.

16 THE COURT: Any recross, Mr. Verner?

17 MR. VERNER: No, sir.

18 THE COURT: Thank you. Next witness,
19 Solicitor.

20 MR. SCOTT: Your Honor, the State calls
21 Sonya Byrd.

22 THE CLERK: Miss Byrd, raise your right
23 hand. Do you solemnly swear or affirm the
24 testimony you shall give the Court and jury will
25 be the truth, the whole truth, and nothing but the

1 truth so help you God?

2 THE WITNESS: Yes, I do.

3 THE CLERK: Have a seat and state your
4 name for the record.

5 THE WITNESS: My name is Sonya Byrd.

6 WHEREUPON:

7 SONYA BYRD,

8 after having been sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. SCOTT:

11 Q All right. Sonya, where are you employed?

12 A South Carolina Vocational Rehabilitation.

13 Q And you're at the Columbia campus presently?

14 A Yes, I'm at the Columbia campus.

15 Q October 2nd of last year, where were your
16 employed?

17 A South Carolina Vocational in Newberry.

18 Q Okay. Let me ask you: Do you remember
19 October 2nd of last year?

20 A Yes, sir.

21 Q At that point, were you familiar with Ricky Brown?
22 Did you know him?

23 A Yes.

24 Q And had you helped him in the past in your role at
25 voc rehab?

Examination of Sonya Byrd

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1 A Yes.

2 Q Okay. And that was to find employment?

3 A I provided substance counseling, employment,
4 connection with mental health, also.

5 Q Okay. But October 2nd of last year, was he a
6 current client of yours?

7 A No. His case was closed out about a year and
8 a half prior.

9 Q Okay. Do you recall eating pizza in the
10 conference room that day?

11 A Yes.

12 Q Okay. And tell me how you first became aware that
13 Mr. Brown was there? Had he called before he showed
14 up?

15 A Yes. He called earlier that morning. I want
16 to say it was between 10:00 and 11:00. He spoke
17 to Tammy, initially. I was with another consumer.
18 Tammy came into my office and she slid me a
19 Post-it note with his name on it and said, he
20 needs to talk to you. I said, I'm with someone.
21 Tammy indicated that he said it was urgent.

22 Q Okay.

23 A I said, Tammy, tell him I'll call him back
24 when I finish with this appointment.

25 Q Did you arrange for him to come for an in-person

1 visit?

2 A No.

3 Q Well, was it uncommon for former consumers to
4 call?

5 A No.

6 Q Okay. So it wasn't necessarily noteworthy at the
7 time that he was calling wanting to speak with you?

8 A At the time, no.

9 Q Okay. Well then at what point while you're eating
10 lunch did you become aware that Mr. Brown was in the
11 building?

12 A When Miss Kendall came back to let me know
13 that he was out front wanting to see me.

14 Q You weren't expecting him in person so it was a
15 little bit of a surprise that he showed up there?

16 A It was a surprise, yes.

17 Q Did you get up to go meet him in the lobby?

18 A Yes.

19 Q Tell us about that.

20 A I went out front, and I went through the
21 right door which automatically locks behind me.

22 Q Okay.

23 A And my initial response was, what are you
24 doing here?

25 Q Go ahead.

Examination of Sonya Byrd

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1 A I asked him, what are you doing here?
2 Shamique is supposed to be taking you to Laurens
3 Memorial Hospital. He said, Shamique dropped me
4 off at mental health. One of her boys got in
5 trouble and she went to the school to see what was
6 going on with the little boy, and she said she was
7 coming back to pick me up.

8 Q Can I back you up just a little bit?

9 A Sure.

10 Q I think we missed something earlier. He had
11 called earlier in the day --

12 A Yes.

13 Q -- saying he needed something. Were you able to
14 call him back after you were dealing with the consumer
15 you were dealing with?

16 A After I escorted -- the consumer, the case I
17 opened up, I escorted him out.

18 I came back to my desk and I called
19 Mr. Brown. He indicated on the phone that he was
20 suicidal. He was distressed and he indicated he
21 couldn't take it anymore. I asked him a series of
22 questions. The first of which was, are you on
23 medication? He indicated that he was not.

24 Then I asked him, well, what's your plan?
25 You said you're suicidal. What are you going to do?

1 And he has a history of cutting himself. And I asked
2 him if he was taking street drugs, illegal drugs. He
3 indicated that he was.

4 At that point, I told him -- I asked him, I
5 said, where's Shamique? When his case was open with
6 me, Shamique was his main source of support.

7 Q And you mentioned her name earlier. Who is
8 Shamique?

9 A His sister. I forget that question.

10 Q Well, I think what you said was, are you taking
11 medications? He said, no.

12 A Right.

13 Q Did you have a plan?

14 A What are you going to do? You said you're
15 suicidal. What's your plan?

16 Q Did he have a plan?

17 A To cut himself. That -- actually, he tried
18 to do that on multiple occasions, prior to
19 becoming our consumer.

20 Q And then third, you asked if he was currently
21 using street drugs.

22 A He said yes.

23 Q And then fourth, you asked him what?

24 A Where's Shamique.

25 Q Okay. Did he answer you? Or where did you

1 decide --

2 A He said -- when I asked him where Shamique
3 was, I asked him for Shamique's number. I got her
4 number from him. And I told him, this is what I'm
5 going to do. I'm going to call Shamique and see
6 what's going on. I reached out. At that point, I
7 hung up talking to him. I told him I'd call him
8 back.

9 I went and I talked to Cheri because I knew
10 Cheri had connections at Laurens Hospital. And I had
11 connections with the social worker at Laurens
12 Hospital, a previous history with her.

13 Cheri called. Got me straight through to
14 Shannon. I asked Shannon -- I said, Shannon, look, do
15 me a favor. I got a former consumer. I gave her my
16 name. She looked him up in the system. She indicated
17 that we just saw him -- or he was just seen in the
18 Newberry Hospital on Sunday. I said, yeah. And she
19 asked me a series of questions. The same questions I
20 asked him. Is he taking his meds? I told her no, he
21 indicated that he wasn't. She asked me if he was
22 taking any illegal drugs. I said, yes. She asked me
23 if he had a plan. I said, yes, and I told her what
24 the plan was. She said, well, how is he going to get
25 here? I said, I talked with his sister, Shamique.

1 She's going to pick him up at his house and take him
2 and bring him to you.

3 Q Okay.

4 A And she said she would have the room already
5 waiting for him.

6 Q So the plan you and Cheri Braswell came out was to
7 arrange for bed space at Laurens Memorial for
8 treatment for the issues he was complaining of?

9 A It's a three-day hold. Put him on hold.

10 Q So you were attempting to help him; is that
11 right?

12 A Yes.

13 Q And so as you're sitting down to eat pizza, in
14 your mind, he was being dealt with, he was being taken
15 for treatment.

16 A Correct.

17 Q So when he showed up there, you indicated it was a
18 surprise.

19 A A surprise.

20 Q So you said you went out there and spoke with him
21 and asked him what he was doing there, and continued
22 from there?

23 A After I asked him why are you here, he told
24 me what had happened with Shamique and her son and
25 that she had dropped him off at mental health. So

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1 he sat down in the chair immediately beside the
2 door. I sat down diagonal from him in this chair
3 and started talking with him. I asked him what
4 was going on. What triggers are making you feel
5 like you're suicidal? I was talking to him.

6 And he shared with me that his grandfather
7 had recently passed away.

8 His one cousin had just gone to court two
9 weeks prior, ran out of the courtroom, passed the
10 bailiff and jumped off a bridge to commit suicide.

11 Another cousin within that same period of
12 time had just -- was walking at night in Prosperity on
13 the highway and had gotten killed.

14 And his girlfriend had a miscarriage on
15 Saturday, I think he said, prior to coming to our
16 office.

17 Q So he was going through a lot at that time?

18 A Yes, he was.

19 Q What was his --

20 A I was answering you. Yes, he was.

21 Q What was his demeanor, though?

22 A He was relatively calm while I was talking to
23 him. He was engaged. He was sharing and we were
24 talking through some of the issues that he was
25 sharing with me. I asked him for his phone. I

1 called Shamique to confirm what he had shared with
2 me about what's going on. I had a plan in place.
3 You know, so I called Shamique, and she basically
4 said that one of her boys had gotten into trouble
5 at school. The principal called, and she had to
6 go to the school to see about him and then she was
7 going to come back and pick up Ricky. She
8 indicated that she dropped Ricky off at mental
9 health.

10 Q So the plan is still in play. We're going to get
11 him some bed space at Laurens. We just need to get
12 him a ride over there.

13 A Correct.

14 Q And Shamique says --

15 A I'm coming.

16 Q I'm coming.

17 All right. So you two are in the lobby and
18 tell us, when does everything start going south here?

19 A At some point, I asked him if he wanted
20 something to drink, and I went back through the
21 door with the badge, and then I went and got him a
22 bottle of water. And I came back through,
23 unfortunately. I came back through on the other
24 door that does not lock on there, so that door was
25 open. I gave him a water. We sat down. We were

1 talking.

2 And then another consumer came in. A current
3 client of mine came in and she asked to speak to me,
4 and I stepped away. I asked -- I said, Ricky, look, I
5 got to step away for just a second. I'll be right
6 back. So me and that consumer went through the right
7 door. And I was facing Ricky, so I could still see
8 him and her back was to Ricky. And I was talking her,
9 but I was looking at Ricky. And she wanted to get
10 something notarized.

11 And I saw his demeanor changing. I saw him
12 becoming -- beginning to get agitated, body language
13 changed. He had his phone in his hand. He was
14 fidgeting with the phone. I saw the change.

15 And I asked the consumer, I said, look, leave
16 the documentation with me. I'll get it notarized.
17 I'll give you a call when you can come back this
18 afternoon and pick it up. She said okay. So I
19 escorted her out. She got through the door. I sat
20 back down.

21 Q Well, and I guess -- so the demeanor change kind
22 of happened, when your one-on-one interaction with
23 Mr. Brown was sort of interrupted this other consumer.

24 A Correct.

25 Q But, eventually, she leaves and it's back to your

1 one-on-one with Ricky.

2 A Yes.

3 Q And what happens next?

4 A He was still agitated he pulls something out
5 of his pocket. I said, what's that? I literally
6 said, what's that?

7 Q Did you know what it was?

8 A No. I'm sorry. I'm not a gun person. I did
9 not know. He said, it's a gun. And I was like,
10 Ricky, why do you have a gun? You know you're not
11 allowed to have guns. You're on probation. You
12 can't have a gun and you can't have a gun in the
13 building. What are you doing? He's like, I'm
14 tired. I'm tired of this. I've had enough. They
15 won't give me my medication. He's just, kind of,
16 waving the gun back and forth. I'm done if they
17 don't something. And he stood up and he shot the
18 gun straight into the air straight into the
19 ceiling. And I remember ducking, and like
20 grabbing my ears because it was so loud. And I
21 remember seeing the smoke, smelling the smoke.

22 And he started around this way going to the
23 door that I left unlocked. I knew my co-workers were
24 back there having lunch. Honestly, I did look to the
25 left and I did contemplate leaving, and I honestly

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1 don't know why I didn't leave, but I followed Ricky
2 and I'm yelling, Ricky, please, don't go in there.
3 I'm waving at him, come back, come this way. Let's go
4 out front. Come on. I can even remember saying I'll
5 take you to the hospital. Come on. Come with me. He
6 went on through that door.

7 At this point, I see Chad and Kendall and
8 Cheri coming out of the conference room. And I
9 remember Chad saying, what's that noise, Sonya Byrd?
10 And, at that point, Chad saw the gun and he starts
11 walking at a rapid pace to the door on the right and
12 he reaches back and grabs Kendall and starts pulling
13 Kendall.

14 And I'm still yelling, Ricky, come this way.
15 And Ricky is going that way. Chad and I are coming
16 this way, he's going to that way. Chad and Kendall
17 are being pulled. You know, they're running towards
18 the door. I do remember Kendall pulling away and I
19 remember Chad grabbing her again and then go out the
20 front door. And Cheri was trailing them. He doesn't
21 make it. He stopped her before she got out the door.
22 She was literally halfway in the door, halfway out the
23 door and he stopped her.

24 Q How did he stop her?

25 A I remember him grabbing her. It looked to me

1 like he grabbed her left -- like her shoulder area
2 and stopped her from going. And I remember her
3 going to her knees and begging and pleading,
4 please don't shoot me, please don't kill me.

5 I tried to put myself between him and her, is
6 what I recall. Why I thought he wouldn't hurt me, I
7 don't know, but I tried to put myself between him and
8 her. And I'm still begging and pleading, Ricky,
9 please stop this. We have a plan. Let's talk. Put
10 the gun down. I'm trying to get him to listen.

11 Q All right. So take us from when Cheri Braswell is
12 down on her knees begging for her life.

13 A She stands up and I'm between her and him
14 trying to keep my body between him and her.

15 I don't remember him saying anything. I
16 really don't.

17 I do remember making the call to 911. Cheri
18 was to my left, and, at this point, Ricky was to my
19 right. I'm between them. I'm trying to keep my body
20 between them. And I'm calling 911 talking to the
21 operator and he's over here. I'm looking at Cheri,
22 and I'm just, kind of, like, back and forth between
23 both people.

24 And at some point I remember telling Cheri,
25 leave, leave. While I'm talking to the operator, I'm

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1 trying to talk to Ricky, and I'm telling Cheri, leave,
2 Cheri, because he wasn't paying attention. I don't
3 recall why he let her go. I don't know. I just know
4 he did eventually let her go.

5 Q Okay. Did you see him physically restraining her
6 at some point?

7 A Yeah, he was. Before I could get between
8 them, yes, he was definitely holding her with his
9 left arm. And I remember prying myself between
10 them, to put myself between them.

11 Q What was the window that you felt comfortable
12 telling Cheri make a run for it?

13 A When we was over here to the right -- by the
14 right door. Cheri was over here to the left. She
15 was behind me. I'm like, Cheri, go, just leave.
16 Go, just leave. I'm telling her to leave. And,
17 at some point, she felt like it was safe and she
18 did walk out.

19 Q Okay.

20 A She unlocked the door and left.

21 Q All right. So then it's just you and he?

22 A Yes.

23 Q And what is he talking about when it's just you
24 two?

25 A I called -- I remember calling -- after

1 talking to the 911 operator, I called Shamique. I
2 brought her up to speak on what has happened. I
3 warned her that he came in with a gun and he shot
4 the gun and she needed to get there immediately.
5 She said, what? She was in shock from what I
6 shared with her, and she said, I'm coming. I'm on
7 my way. And I hung up with her. I'm talking and
8 pleading with Ricky. Ricky, put the gun down,
9 please, put the gun down. Let's just walk out.
10 Please, let's just leave. Because at this point,
11 the police were there.

12 Q Was there ever a moment -- let me ask you this:
13 Did he ever put the gun down while you were there?

14 A He put the gun down when he started smoking
15 weed and when he pulled out a pipe to smoke meth.
16 And it was between his legs, because he was
17 crouched down on his knees on the floor. And he
18 had the gun on the floor, and he pulled out a
19 handful of bullets and put them on floor. And
20 then he pulled out the weed. He smoked the weed.
21 And then when he pulled out the pipe, I was like,
22 no, you're not doing that. You're not going to
23 smoke -- I thought it was meth. And that's when
24 he told me it wasn't.

25 Q That's where those bullets that were on the floor

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1 came from? He pulled them out of his pocket?

2 A He pulled them out of his left pocket.

3 Q Did you consider fleeing at that point?

4 A I remember thinking of leaving twice. While
5 we were in there during that hour plus, he got hot
6 and he took off his t-shirt and he was sweating
7 profusely, and I said, Ricky, can I get you
8 something to drink to cool off. I asked if I
9 could turn the fan on, and I turned the fan on on
10 Tammy's desk and faced it towards him, and I asked
11 him if I could do that before I moved. And I
12 faced it towards him.

13 And then I went -- I said, okay, I'm going to
14 go to the kitchen and I'll get you a bottle of water
15 out of the fridge. When I went to the kitchen, I did
16 think about running out the back door.

17 Q Tell me this: Why did you think it was necessary
18 to tell him you were about turn the fan on? Why did
19 you feel it necessary to give him the heads up before
20 you made a move?

21 A I didn't want to make any sudden approved --
22 unapproved moves.

23 Q Why?

24 A I was trying to keep him calm and I was
25 trying to keep him engaged, and I knew that --

1 he'd kill himself. So asking for permission gives
2 you the illusion that you have power or control,
3 so I'm asking for permission. Can I turn the fan
4 on? Can I get you a bottle of water?

5 Q Were you in fear of something?

6 A It's fear. It's anxiety. It's stress. It's
7 all of that. I don't think you can nestle it down
8 into just one word. It was multiple emotions
9 going on at the same time. But I was lucid enough
10 to know that I needed to keep him calm.

11 Q And he's hot, and you ask him if he can go get a
12 bottle of water.

13 A Uh-huh.

14 Q And that's back towards the conference room where
15 the pizza was?

16 A Yes. That's actually right in front of the
17 bathroom, right across from there. But if I kept
18 straight for three more steps, I could have ran
19 out the back door. I did unlock the deadbolt, and
20 I thought about running, but I was, like, well
21 then I'll get shot in the back, so I didn't do
22 that. I got the water and brought him the
23 water.

24 Q Okay. So your testimony is, you didn't run
25 because, in your mind, you were going to get shot in

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1 the back if you took off?

2 A I did, yes. I did think about running, but I
3 didn't.

4 Q All right. Did you speak with him anymore when
5 you returned and gave him the water?

6 A I was talking to Ricky the whole time trying
7 to get him to put the gun down and let's walk out
8 the entire time. And he kept asking for different
9 people. You know, we spoke to Shamique. Then he
10 when he talked to the police, he asked for some
11 guy and his wife. And then he asked for his aunt.
12 To me, and from my perspective, he was trying to
13 say goodbye. And what I thought his plan was to
14 commit suicide right there in our office.

15 Q Well, did he indicate that was his intention?

16 A No. He never said that verbally, no.

17 Q Well, did he indicate why he had gone to the
18 Department of Mental Health earlier?

19 A He did indicate during that time that we were
20 in there that, had he gotten behind the door, that
21 he was going to shoot everybody, and he was
22 especially going to kill Steven and Dr. Tolhurst.

23 Q This is the Department of Mental Health?

24 A Yes, sir, it is.

25 Q All right. Were you aware that he had been to the

1 Department of Mental Health just before going to voc
2 rehab?

3 A He did share that with me while we were out
4 there initially, when we first came out from
5 having pizza.

6 Q So he told you his intent, if he had gotten back
7 behind the door, was to kill a doctor who?

8 A Dr. Tolhurst and Steven.

9 Q Are these people you know?

10 A Yes. They're professional -- you know, we
11 share clients. We have a professional
12 relationship, yes.

13 Q Okay. Did he indicate why he wanted to kill
14 them?

15 A He did not indicate why. But he did say,
16 they won't give me my medicine.

17 Q Did you encourage him to go outside when you
18 became aware the police were outside?

19 A Yes. I constantly encouraged him to put the
20 gun down and let's walk out. During the whole
21 standoff situation because we talked to the police
22 multiple times, I thought I had gotten him to
23 agree to -- once I talked to my aunt, I'll put the
24 gun down, we'll put our hands up, and we'll walk
25 out front. But that's not what happened.

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1 Q Okay. And why not? Why didn't he want to do
2 that, or did he indicate?

3 A He didn't indicate. But after we talked to
4 his aunt, once again, he looked at me in such a
5 way that told me -- when he told, Miss Sonya, you
6 need to go. And the way he looked at me told me,
7 if I didn't leave, then I was not going to, and I
8 left.

9 Q Okay. So eventually he decided that he was going
10 to let you freely leave?

11 A Yes.

12 Q Do you know how long he had held you captive at
13 that point?

14 A Like hours. It felt like hours. Honestly, I
15 was not aware of the time until I got outside.

16 Q We listened to your 911 call earlier today. Did
17 we not?

18 A Yes, we did.

19 Q And that was a fair and accurate representation of
20 the phone call you made October last year?

21 A Yes.

22 MR. SCOTT: Your Honor, with the Court's
23 permission, I am going to publish State's Number 1
24 at this point. That's the 911 call that
25 Miss Byrd made on October 2nd.

1 THE COURT: Okay. About how long is the
2 playing time?

3 MR. SCOTT: About six minutes.

4 THE COURT: Six?

5 MR. SCOTT: Yes.

6 THE COURT: Oh, okay.

7 (State's Exhibit 1, 911 call was played in
8 its entirety).

9 BY MR. SCOTT:

10 Q Okay. He said, "I need help." Did you explain to
11 him, I'm trying to help you?

12 A I'm sure I did, at some point, remind him
13 that the plan was for him to go to Laurens
14 Hospital to get the help he needs.

15 Q So, again, you were trying to meet his demands and
16 get him help?

17 A Yes.

18 Q Why did you feel the need to tell him you had
19 kids, or a kid?

20 A After Cheri left, we started going around the
21 office. I would go in, he'd have me close the
22 blinds, and then he would close the doors on the
23 right side of office. At that point, I felt like
24 I was in danger, and I kept telling him, please
25 don't hurt me. I'm a single mom. I can't let my

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1 daughter be raised by her dad. And I told him,
2 please don't hurt me. I can't let my daughter do
3 that.

4 Q So were you in fear?

5 A Yes, I was in fear.

6 Q Did you understand that he was referring to you as
7 his hostage?

8 A Yes.

9 Q And your testimony is that, at some point, after
10 speaking with his aunt he said, now you can go?

11 A Yes. After he spoke to his aunt, he looked
12 at me in such a way, just like the bodily language
13 changed that he had in the lobby, I saw that
14 change. His eyes, his demeanor, he looked at me
15 and he said, you can go now, Sonya, you need to
16 leave, and I left.

17 Q Okay. Did you walk, did you run, or what?

18 A I remember backing out of the same door that
19 Cheri ran out, which was the door on the right.
20 And I'm begging, Ricky, please, put the gun down
21 and come with me. That was the plan. You were
22 going to put the gun down after talking to your
23 aunt. We were going to leave together. And that
24 look, when he said the second time, you need to
25 leave now, I'm going to -- and I did.

1 I started walking out initially, and I got
2 two steps outside the front door and I heard bullets
3 and that's when I started running.

4 Q You heard bullets.

5 A I heard gunshots.

6 Q From where?

7 A Behind me. I thought he had shot himself.

8 And I started running as fast as I could to the
9 police officer waving at me to come this way.

10 Q There's been some testimony, some surveillance
11 cameras in the building.

12 A Uh-huh.

13 Q Have you been able to watch some of those videos?

14 A Yes, I have.

15 Q And do those accurately depict what you observed
16 on October 2nd last year?

17 A Yes.

18 MR. SCOTT: Judge, I haven't been keeping
19 time, but I'm going to play some video now.

20 THE COURT: Yeah. Let's go ahead and
21 take an afternoon break, and we'll come back.

22 Just for my information, about how long
23 are the video clips that you want to play?

24 MR. SCOTT: What I was --

25 THE COURT: Just roughly.

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1 MR. SCOTT: Ten minutes, maybe.

2 Something like that.

3 THE COURT: Let's go ahead and take an
4 afternoon break, Ladies and Gentlemen, and we'll
5 start back. And I just remind you, once again,
6 not to begin any discussion about this case among
7 yourselves. We'll do the same thing. If anybody
8 needs a restroom break, just stay here. And if
9 you don't need one, then you need to go on
10 downstairs with the officer.

11 (Jury exits the courtroom at 4:02 p.m.)

12 (A break was taken from 4:02 p.m. to 4:22 p.m.)

13 (Jury enters the courtroom at 4:22 p.m.)

14 THE COURT: Let the record reflect the
15 jury is back in.

16 Solicitor, you may proceed.

17 MR. SCOTT: This is State's Number 2 And
18 we will now publish State's Number 2.

19 (State's exhibit 2 played.)

20 BY MR. SCOTT:

21 Q Sonya, what is this room we are looking at here in
22 the video?

23 A That's the lobby area of South Carolina
24 Vocational Rehab in Newberry.

25 Q And there's a door to the left with a window in

1 it, is that just an entrance to the building?

2 A Yes, it is.

3 Q And then immediately beside that door and window
4 is another. What is that door?

5 A That takes you into the open area and where
6 our offices are in Newberry.

7 Q All right. That window in the middle, the
8 reception area, is that what that is?

9 A Yes.

10 Q Finally, a door to the far right, what is that?

11 A That's the right door that will take you
12 into, also, the open area into the Newberry office
13 on the right side.

14 Q Okay. But each of those wooden doors with the
15 smaller windows -- those aren't windows, are they?

16 A No.

17 Q That's a piece of paper?

18 A Paper.

19 Q Each of those on either side of the reception
20 desk, those just go to the same common office area?

21 A Correct.

22 Q Okay.

23 A The door on the left has a keypad. The door
24 on the right has a deadbolt that you have to lock
25 when you go inside.

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1 Q Okay, I understand. When you talked earlier about
2 getting Mr. Brown a bottle of water, the door on the
3 right, when you're coming back in, you neglected to
4 lock it back?

5 A When I came out, it wasn't locked behind
6 me.

7 Q Got you.

8 (Video continues.)

9 BY MR. SCOTT:

10 Q And who is this walking into the building here?

11 A That's Ricky. Mr. Brown.

12 Q Okay. Do you recognize who he's talking to
13 there?

14 A That Miss Kendall Armstrong.

15 Q Okay. Your testimony earlier, at this time, you
16 guys were in the back eating pizza.

17 A Correct.

18 Q All right. Who is that lady?

19 A That's me.

20 Q All right. So this is the point where you're
21 sitting and speaking with him for some time.

22 A Yes.

23 Q You talked earlier what you guys were talking
24 about?

25 A Yes.

1 Q Is it fair to say you sat with him for some period
2 of time?

3 A It felt like 20 or 30 minutes.

4 Q All right. Well, let me fast-forward here because
5 I think your testimony is that you sat there just
6 speaking with him, really nothing relevant happens for
7 some time.

8 A Right.

9 Q I want to go --

10 MR. SCOTT: I want to go to 13:09:45,
11 Walter.

12 BY MR. SCOTT:

13 Q All right. And now there's a new person in the
14 frame. This is a female with the red shirt. Would
15 this be the client you spoke about earlier asking you
16 to notarize something?

17 A Correct.

18 Q And she does, kind of -- kind of hijack you away
19 from Ricky Brown and, kind of, diverts your attention
20 away from him.

21 A Correct.

22 Q And now she's got you running chores for her.

23 A Right.

24 MR. SCOTT: Walter, go to 13:11:35.

25 BY MR. SCOTT:

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1 Q So this is where you go out of that door and leave
2 it unlocked at this point.

3 A Right.

4 Q Because the other one would lock automatically,
5 but that one does not?

6 A Correct.

7 Q All right. What's he doing here, Sonya?

8 A He's pulling the gun out of his pocket. I
9 didn't know until he told me. I thought of
10 leaving right there.

11 Q You thought of leaving?

12 A I did.

13 Q Tell us again why you didn't leave.

14 A I don't know.

15 Q Who is this to the left here?

16 A That's Chad and Kendall. I'm trying to get
17 in between him and Cheri.

18 Q Okay. What's going on --

19 MR. SCOTT: Pause it, Walter.

20 BY MR. SCOTT:

21 Q What's going on right here?

22 A Cheri was begging and pleading, please don't
23 shoot me, don't kill me. I'm trying get in
24 between him and Cheri.

25 Q And, at this time, does he have her restrained?

1 A You can't see it, but, yes, he did have her
2 with his left arm.

3 Q Okay. Continue.

4 A I'm trying to get in between him and Cheri.
5 You can see I'm trying to force him. I'm trying
6 to keep her behind me.

7 Q Do you remember what's going on at this point?

8 A I think I'm on the phone talking to 911 at
9 this point. Cheri was over here. Ricky was over
10 here to the right talking.

11 Q Okay. Was the point where Ricky had gone to the
12 back to lock the deadbolt near the women's room?

13 A No, because he's right there. Cheri left.

14 MR. SCOTT: Walter, could you back it up
15 just a little bit there, just before Cheri gets
16 out of there.

17 BY MR. SCOTT:

18 Q All right. Look at the top right. I see someone
19 walking back towards the women's room.

20 A Uh-huh.

21 Q You said earlier you thought that was Ricky. And
22 there is Cheri.

23 A There's Cheri.

24 Q And there he is back there. So was that the
25 distraction when he went back to lock the deadbolt

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1 near the women's room?

2 A It must have been.

3 Q Okay. And, at this point, it's just you and he?

4 A Correct.

5 Q And he's still got the gun in his hand?

6 A Yes.

7 Q It looks now -- is there a landline up there?

8 A Yes.

9 Q And who are you calling?

10 A 911. I talked to the 911 operator.

11 Q And that would have been the audio we heard in
12 State's Number 1 just a minute ago?

13 A Correct.

14 MR. SCOTT: Walter, can you go to

15 14:26:00?

16 MR. VERNER: What was that number again?

17 MR. SCOTT: I got 14:26, colon, 00.

18 BY MR. SCOTT:

19 Q Why was he on the floor?

20 A He was moving around, like you see in
21 military videos. Just staying low. He was, kind
22 of, crawling on his fingertips and on the tips of
23 his toes but staying low.

24 Q Did he say why he was doing that?

25 A He didn't say why, but he was just staying

1 low and looking.

2 Q At this point, were you guys aware that the police
3 were outside?

4 A Yes.

5 Q Do you recall, were they on their PA system
6 speaking?

7 A No, I don't recall that.

8 Q Do you remember any sirens or anything?

9 A I remember the sirens when they approached.

10 Q Okay. He's still down there. And it looks like
11 this is the point he tells you, you need to leave
12 now?

13 A Yeah. I'm begging him to put the gun down
14 and come with me, and I looked and I said -- I
15 just turned and walked out.

16 Q Okay. And here, at this point, he's taken into
17 custody.

18 MR. SCOTT: Walter, that's probably all
19 the relevant parts. The jury will get to see this
20 entire video when they deliberate, if they want
21 to. I just wanted to jump around some more
22 relevant parts.

23 BY MR. SCOTT:

24 Q And key question I have, Miss Braswell: Did he
25 present the firearm to you?

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1 A Yes.

2 Q Do you remember him aiming it at you?

3 A Not at me, no.

4 Q Okay. But it was presented in a threatening
5 manner?

6 A Yes.

7 Q Were you held against your will?

8 A Yes.

9 Q All right. Miss Byrd, answer any questions
10 Mr. Verner has for you, please.

11 MR. VERNER: Thank you. May it please
12 the Court?

13 THE COURT: Yes.

14 CROSS-EXAMINATION

15 BY MR. VERNER:

16 Q Miss Byrd, I do want to start by saying I do think
17 that you are very brave woman.

18 What was your position at voc rehab last
19 year, last October of 2019?

20 A Counselor.

21 Q Counselor. Did you have -- we heard you --

22 A My case load was probation, pardon, and
23 parole.

24 Q Did you have clients who had been DMH clients, or
25 concurrent clients as well?

1 A Correct, yes.

2 Q So, in your job, dealing with mentally ill people
3 is just part of your training and your job?

4 A Yes, it is.

5 Q How long had you been in the vocational rehab
6 building?

7 A I started in April 2016.

8 Q Okay. Had you been in voc rehab prior to that
9 date?

10 A No.

11 Q Okay. So you first started working for vocational
12 rehab in 2016?

13 A Correct.

14 Q Okay. Were you working prior to 2016?

15 A Yes.

16 Q In what kind of field?

17 A I worked for Aspirations and Miracles as a
18 peer support specialist, started out as that. I
19 worked my way up to a qualified professional after
20 I got my master's degree.

21 Q Okay. Is peer support a social work-type
22 profession?

23 A I have a master's in social work.

24 Q Okay.

25 A And I have a bachelor's in social work.

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1 Q In a nutshell, what does someone in peer support
2 do? What type of day-to-day activity would you
3 have?

4 A Peer support work primarily in the field of
5 helping people with daily living activities.

6 Q Okay.

7 A Things like that. But a qualified
8 professional, I work with them on coping skills.
9 I work with them on how to manage -- anger
10 management, things of that nature.

11 Q Okay. So it wouldn't just be like helping old
12 people. It would be helping people with mental
13 illness.

14 A Correct.

15 Q And so that's the kind of profession that leads
16 into a voc rehab-type position?

17 A Yes.

18 Q And you've got a master's in social work?

19 A Yes.

20 Q Had you been in Newberry since 2016?

21 A Yes.

22 Q At the same location where this happened?

23 A Yes.

24 Q What was your position or title at the Newberry
25 vocational rehab?

1 A Counselor.

2 Q Okay. What are some agencies that voc rehab works
3 with on a regular basis?

4 A It varies depending on what case load you
5 work on. But with my particular case load, I work
6 with probation, pardon, and parole. I work mental
7 health. I work with Laurens Mental hospital. I
8 work with Newberry GED program.

9 Q What about DDSM?

10 A I work with DDSM.

11 Q And DDSM is, kind of, the other arm of
12 Department of Mental Health. Department of Mental
13 Health would be mentally ill people.

14 A Correct.

15 Q And DDSM would be people with special needs such
16 as autistic or organic problem with their brain, I
17 suppose.

18 A Yes. Autism.

19 Q How about social services?

20 A Yes. I work with DSS on their staff helping
21 with DSS cases as well.

22 Q Okay.

23 A A lot of my consumers were dual diagnosis,
24 substance abuse, and mental illness.

25 Q Okay. And again, what you do at vocational rehab

1 is help people who have a hard time finding employment
2 learn the skills, not just educational skills, but
3 social skills to work with people?

4 A With my particular case load, I also work
5 with people with substance abuse illness.

6 Q Okay.

7 A So that was also a directive of my position,
8 to provide substance abuse counseling.

9 Q Okay. Substance abuse is not a particularly
10 uncommon problem in the Newberry County, is it?

11 A No, it is not.

12 Q Or statewide, or national.

13 A No, it is not.

14 Q Is it fair to say a lot more people have substance
15 abuse problems than we actually see and hear about?

16 A That's a relative statement.

17 Q Okay, but it's a fairly common problem in
18 Newberry.

19 A Yes, it is.

20 Q And statewide and nationally.

21 A Yes, it is.

22 Q How long have you known Ricky Brown?

23 A I can't remember when his case was actually
24 opened. Like I said, I started in April of 2016.
25 I think he came in the beginning of 2017.

1 Q Okay.

2 A Somewhere in January, I think.

3 Q As his social worker or caseworker, do the
4 consumers or the clients of voc rehab just have one
5 particular social worker assigned to them or is it a
6 team effort, or how do you all staff?

7 A We do staffings where we discuss cases with
8 our various supervisors, or the client supervisors
9 about pending issues, along with the other
10 counselors.

11 Q Were you in a position to know Ricky's mental
12 health background when you took him as a client?

13 A I was very aware of his mental health
14 background, yes.

15 Q Is it fair to say that Mr. Brown has substantive
16 mental health history?

17 A Yes, he does.

18 Q Is it fair to say, from your recollection, that
19 his mental health issues go back to childhood?

20 A That I cannot speak on.

21 Q Are you aware that Mr. Brown had been a client of
22 the Department of Mental Health for years?

23 A Yes.

24 Q And do you know what some of his diagnoses were?

25 A Yes.

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1 Q What sticks out in your mind?

2 A Schizophrenia, PTSD, suicidal ideations.

3 Those three particularly.

4 Q Okay. And I understand you don't specialize in
5 mental illness as a social worker, but you have to
6 learn an awful lot about mental illness because
7 there's a lot of overlap in those areas, isn't
8 there?

9 A Yes.

10 Q And you learn more on the job because -- even more
11 in school when you actually deal with people --

12 A Correct.

13 Q -- if you're encountering people who have a
14 different diagnosis.

15 A Yes.

16 Q Now, correct me if I'm wrong, but the suicidal
17 ideation is not in and of itself a mental illness?

18 A It is not.

19 Q It's a symptom of one of your mental illnesses?

20 A Yes, it is.

21 Q And it could be a symptom of people with PTSD.

22 A Yes.

23 Q It can be a symptom of people who are depressed.

24 A Yes.

25 Q It can be a symptom of people who are bipolar?

1 A Yes.

2 Q It can be a symptom of people -- I don't know
3 about schizophrenia, but would that surprise you if it
4 could be a symptom of schizophrenia?

5 A Not at all.

6 Q But you can be suicidal and you can have a
7 multitude of different reasons why?

8 A Yes.

9 Q And there's no question that Ricky Brown has a
10 history of suicidal attempts or --

11 A Yes.

12 Q -- ideation, which is just thinking about it or
13 it's on his mind?

14 A Yes. Both.

15 Q It's fair to say that Ricky has multiple, multiple
16 scars of several inflicted injury to himself?

17 A Yes, he does.

18 Q Were you aware that he had been in the -- what is
19 called the cutting program for several years, or the
20 cutter program?

21 A While in prison?

22 Q Yes.

23 A Yes.

24 Q Okay. And cutters are people who try to kill
25 themselves with knives?

Examination of Sonya Byrd

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1 A (Witness nods head up and down.)

2 Q And he's got profound injuries all over his body
3 from cutting?

4 A Yes.

5 Q Were you aware that he had cut himself so bad one
6 time that his intestines fell out?

7 A No, I was not aware of that.

8 Q But you were aware that he was suicidal, or, at
9 times, could be?

10 A Yes.

11 Q I thought I heard that you said that on --
12 October 2nd of last year, by my count, was a
13 Wednesday. Does that sound about right?

14 A Yes.

15 Q And he had been in the Newberry Hospital as
16 recently as the Sunday beforehand?

17 A Yes. That's one of the things he shared with
18 me while we were in the open area of the office.
19 It's also something the social worker at Laurens
20 Memorial Hospital shared with me.

21 Q Do you know why he was at the Newberry emergency
22 room or hospital?

23 A He said that he went there and he told them
24 that he was suicidal. That's what he said.

25 Q Okay.

1 A He said they released him and didn't do
2 anything.

3 Q Out of curiosity, if somebody off the street -- if
4 I was one of your clients at voc rehab and I indicated
5 to you that I was suicidal, what are the typical
6 protocol for dealing with that?

7 A If you're face-to-face or over the phone, you
8 want to ascertain if you have a plan.

9 Q Okay.

10 A Meaning, what is your intention, how are you
11 going to harm yourself.

12 Q Let me bog down on that for just one second. I
13 heard you talk about that several times when you were
14 talking to the solicitor, what is your plan, is that a
15 term of art? Or when somebody is suicidal, do they
16 typically have a plan on how they are going to harm
17 themselves?

18 A Yes, they do.

19 Q So that's not just you speaking off the cuff,
20 that's something that you've been trained to --

21 A Ask.

22 Q That you want to know the methodology.

23 Okay. But, first, you would -- if I was on
24 the phone, you said that you would ask him my plan.

25 A I would ask if you were taking your

Examination of Sonya Byrd

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1 medication. Depending on what your response was,
2 are you taking any illicit drugs or illegal drugs.
3 I would ask the person if they have a plan of
4 action on how they're planning on harming
5 themselves and then act accordingly.

6 Q Is the emergency room the appropriate place for
7 somebody who's suicidal or is that just a temporary
8 stop measure until you place them somewhere?

9 A Laurens Hospital has a really good setup for
10 addressing people with mental illness.

11 Q Okay.

12 A And in that, when you come into the emergency
13 room, they do an initial screening, and then they
14 refer you to, as Cheri said, mental health or
15 Telehealth. Someone then comes down and talks to
16 that person. Shannon, for instance, would then
17 place you in a two- or three-day hold at Laurens
18 Hospital getting you regulated on your medication.
19 At the same time, they're working to find you an
20 active care facility to address your mental
21 illness.

22 Q Okay. So if you went to the hospital, you would
23 be there --

24 A For at least --

25 Q -- if you were bad for two or three days?

1 A At least. And then they would transfer you
2 to a longer-term facility.

3 Q Okay. Is that likely what happened to Ricky when
4 he was in Newberry, they held him for day or two or
5 three and then released him?

6 A At Newberry Hospital.

7 Q You said that he was at Newberry Hospital on
8 Sunday?

9 A Clearly that didn't happen, because they
10 didn't get him.

11 Q And Newberry doesn't have the equivalent of the
12 Laurens County Special Service Unit for the suicidal
13 people?

14 A They have the same protocols in place, and
15 it's at Laurens Memorial Hospital.

16 Q Okay. You have dealt with a lot of mentally ill
17 people during your term at vocational rehab?

18 A I have.

19 Q Is it uncommon for people to be irrationally angry
20 at their doctor or their social worker when they're
21 mentally ill?

22 A No.

23 Q They're frustrated and they're frustrated with the
24 people they see?

25 A Yes.

Examination of Sonya Byrd

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1 Q And if you think you are not helping them, you
2 would agree with me that that's an irrational
3 emotion?

4 A Yes, I do.

5 Q Okay. I think you indicated that Mr. Brown
6 indicated to you that he had run out of medication for
7 his case?

8 A He said he didn't have any medication and
9 they weren't given him any.

10 Q When you were sitting in the lobby, I saw the
11 video, but, and correct me if I'm wrong, but it
12 appears that Mr. Brown has, kind of, a depressed
13 demeanor when you were speaking to him?

14 A I would say, yes, he was depressed at the
15 time.

16 Q He was kind of sitting in the corner with his head
17 down in his hands?

18 A Yeah.

19 Q And he indicated to you that his grandfather had
20 recently passed away?

21 A Correct.

22 Q He indicated to you that -- you said cousin, but
23 it was actually his brother who had been run over
24 recently, right?

25 A I thought he said cousin.

1 Q Okay. Do you know the facts of his brother being
2 killed?

3 A He said that he was drunk walking in the
4 middle of the road in Prosperity and he was hit by
5 a car.

6 Q Okay. Did he tell you that Mr. Brown was on his
7 way to pick him up?

8 A No, he didn't.

9 Q He didn't give you the details?

10 A No, he didn't share with me.

11 Q And then he indicated to you just the past week or
12 two that his girlfriend had had a miscarriage of their
13 child?

14 A Yes, he did indicate that.

15 Q Have you had other clients other than Ricky who
16 have been suicidal?

17 A Yes, I have.

18 Q Is it fair to say that when people commit suicide
19 it encourages other people who are suicidal to
20 consider that? There's almost a
21 leanings-over-the-cliff-type stressor. Would you
22 agree with that, or that beyond what you --

23 A Would you repeat the question?

24 Q If a girl in high school had another girl in her
25 peer group who had committed suicide, and the girl was

Examination of Sonya Byrd

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1 also going through depression or suicidal -- there's a
2 concern that it has almost a trigger-type incentive
3 for other children to harm -- or other people who feel
4 the same way to harm themselves?

5 A Yes.

6 Q Okay.

7 A I would agree with that.

8 Q All right. Now, we've watched the video, and the
9 jury is going to get the video in the room. I
10 understand you did not want to be in the building with
11 Ricky in that situation. I wouldn't have wanted to
12 be. Nobody would want to be. But it does appear from
13 watching the video, you had many chances to leave the
14 building if you wanted to. Is that fair to say?

15 A I think after he shot the gun, I should have
16 gone out the left door when he went into the right
17 door.

18 Q Well, when he -- that's exactly right. When he
19 started walking in the building, you were standing
20 right beside the main entrance.

21 A And I could have walked out the left hand
22 door, and I still don't know why I did not do
23 that.

24 Q I submit that you were trying to stay and help
25 him, right?

1 A Yeah.

2 Q He was a client and he was particularly
3 vulnerable. And I understand he was dangerous, and
4 you felt that he could be dangerous to other people.

5 A I did entertain -- I knew that my co-workers
6 were in the back.

7 Q Right.

8 A I knew he was going towards the back with a
9 gun, and I knew it was not -- I felt like I could
10 prevent something bad from happening, so I
11 followed him.

12 Q But part of the reason that you stayed was you
13 were trying to help Ricky.

14 A Yes.

15 Q He was clearly going through an episode.

16 A Yes.

17 Q And you had co-workers in the back that I suppose
18 you felt concerned about.

19 A Very.

20 Q Now, I do want to -- you had been Ricky's primary
21 caseworker?

22 A Correct.

23 Q Did you feel that you could help the co-workers --
24 Ricky is African American or black, as you are, but he
25 identified or had a stronger bond with you than,

Examination of Sonya Byrd

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1 perhaps, the other co-workers there. Is that part of
2 why you were -- or that didn't?

3 A I don't think I looked at the racial
4 component.

5 Q Right.

6 A But I did look at the fact that I had an
7 established rapport with him and a relationship
8 with him based on trust and ability. I hoped that
9 that foundation that I had, as his counselor,
10 would prevent him from harming me and them.

11 Q And, kind of, you were in the building, you had
12 the familiarity, and you could sometimes tell Ricky,
13 Ricky, don't do that and calm down, and he would
14 listen to you as a -- I won't say a mother figure, but
15 an authority figure?

16 A Yes.

17 Q Is it fair to say that Ricky had -- all the women,
18 his grandmother or sister, have always been, kind of,
19 his authority figures?

20 A Yes.

21 Q But it's fair to say when Ricky walked into the
22 back room you were not under any compulsion to go with
23 him, but -- from him?

24 A No. Not at that time, no.

25 Q I understand his behavior compelled you to follow

1 him, but he, himself, did not threaten you by pointing
2 a gun at you saying -- or physically dragging you with
3 him?

4 A No, he did not.

5 Q Okay. Did he ever threaten to kill you or harm
6 you?

7 Let me put it this way: There are two -- I
8 can express something to you in one of two ways,
9 either expressly where I specifically tell you I'm
10 going to do something to you, or impliedly where I
11 don't specifically threaten you with my words and
12 stuff but you still feel just kind of threatened by
13 me. Did he ever express any intentions to harm you?

14 A No, he did not. Yes, he did imply that I
15 would -- whether it was my belief or his demeanor
16 and the fact that he had a gun.

17 Q Right. He had a gun and he was going through a
18 mental health episode which makes him inherently
19 dangerous?

20 A Right.

21 Q Just in and off itself. And there's clearly a
22 threat the he will act irrationally and harm you. But
23 he, himself, had never put you in a headlock and point
24 the gun at you and said, I hate you, I want to kill
25 you.

Examination of Sonya Byrd

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1 A No, he did not.

2 Q And, in fact, to some degree, he was expecting you
3 to help him or still relating to you as his helper,
4 both by calling people for him or by listening to you,
5 let the lady go and that type of thing.

6 THE COURT: Was that a question,
7 Mr. Verner, or a statement?

8 MR. VERNER: I suppose I should phrase it
9 better, Judge.

10 BY MR. VERNER:

11 Q But the -- again, the threats you felt from Ricky
12 were because he was going through an episode and he
13 had a deadly weapon.

14 A Yes.

15 Q Okay. And it's reasonable to feel that way, I
16 would suppose.

17 A (Witness nods head up and down.)

18 Q Okay. But he, himself, had never specifically
19 harmed you or threatened you?

20 A No, he did not.

21 Q Did he ever on his own put his hand on you in a
22 threatening manner?

23 A When we were walking down the right side of
24 the office, he grabbed me by my -- he had the gun
25 in his right hand, and he grabbed me by my left

1 arm, I guess, and he was facing me. Anyway, he
2 grabbed me by my arm and shook me. He's like,
3 Sonya, Sonya, I'm not going to hurt you.

4 Q Okay. And, in fact, that's the same thing he told
5 Miss Cheri Braswell? Maybe not quite the same way,
6 but he also said --

7 A I didn't hear that. I didn't hear that.

8 Q Okay. When he pulled out the gun, you indicated
9 that Ricky said, I'm tired of this. I can't get my
10 medicine, or they won't give me my medicines, and
11 that's when he shot up in the air.

12 A He said, they're on to something now. I
13 remember him saying that. They're going to do
14 something now. I don't know who "they" are.

15 Q And you recall that Ricky was just sweating
16 profusely to the point where, in October, he actually
17 took off his shirt at some point?

18 A He did.

19 Q Okay. Did it appear that he was not in his right
20 mind at that time?

21 A I would say he was high and had been
22 drinking, and he had admitted as such. And then
23 proceeded to smoke weed in an open area, and then
24 pull out a pipe.

25 Q Now, you indicated that he said that he had a --

Examination of Sonya Byrd

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1 if I had gotten through the partition, I would have
2 killed Steven and Dr. Tolber.

3 A Tolhurst.

4 Q Tolhurst, okay. Who is Steven?

5 A Steven was his counselor when his case was
6 open with me.

7 Q At DMH or at voc rehab?

8 A At DMH.

9 Q Okay. That's the other building?

10 A Yes.

11 Q Okay. And Dr. Tolhurst is a psychiatrist at
12 DMH?

13 A Correct. I don't know if she's a
14 psychiatrist. I think she's a medical doctor that
15 writes the prescriptions for their medication.
16 She's a Ph.D or M.D. She's an M.D.

17 Q But he said, if I had gotten through, I could have
18 killed them or would have killed them?

19 A Would have.

20 Q Okay. But he was, kind of, explaining to you what
21 his thought process was at that point?

22 A Yes.

23 Q Okay. At some point you said Ricky looked at you
24 and said, you've got to go now, you need to go now?

25 A He said, you can go now, you need to go.

1 Q I take it you took it as that means something bad
2 is about to happen?

3 A No. He had just talked to his aunt and he
4 looked at me and told me I needed to go. You need
5 to go.

6 Q And I think you indicated to the jury that it
7 appeared he was using these phone calls to say goodbye
8 to his family members?

9 A That is how I took it, yes.

10 Q Did you think he was contemplating suicide when he
11 said you need to go now?

12 A Either suicide or done by cop.

13 Q Or murder/suicide. If you hung around, you were
14 worried about murder/suicide.

15 A Yes, I was.

16 Q But it was clear the point was, at least in your
17 mind, that he was contemplating suicide either by cop
18 or by himself.

19 A Yes.

20 Q And, in fact, he was crawling because he was
21 worried that the police were going to shoot him
22 through the windows, I suppose. Is that a fair
23 impression of why he would be crawling or laying
24 low?

25 A I would say so.

Examination of Sonya Byrd

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1 Q And there were cops out there with -- there was a
2 SWAT team out there with sniper rifles and assault
3 rifles, weren't there?

4 A Yes.

5 Q Do you think that's why he locked the door to keep
6 them from coming in?

7 A Yes, I do.

8 Q Okay. He didn't lock the door from the inside to
9 keep you from leaving, or, if he did, you could have
10 just as easily turned it unlocked, correct?

11 A I didn't feel like I could leave.

12 Q Okay. When I watched the video, we didn't get to
13 see it all, but I saw at least three or four times
14 when he was in a different part of the building from
15 you during this situation, is that accurate?

16 A Yes, sir.

17 Q Is it fair to say that if you had wanted to, you
18 could have probably left on all of those occasions?
19 It would have been a short distance to any of the
20 doors at those times if you could have left?

21 A I don't think I felt like I could leave. And
22 I felt, just like when I went to get the water, I
23 thought I was going to get shot in the back if I
24 ran out the back door.

25 Q But he never expressed any intention to harm

1 you?

2 A He did not.

3 Q And I think a large part of your dealings with
4 Ricky was you were worried about what he was going to
5 do to himself?

6 A Yes.

7 Q And then what would happen to, possibly, other
8 people if the police came in a shooting environment.

9 A That's also true.

10 Q When you were standing between Ricky and Cheri, at
11 some point, you told Cheri to leave?

12 A Yes, I did.

13 Q And she did?

14 A She did.

15 Q Okay. Did Ricky do anything to prevent her from
16 leaving?

17 A He did not.

18 Q Was he in a position to keep her from leaving if
19 he had really intended for her to stay? When you told
20 her, you need to go, Cheri, he was in position to stop
21 her if he wanted to?

22 A He was.

23 Q Do you recall -- do you believe that Ricky Brown
24 was actually suicidal on October the 2nd of 2019?

25 A Yes, I do.

Examination of Sonya Byrd

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1 Q Did he have any -- that you are aware of, any
2 other motive or reason for coming in to voc rehab
3 other than he was going through an emotional mental
4 health crisis?

5 A I still don't know why he came to voc rehab
6 because the plan was his sister was taking him to
7 Laurens Hospital. So I still don't know why he
8 came there.

9 Q If I suggested, and I don't know, but just -- the
10 DMH building is basically in the same blockage --

11 A It is.

12 Q -- area as vocational rehab?

13 A It is.

14 Q You had been speaking to Ricky earlier?

15 A On the phone.

16 Q So if he had gone to DMH and his doctor wasn't in
17 and he didn't have a ride because his sister had
18 dropped him off, your office would have been the next
19 closest place where Ricky would have known anybody who
20 had made any attempt to help him?

21 A Yes.

22 Q So it's possible just that he left DMH and went to
23 the closest place --

24 A Yes.

25 Q -- that he knew he could try to get help?

1 A Yes.

2 Q Do you believe, in hindsight, Ricky Brown
3 sincerely wanted to kill himself on that day? Do you
4 think he was faking it to try to get attention, or do
5 you think he was genuinely suicidal?

6 MR. SCOTT: I guess my objection would be
7 that he's asking her to go in hindsight by nature
8 of the question. It would be speculation.

9 THE COURT: I'll sustain the objection.

10 MR. SCOTT: Thank you.

11 BY MR. VERNER:

12 Q Did you believe with your dealings with Ricky that
13 he had any intention to kill himself that day?

14 MR. SCOTT: I have the same objection,
15 Judge. He's asking her to speculate.

16 THE COURT: I agree. Sustain the objection.

17 BY MR. VERNER:

18 Q And your educational background is what?

19 A I have a bachelor's and a master's in social
20 work.

21 Q Okay. And do you all work with people who are
22 suicidal?

23 A Yes, we do.

24 Q And you counsel them?

25 A Yes, we do.

Examination of Sonya Byrd

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1 Q Do you know what malingering is?

2 A Yes, I do.

3 Q Explain what malingering is for the jury.

4 A Malingering for the client, consumer?

5 Q Uh-huh.

6 A Is a client that, correct me if I'm wrong,
7 but is a dual --

8 Q Could it be somebody who is faking something to
9 try to -- it's not a medical term. It's just -- I
10 just meant that in the colloquial way.

11 A No, I didn't know that.

12 Q Well, I didn't mean it in a medical way, so I
13 apologize.

14 Ricky fired one time in the very front room
15 in the beginning, or not quite in the beginning but
16 after you had met with him and he shot into the air.

17 A Yes.

18 Q Was that clear that intentionally he meant to
19 shoot into the ceiling?

20 A Yes.

21 Q Okay. And then shot, later on, several more
22 times?

23 A As I walked out, I heard gunshots.

24 Q Okay. But that was after you had already left the
25 building.

1 A Yes.

2 Q And everybody -- were you the last person out of
3 the building?

4 A Yes.

5 Q Other than Mr. Brown.

6 A Yes.

7 Q Okay. So the four shots, you thought he had
8 killed himself?

9 A I thought he shot himself.

10 Q But those four shots were when he was by himself,
11 nobody else would have been in the room with him or
12 even in the building with him?

13 A Yes.

14 Q Do you think that could have been done for the
15 police outside to hear the shooting and for them to go
16 ahead try to take him out then? Is it possible he
17 was --

18 A I don't know why he shot the shots. At some
19 point, I just started running.

20 Q You heard the 911 call from Ricky?

21 A Yes.

22 Q Do you remember him saying something about a
23 hostage?

24 A Yes.

25 Q Okay. What he says is, that's how they think it

Examination of Sonya Byrd

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1 is. He doesn't say, I have hostages. He says, they
2 think I've got hostages, talking about the police,
3 right?

4 A That's what he said.

5 Q Okay. Does this still weigh on you?

6 A It does.

7 Q Are you doing better?

8 A Yeah, I am.

9 Q Still weighs on you, but time has helped a little
10 bit?

11 A Time and therapy.

12 Q Okay.

13 A I heard the 911 call today for the first
14 time, and had a breakdown this morning.

15 Q It's a hard thing to go through, right?

16 A Most definitely.

17 Q Did you think you were dealing with a mentally ill
18 man on October 2nd, 2018?

19 A Yes.

20 Q Miss Byrd, I appreciate you being here. The
21 prosecutor might have some.

22 THE COURT: Mr. Verner, according to your
23 schedule, do we need to conclude redirect and
24 recross in the morning?

25 MR. VERNER: That would be my preference.

1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF NEWBERRY

4 State of South Carolina,
5 Plaintiff,

6 vs.

7 Transcript of Record
8 2019-GS-36-00710;
9 2020-GS-36-00712;
10 2020-GS-36-00733;
11 2020-GS-36-00734 &
12 2020-GS-36-00736

13 Ricky Bernard Brown,
14 Defendant.

15

16

17 November 18, 2020
18 Newberry, South Carolina
19 Volume III of IV

20

21 B E F O R E:

22

23 The HONORABLE DONALD B. HOCKER

24

25 A P P E A R A N C E S:

26 Dale Scott, Deputy Solicitor
27 Taylor Daniel, Assistant Solicitor
28 Charles Verner, Representing the Defendant

29

30

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32 SHARON G. HARDOON, CSR
33 Official Circuit Court Reporter, III

34

Continued Testimony of Sonya Byrd 369
(The jury enters the courtroom at 10:50 a.m.)

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THE COURT: Let the record reflect the jury is back in. Good morning, Ladies and Gentlemen.

JURY PANEL: Good morning.

THE COURT: I hope everyone is feeling well today. All right, very good. Got some good rest. Ready to get back to work?

JURY PANEL: Yes, sir.

THE COURT: Very good. We are still in Sonya Byrd's testimony. The State has some redirect questions.

Solicitor, you may proceed.

MR. SCOTT: Thank you.

REDIRECT EXAMINATION

BY MR. SCOTT:

Q All right. Miss Byrd, yesterday during cross, you mentioned that you do routinely -- or did at Newberry routinely counsel with people that have been diagnosed with one mental illness or another?

A Yes.

Q Isn't that right?

A Yes.

Q And Mr. Verner did ask you was it common for some of these consumers to be irrationally upset with their

1 doctors?

2 A Yes.

3 Q Do you remember that question?

4 A Yes.

5 Q And you said that was fairly common; is that
6 right?

7 A Yes.

8 Q Would you say it's common for consumers with
9 mental illness to show up at a doctor's office with
10 the means and the intent to kill them?

11 A No.

12 Q No.

13 MR. VERNER: Your Honor, that's a
14 hypothetical.

15 MR. SCOTT: Well, the question was, was
16 it common.

17 THE COURT: Well, I think she can testify
18 based upon other consumers that she has worked
19 with.

20 Don't speculate, Miss Byrd, but based
21 upon your experience with other consumers since
22 you've been with voc rehab, I think it would be
23 proper to answer that question.

24 You may proceed. You may want to ask it,
25 again, Solicitor.

Continued Testimony of Sonya Byrd
MR. SCOTT: Yes, sir.

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BY MR. SCOTT:

Q Just to clarify, I don't mean for you to speculate, and I don't ask this as a hypothetical, but in your experience with voc rehab, is it common for consumers to show up with the means and intent to kill their caregivers?

A No.

Q Okay. But, again, you deal with people with mental illness regularly.

A Yes.

Q That's very common.

A Yes.

Q All right. In your experience, is it common for any of these people with mental illness to show up at voc rehab armed with a weapon and to take hostages?

A No.

Q So is it safe to say that a vast majority of all these people with mental illness you've dealt with you've been able to deal with and maintain a peaceable relationship with?

A Yes.

Q Okay. And I'm only going to respond to things that Mr. Verner asked you during his cross-examination. He pointed out that you could have

1 run out the front door when Ricky Brown began making
2 his way back into your office area. Remember that
3 from yesterday?

4 A Yes, I remember.

5 Q All right. And why didn't you do that? He kept
6 asking, why didn't you just leave?

7 A I don't know why I didn't leave, but I do
8 know my co-workers were in danger. And I view my
9 co-workers as family and friends. And I felt that
10 I needed to try to de-escalate the situation, so I
11 followed him.

12 Q Okay. What was your fear -- what was your fear
13 once you saw Ricky Brown going back to the office
14 where all those family members were?

15 A I knew that he had a gun, and I knew that my
16 extended family and friends were back there. And
17 if I could do anything to prevent anything more
18 treacherous from happening, then I needed to do
19 something.

20 Q In that moment where defense says, she could have
21 run, where he shot the gun in the air, and I suppose
22 Mr. Verner wanted you to leave there when he goes
23 back. Do you recall him chasing those people aiming
24 that 357 at them?

25 A Yes, I do.

Continued Testimony of Sonya Byrd

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1 Q And did you believe he meant business at that
2 time?

3 A Yes, I do -- or did.

4 Q All right. Just, a lot of the questioning
5 yesterday was dealing with his suicidal ideations.
6 And he had mentioned that he was suicidal to you at
7 some point.

8 A When he called that morning on the phone,
9 yes.

10 Q And what was the testimony yesterday about -- it
11 was something regarding suicide by police. Did he
12 express that to you?

13 A No, he never verbally expressed that.

14 Q That was just something you believed?

15 A That is something I believed, yes.

16 Q Well, if he expressed that he was suicidal, did he
17 ever explain to you why he had 20 rounds of 357
18 bullets on him?

19 A No, he did not.

20 Q Okay, thank you. Answer any questions Mr. Verner
21 has.

22 THE COURT: Do you have any recross,
23 Mr. Verner?

24 MR. VERNER: I do not, Your Honor.

25 THE COURT: Okay. You can step down,

Testimony of Bouknight

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1 ma'am. Thank you.

2 Okay. Next witness.

3 MR. DANIEL: Thank you, Your Honor. May
4 it please the Court? The State calls
5 Officer Bouknight.

6 THE COURT: Okay.

7 THE CLERK: Raise your right hand,
8 please. Do you solemnly swear or affirm that the
9 testimony you shall give the Court and jury shall
10 be truth, the whole truth and nothing but the
11 truth so help you God?

12 THE WITNESS: Yes, I do.

13 THE CLERK: Have a seat and state your
14 name for the record.

15 THE WITNESS: Will Bouknight.

16 WHEREUPON:

17 WILL BOUKNIGHT,
18 after having been sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. DANIEL:

21 Q Officer Bouknight with the City of Newberry Police
22 Department, correct?

23 A Yes, sir.

24 Q How long have you been with that agency?

25 A I've been with the City now for almost three

Testimony of Bouknight

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1 years.

2 Q Okay. So I want to go back to October 2nd of last
3 year. Were you on duty that day?

4 A I was.

5 Q Okay. Did you have an occasion to respond out to
6 the Newberry vocational rehabilitation building?

7 A I did.

8 Q Okay. And what was the nature of that call?

9 A I believe it was dispatched as a subject with
10 a gun inside voc rehab and then additional shots
11 had been fired and there were still people inside
12 the building.

13 Q Okay. And do you recall approximately what time
14 you were dispatched out there?

15 A If I can check, just to clarify. We were
16 dispatched at 1314 hours. 1:14 in the afternoon.

17 Q All right. So 1:14 p.m. you're dispatched out
18 there, correct?

19 A Yes, sir.

20 Q Would that be based on when someone calls 911?

21 A That would be when dispatch gives us a call,
22 or someone calls 911.

23 Q All right. And it was a tactical situation,
24 correct?

25 A Correct.

1 Q And just explain briefly what that means?

2 A Just positioning of patrol vehicles to
3 provide cover for law enforcement, innocent
4 bystanders, anyone in the public. We would set up
5 what they describe as a perimeter, or a protection
6 barrier of law enforcement vehicles and
7 personnel.

8 Q All right. So, approximately, how many units are
9 out there when you arrive?

10 A When I arrived, it was myself and one other.

11 Q Okay.

12 A And there were several others driving at the
13 same time.

14 Q All right. But essentially -- is that the extent
15 of it, or did more units arrive eventually?

16 A A lot more units.

17 Q Well, explain that.

18 A Newberry County Sheriff's Office officers, as
19 well as their SERT team, SLED officers, as well as
20 their SWAT team, investigators from the City with
21 me, all road personnel. And I believe there were
22 officers called in to help cover the road while we
23 were there.

24 Q So all in all, approximately how long did it take
25 to assemble all these various teams? You said SERT

Testimony of Bouknight

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1 team, SWAT team, et cetera.

2 A Correct. I'm not a hundred percent sure on
3 the county. The SERT team. I don't know full
4 members. It took close to 30, 45 minutes for SLED
5 and SWAT to arrive, assemble, and formulate a
6 plan.

7 Q Okay. And were you in specialized gear?

8 A I did put on a ballistic vest, yes.

9 Q Okay. And when you set up a perimeter, does that
10 mean you're covering the building from all angles?

11 A Essentially, yes. Any angle that we would
12 possibly be able to see any means of entry and
13 exit and views of the subject.

14 Q Okay. And did you all -- this happened right near
15 the Newberry Hospital, correct?

16 A Correct. It's right behind it.

17 Q And did you all have to shut down, essentially,
18 the whole block around the hospital?

19 A Yes, sir.

20 Q And the whole time when you were there, did you,
21 or any other law enforcement official make contact
22 with the people inside the voc rehab building?

23 A There was contact established through
24 Major Robert Dennis, as well as the person inside
25 with them who phoned dispatched.

1 Q Okay. But you weren't involved directly in any
2 contact with anybody?

3 A No, I was not.

4 Q All right. Well, tell us eventually how this --
5 I'm going to call it this stand-off situation. How
6 did that end?

7 A It ended with what we call without incident.
8 He was taken into custody without any rounds from
9 law enforcement being fired. He did fire the
10 rounds himself. He was taken into custody. All
11 hostages were freed.

12 Q "He", who do you mean he?

13 A Ricky Brown.

14 Q All right. And were you and other officers on the
15 scene equipped with a body camera?

16 A Yes.

17 Q Okay. Were you assigned as an investigator in
18 this case?

19 A An investigator, yes. We work as a team.

20 Q This was the City of Newberry jurisdiction?

21 A Correct.

22 Q And did you have an occasion to review body cam
23 footage?

24 A I reviewed my own, yes, sir.

25 MR. DANIEL: All right. Your Honor, at

Testimony of Bouknight

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1 this time, I would ask to publish the body cam
2 footage in this case, State's Number 2.

3 THE COURT: 3?

4 MR. DANIEL: Excuse me. State's Number
5 3. Yes, sir.

6 THE COURT: And just for my information,
7 about, roughly, how long will it be?

8 MR. DANIEL: Your Honor, probably a
9 little less than three minutes.

10 THE COURT: Okay.

11 (State's Exhibit 3 played in its entirety.)

12 BY MR. DANIEL:

13 Q Officer Bouknight, so that was obviously the
14 footage of when law enforcement made entry into the
15 voc rehab building, correct?

16 A Yes, sir.

17 Q And is that a fair and accurate representation of
18 what you observed?

19 A Yes, sir.

20 Q All right. And, again, did you all cover a weapon
21 on the scene?

22 A Yes, sir.

23 Q Okay. I'm going to hand you State's 46. You can
24 open up this box.

25 MR. DANIEL: Your Honor, just to

1 represent to the Court, this is a firearm. It has
2 been fastened with a safety trigger lot and it is
3 empty of all ammunition.

4 THE COURT: All right, thank you.

5 BY MR. DANIEL:

6 Q And, again, do you recognize that?

7 A Yes, sir.

8 Q All right. And what is that?

9 A It's the gun that was passed to me to secure
10 in my patrol vehicle until SLED runs a lab.

11 Q All right. What kind of gun is that?

12 A It is a revolver, black in color.

13 Q What type of revolver?

14 A It appears to be a 357.

15 Q Okay. And at the time you received that gun, did
16 it have any ammunition?

17 A It had the fired -- charged casings in the
18 cylinder.

19 Q How many cases did that cylinder hold?

20 A I believe six -- or five.

21 Q Okay. That's a five-shot revolver?

22 A Yes, sir.

23 Q And all the casings were spent?

24 A Yes, sir.

25 Q Okay. And that would indicate the weapon was

Testimony of Bouknight

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1 discharged five times; is that correct?

2 A Correct.

3 Q Okay. And where was that gun actually covered
4 specifically in the building? What area of the
5 building?

6 A To the best of my knowledge, it was in the
7 first lobby area and it was handed back to me. I
8 was the last person at the door. I did not fully
9 go in. And it was handed back to me, which I
10 secured it in my patrol vehicle, to the best of my
11 knowledge, that I can attest to today.

12 Q To your knowledge, where was Ricky Brown located
13 in the building?

14 A I didn't see him once they made entrance to
15 the door until we were notified that he was in
16 custody and he was brought out.

17 Q Okay. But that would be somewhat depicted from
18 what we just saw a while ago.

19 A Correct. And it was only in that area.

20 Q Okay. Also, did you recover any other ammunition
21 on scene?

22 A Yes.

23 MR. DANIEL: Walter, if you could, pull
24 up State's 38.

25 BY MR. DANIEL:

1 Q And do you recall seeing this ammunition?

2 THE COURT: Officer, lower the microphone
3 a little. It would be a benefit to the court
4 reporter.

5 THE WITNESS: Yes, I recognize the
6 unfired charges.

7 BY MR. DANIEL:

8 Q Okay. How many unfired bullets or cartridges is
9 that?

10 A Fifteen.

11 Q Fifteen, okay. So, five in the cylinder of the
12 gun that were spent, and then 15 unfired bullets.

13 A Correct.

14 Q For the total of 20 bullets.

15 A Correct.

16 Q And did you call any other agencies to help you
17 assist in this investigation?

18 A SLED crime scene.

19 Q And they, in fact, arrived later on that day?

20 A Correct.

21 Q And they processed the scene?

22 A Correct.

23 Q And was that, essentially, the extent of your role
24 in this investigation?

25 A I remained on scene while they processed the

Testimony of Bouknight

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1 15 unfired cartridges. They remained in my
2 possession. They were turned over to evidence at
3 the Newberry Police Department, along with the
4 marijuana cigarette, little packets and things
5 that were mentioned yesterday that he was using.

6 Q All right. And if you could, just stand up and
7 hold the firearm, obviously in a safe position, and
8 let the jury --

9 MR. VERNER: At this point, Judge, I
10 don't have an objection to this, and I know it's
11 locked and cleared, but my understanding is the
12 Supreme Court rules require the certified officer
13 to reclear the handgun prior to any introduction.

14 THE COURT: Okay.

15 THE WITNESS: Do that now?

16 MR. VERNER: The rules require you to
17 reclear it and make sure.

18 THE WITNESS: There's nothing inside of
19 it. I can't close the cylinder to make it to
20 where it would fire.

21 MR. VERNER: The Supreme Court requires
22 it.

23 THE WITNESS: No, you're fine. I was
24 just explaining.

25 THE COURT: Keep going.

Testimony of Bouknight

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1 THE WITNESS: Okay. The firearm was
2 located and handed back to me. It was handed back
3 to me, secured in my patrol vehicle and later
4 turned over to SLED crime scene in a secured
5 fashion for evidence and the paperwork turned over
6 to them for them to take possession of it.

7 MR. DANIEL: Thank you,
8 Officer Bouknight. Please answer any questions
9 defense counsel has for you.

10 THE COURT: Mr. Verner, do you have any
11 cross?

12 MR. VERNER: Just a few.

13 CROSS-EXAMINATION

14 BY MR. VERNER:

15 Q Investigator Bouknight, the -- there were 15
16 unspent rounds found on his person or in the building?

17 A They were in the billing at the point in time
18 that I took possession of it.

19 Q Okay. And then you found five spent casings?

20 A Those were in the firearm when I took
21 possession of the fire.

22 Q And the chamber would hold five rounds total?

23 A Correct.

24 Q Okay. And we know that Mr. Brown fired one shot
25 in the very beginning when he's in the -- you've seen

1 the video, right?

2 A Correct. Yes, sir.

3 Q He's fires one shot into the ceiling in the very
4 beginning. And then when everybody -- I believe, when
5 everybody was out of the building, Miss Byrd testified
6 she heard four shots being fired?

7 A Correct.

8 Q Okay. So, are those all the shots that were
9 fired, that you're aware of?

10 A That I'm aware of, yes.

11 Q And it appears that none of them would have been
12 fired at law enforcement or people?

13 A At the time, we did not know.

14 Q Right. But in hindsight, it appears he fired once
15 into the ceiling in the front room and four times into
16 a wall or ceiling in the middle of the building?

17 A Correct.

18 Q You don't have any other evidence or observations
19 that he actually fired at people, do you, officers or
20 civilians?

21 A We didn't know at what angle they were being
22 fired at the point in time, no.

23 Q But the four bullets that were fired, they were
24 fired into the walls or the ceiling of the building?

25 A That was discovered after --

1 Q Right.

2 A -- this thing was secured, yes, sir.

3 Q And I'm asking about what you know now, not then.

4 A Correct.

5 Q But it appears he fired four from inside the
6 bidding into the wall or ceiling?

7 A Correct.

8 Q Okay. And then one into the ceiling in the front
9 room.

10 A Correct.

11 Q And I'm just asking if you have any evidence that
12 he fired at people?

13 A No.

14 Q Okay. That's all my questions. Thank you, sir.

15 THE COURT: Anything on redirect,
16 Solicitor?

17 MR. DANIEL: No, Your Honor.

18 THE COURT: All right. Officer, you can
19 step down, sir.

20 MR. VERNER: Go ahead and take the
21 handgun.

22 THE COURT: Next witness.

23 MR. DANIEL: Your Honor the State calls
24 Dalila Jazic.

25 THE COURT: Come around, please.

Testimony of Dalila Jazic

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1 THE CLERK: Raise your right hand,
2 please. Do you solemnly swear or affirm that the
3 testimony you shall give the Court and jury shall
4 be the truth, the whole truth, and nothing but the
5 truth so help you God?

6 THE WITNESS: I do.

7 THE CLERK: Have a seat and state your
8 full name for the record.

9 THE WITNESS: It's Dalila Jazic.

10 WHEREUPON:

11 DALILA JAZIC,

12 after having been sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. DANIEL:

15 Q Dalila Jazic, you're employed with the
16 South Carolina Law Enforcement Division, correct?

17 A Yes.

18 Q All right. That's the SLED acronym?

19 A Yes.

20 Q What's your position with that agency?

21 A I'm employed with the crime scene unit.

22 Q Okay. And what does that entail?

23 A The crime scene unit responds to any and all
24 crime scenes that the law enforcement agencies
25 request us to assist in. We primarily collect

1 evidence, document evidence, preserve it, and
2 submit it into a database for analysis.

3 Q Okay. So, if an agency like the Newberry Police
4 Department calls for SLED assistance to process a
5 crime scene, you would be the agent to respond to that
6 scene?

7 A If I'm on call, yes, sir, I would.

8 Q Correct. All right. And what does that entail,
9 processing a crime scene?

10 A Processing a crime scene entails getting to
11 the scene, getting a synopsis of what happened
12 prior to our arrival there, and then we document
13 the scene as it is with digital photographs, we
14 collect evidence, marking items of evidence of
15 evidentiary value, and conduct any of the
16 processing such as latent prints, DNA, et cetera.
17 Collect the evidence, bring it back to the lab
18 where it's submitted for analysis.

19 Q Okay. So you lift fingerprints, you look for
20 shell casings, things of that nature?

21 A Yes, sir.

22 Q Okay. And how long have you been with SLED?

23 A I've been with the crime scene unit for about
24 eight years -- three years -- three and a half
25 years. May of 2017.

Testimony of Dalila Jazic

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1 Q Okay.

2 MR. DANIEL: And, Your Honor, if there's
3 no objection from the defense, can I qualify
4 Miss Jazic as an expert in crime scene
5 investigations?

6 THE COURT: I mean, you can make that
7 request.

8 MR. VERNER: Just drop your microphone
9 down about four inches.

10 THE WITNESS: Yes, sir.

11 MR. VERNER: Thank you.

12 So he wants to qualify her as an expert in
13 crime scene processing?

14 MR. DANIEL: Crime scene investigations.

15 MR. VERNER: Investigations.

16 MR. DANIEL: For the purpose of
17 introducing her charts.

18 MR. VERNER: I have no objection.

19 THE COURT: Without objection,
20 Agent Jazic is found to be an expert in the area
21 of crime scene investigations.

22 Ladies and Gentlemen of the Jury, let me
23 explain to you, when the Court declares a witness
24 to be an expert in some particular field because
25 of education, training, and experience, an expert

1 is normally allowed to render opinions and the
2 basis for those opinions. Most times lay
3 witnesses -- there's a few exceptions, but most
4 times lay witnesses cannot render opinions. All
5 they can do is testify as to what they saw, heard,
6 that sort of thing. But experts are a little
7 different and are allowed to give opinions and the
8 basis for those opinions.

9 Now, just because the Court declares a
10 witness to be an expert, it's up to you whether or
11 not you believe the opinions of that expert. You
12 are to weigh the credibility of an expert's
13 testimony in the same fashion you would with any
14 other witnesses.

15 You may proceed.

16 MR. DANIEL: Thank you, Your Honor.

17 BY MR. DANIEL:

18 Q All right. Agent Jazic, on October 2nd of last
19 year, were you on duty with SLED that day?

20 A Yes, sir, I was.

21 Q Did you have an occasion to respond to Newberry,
22 South Carolina in reference to an incident that
23 occurred at the vocational rehabilitation building?

24 A I did.

25 Q Approximately, what time did you arrive at that

Testimony of Dalila Jazic

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1 location to investigate?

2 A I arrived at the location approximately

3 3:25 p.m. It was 96 degrees Fahrenheit.

4 Q Okay.

5 A It was a hot day.

6 Q So you noted in your report it was 96 degrees?

7 A Yes, sir. Approximately.

8 Q That seems pretty hot for October.

9 A It does.

10 Q And you were aware that SLED's SWAT team was out
11 there?

12 A Yes, I was aware that SLED's SWAT team had
13 been en route responding to the scene.

14 Q Okay. And who do you come into contact with? Who
15 was your liaison, so to speak?

16 A Upon our arrival to the scene, I met with
17 Sergeant Bouknight and he provided us a brief
18 synopsis of the incident prior to our arrival.

19 Q What items of evidentiary value were transferred
20 to you at that point in time, if any?

21 A When I met with Sergeant Bouknight, he
22 transferred to me the firearm that you guys just
23 saw. It was a revolver, a 357 Taurus Magnum, and
24 that was turned over with a chain of custody
25 document. And inside of that document -- inside

1 of the box was five cartridge cases stamped
2 357 Magnum and they were all spent.

3 Q Did you also -- did you observe any unfired
4 ammunition on the scene?

5 A There were 15 cartridges that were unfired in
6 the lobby area of the Newberry vocational
7 rehabilitation center.

8 Q All right. State's 48, I know they were actual
9 pictures of the bullets, but what is that?

10 THE WITNESS: Your Honor, I have gloves.
11 May I put them on?

12 THE COURT: You sure can.

13 THE WITNESS: Thank you, sir.

14 THE COURT: What exhibit is that,
15 Solicitor?

16 MR. DANIEL: 48.

17 THE COURT: 48.

18 THE WITNESS: The brown paper bag is
19 documented saying 15 cartridges, 357 Magnum. This
20 is not my paper bag. These were collected by
21 Sergeant Bouknight on scene.

22 BY MR. DANIEL:

23 Q Okay. So you collected the 357 gun for forensic
24 processing; is that correct?

25 A Yes, sir. That's correct.

Testimony of Dalila Jazic

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1 Q And you're looking for latent prints, things like
2 that, touch DNA?

3 A Yes, sir. We look for fingerprints, touch
4 DNA, and latent prints. And then it also goes to
5 firearms for processing.

6 Q All right. What do you do next in your
7 investigation once you receive the gun? What's the
8 next step in the investigation?

9 A Are you referring to the next steps I did on
10 scene?

11 Q Well, let's go chronologically. What did you do,
12 because you said you first received the gun from
13 Officer Bouknight when you arrived.

14 A Okay. Once I received the firearm from
15 Sergeant Bouknight on scene at the
16 vocational rehabilitation center, myself and
17 special agent Todd Shank documented the exterior
18 of the building with digital photographs. From
19 then on, the scene was secured by Newberry City
20 Police Department and we walked over to the
21 Newberry county memorial hospital -- it was right
22 across the street -- to document Mr. Brown, our
23 suspect in the case.

24 From there, I collected a buckle swab from
25 him once I introduced myself and what agency I was

1 with, as well as a gunshot residue kit and special
2 agent Todd Shank documented Mr. Brown with digital
3 photographs.

4 Q So the next step you just described was going over
5 to the -- next door to the Newberry hospital where the
6 suspect Ricky Brown was in custody, correct?

7 A Yes, sir.

8 Q All right.

9 MR. DANIEL: Walter, if you could put up
10 State's 44.

11 BY MR. DANIEL:

12 Q Can you see the TV from your perspective?

13 A I can, slightly.

14 Q Okay. And that's Ricky Brown in the hospital bed;
15 is that correct?

16 A Yes, sir.

17 Q Is that in the condition you found him when you
18 arrived at the hospital?

19 A Yes, sir, it is.

20 Q You said you collected the gunshot residue kit,
21 correct.

22 A Correct.

23 Q All right. State's 45, what is that?

24 THE WITNESS: Your Honor, may I put my
25 gloves back on?

Testimony of Dalila Jazic

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1 THE COURT: You sure can.

2 THE WITNESS: Thank you.

3 This item is a plastic bag containing a
4 GSR, or a gunshot residue kit, that was taken from
5 Mr. Brown.

6 BY MR. DANIEL:

7 Q Okay. And that just let's you know whether
8 somebody has, essentially, gun powder on their hands,
9 correct?

10 A Correct.

11 Q All right. But, again, you don't do that testing.
12 It's just sent to SLED for a forensic analyst to test;
13 is that correct?

14 A Correct. I do collect it, but I do not do
15 analysis on it.

16 Q All right. After you collect the GSR kit from
17 Mr. Brown, what do you do next in your
18 investigation?

19 A After collecting the gunshot residue kit from
20 the Mr. Brown, myself and Todd Shank returned back
21 to the initial scene where we continued where we
22 left off with digital photographs. Once, again,
23 going in sequential order around the perimeter of
24 the building, and then we made entry inside the
25 building and did a brief walk-through to see where

1 any suspected bullet defects would be, as well as
2 any items of evidentiary value.

3 From then, we documented the scene with
4 digital photographs with items as is prior to any kind
5 of altercation or anything.

6 From then, we -- I documented everything with
7 notes.

8 Q All right.

9 MR. DANIEL: States's Number 8, Walter.

10 BY MR. DANIEL:

11 Q And just describe -- each photograph, just briefly
12 describe what it is?

13 A Okay. This is the west exterior side of the
14 Newberry vocational rehabilitation center. It is
15 a concrete walk space leading into the main lobby
16 area.

17 Q Number 10.

18 A This is the main lobby area. And in the
19 photograph you can see a pair of tennis shoes. I
20 can't see it, but from my knowledge of the scene,
21 there is 15 cartridges on the ground, a cell phone
22 with a charging cord, as well as a wallet
23 containing miscellaneous contents and U.S.
24 currency at this point.

25 Q Okay. And, to your knowledge, that would be where

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1 the 15 rounds were located in the building, right
2 where that picture was taken?

3 A Correct. Those are in the lobby.

4 Q State's -- and then you mentioned bullet defects.
5 You're looking for that as part of your crime scene
6 processing or investigation.

7 MR. DANIEL: Let's go to the State's 24,
8 Walter.

9 BY MR. DANIEL:

10 Q What are we looking at in terms of any bullet
11 defects in this particular area?

12 A This is a bullet defect located in the
13 ceiling of the lobby area. You're looking at the
14 south wall right there.

15 Q Okay. And bullet defect just means bullet hole,
16 correct?

17 A Yes, sir.

18 Q All right.

19 MR. DANIEL: Walter, go to 25, please.

20 BY MR. DANIEL:

21 Q And that's just another -- that's a closer view,
22 correct?

23 A Correct. That is a closer view of the lobby
24 inside the building.

25 Q And then 26 would be even a closer view?

1 A Yes, sir.

2 Q And then going back to --

3 MR. DANIEL: Let's go to 27.

4 BY MR. DANIEL:

5 Q Just a closer view of an earlier photograph,
6 correct?

7 A Correct.

8 Q All right. And did you -- from the lobby area,
9 you went to process the rest of the building; is that
10 correct?

11 A Correct.

12 Q All right.

13 MR. DANIEL: Let's go to 29, Walter,
14 please.

15 BY MR. DANIEL:

16 Q What are we looking at there, agent?

17 A I believe that is the east wall in the lobby,
18 if you take -- if you guys are looking at it to
19 the right, it's going into the common business
20 area.

21 Q And to the -- look on the right side of the
22 photograph.

23 MR. DANIEL: Walter, you may have to zoom
24 in a little bit.

25 BY MR. DANIEL:

Testimony of Dalila Jazic

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1 Q What are looking at there on the right portion of
2 this photograph?

3 A I'm not sure.

4 Q Okay.

5 A A door.

6 Q Let me show you State's 29. I'll hand you the
7 photograph right here.

8 A Thank you. I can't tell from the photograph,
9 but those are not suspected bullet defects. Is
10 that a wall?

11 Q That would be.

12 A Okay. Yes, then those are suspected bullet
13 defects.

14 Q Okay. How many?

15 A Those are two suspected bullet defects on the
16 exterior east wall.

17 Q Okay. So we showed one bullet hole in the lobby,
18 and now we're seeing two bullet holes in the east
19 wall?

20 A Correct. On the exterior east wall.

21 Q Okay. So that's three bullet holes total thus
22 far, correct?

23 A Yes, sir.

24 Q All right.

25 MR. DANIEL: Go to State's 32, please,

1 Walter.

2 BY MR. DANIEL:

3 Q What are we looking at there?

4 A That is a wooden beam above a window of the
5 exterior east wall, which is as soon as you walk
6 in through that main lobby into the common
7 business area and it's another suspected bullet
8 defect.

9 Q So there's two in the east wall, and then there's
10 another one above it in the wooden beam, a bullet
11 defect?

12 A Yes, sir.

13 Q Okay. So now that's a total four bullet holes; is
14 that correct?

15 A That is correct.

16 Q All right.

17 MR. DANIEL: Walter, if you could, go to
18 State's 33.

19 BY MR. DANIEL:

20 Q Now, if you look at the ceiling area in this
21 photograph, do you see anything else related to bullet
22 defects?

23 A It's difficult to see in the photograph, but,
24 to my knowledge and my records, there is another
25 suspected bullet defect in the ceiling of this

Testimony of Dalila Jazic

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1 common business area.

2 Q Okay. What about if you look at State's 34?

3 A Yes, that's the suspected bullet defect to
4 the ceiling in the common business area. It's a
5 closer view so you can see it a little better.

6 Q All right. Would that be the fifth bullet defect
7 that you documented?

8 A Yes, sir.

9 Q And there's five rounds in that revolver,
10 correct?

11 A Correct.

12 Q All right. Did you pull out any actual -- when
13 you fire a weapon a projectile comes out of the
14 cartridge case, correct?

15 A Yes, sir. Correct.

16 Q Did you recover, actually, any projectiles in the
17 office?

18 A I did. And I labeled it as office one, which
19 is as soon as you walk into that main lobby door
20 into the common business area. The first office
21 to the left inside the office on the north wall,
22 there was two defects. And one of them that I
23 labeled B-2, we recovered a fired projectile.

24 Q Okay.

25 MR. DANIEL: So let's look at 36, Walter.

1 BY MR. DANIEL:

2 Q And what are we looking there, agent?

3 A May I see that photograph, sir?

4 Q Oh, sure.

5 A Thank you. What you're looking at is going
6 to be the north interior wall of office one, and
7 those are two suspected bullet defects.

8 Q Okay. Would that be entry holes or exit holes?

9 A Those would be entry holes and bullet
10 defects.

11 Q Okay. And then, can you see State's 42 on the
12 TV?

13 A Yes, sir, I can.

14 Q All right. What is that?

15 A That is what I labeled defect B-2, which is
16 the previous photo you guys saw on the right side
17 of a suspected bullet defect. I scaled the bullet
18 defect with a label of B-2, the date, and my
19 initials, and the approximate location of where it
20 was located. We utilized tools to cut into the
21 wall and inside you can see a fired projectile.

22 Q All right.

23 MR. DANIEL: 43, Walter, please.

24 THE WITNESS: From there a fired
25 projectile was recovered from defect B-2 inside

Testimony of Dalila Jazic

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1 that interior wall of office one.

2 BY MR. DANIEL:

3 Q Okay. And that's the actual bullet that would
4 inflict injury to someone, correct, the actual metal
5 part of the bullet, the projectile?

6 A Yes.

7 Q Okay. And what is -- I just handed you -- got my
8 numbers mixed up. What number is that, agent? I'm
9 sorry.

10 A State's Exhibit 49, if I can read your
11 writing.

12 Q 47.

13 A 47.

14 Q All right. What is that?

15 A This is a clear plastic bag containing my
16 item 2, which is one fired projectile from defect
17 B-2.

18 Q Okay. And then -- so all in all, you documented
19 five bullet defects, correct?

20 A Yes, sir. Well, I did not document five
21 bullet defects. I documented one, two, three --
22 eight bullet defects because we had entrance and
23 exits and re-entrances.

24 Q So, part of your duties are -- basically, bullet
25 trajectory analysis is what you were performing in a

1 sense?

2 A In a sense, yes, sir.

3 Q Okay. I'm going to show you -- and you said you
4 did a crime sketch earlier at this location; is that
5 correct?

6 A That is correct.

7 Q All right.

8 MR. DANIEL: State's 40, Walter.

9 BY MR. DANIEL:

10 Q And, again, that's the layout of what we just
11 discussed in the photos; is that correct?

12 A It is.

13 Q A blueprint of the voc rehab office?

14 A Yes, sir.

15 Q And, correct me if I'm wrong, you're noting bullet
16 defects, you're labeling them A, B, C, D, and E,
17 correct?

18 A Yes, sir.

19 THE WITNESS: Your Honor, may I look at
20 my diagram, my notes?

21 MR. VERNER: No objection.

22 THE COURT: Sure.

23 THE WITNESS: Thank you.

24 Yes, I'm labeling A, B, C, D, and E.

25 BY MR. DANIEL:

Testimony of Dalila Jazic

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1 Q All right, agent. And, again, that was
2 essentially the extent of your role in this
3 investigation; is that correct?

4 A Yes, sir, it was.

5 Q All right. Please answer any questions defense
6 counsel has.

7 THE COURT: Mr. Verner, any
8 cross-examination?

9 MR. VERNER: Just a few, Your Honor.

10 THE COURT: Okay.

11 MR. VERNER: And I will note, Judge, just
12 for future hearings, it's almost -- it's very
13 difficult for the litigants to see the TV screen
14 with the side --

15 THE COURT: We'll try to see fix that
16 next time. Thank you for pointing that out.

17 MR. VERNER: I'm actually going to ask
18 her to go over to the big screen TV.

19 THE COURT: Okay. Put the mask up for
20 them.

21 THE WITNESS: Yes, sir.

22 THE COURT: If you would, in keeping your
23 distance -- I'll tell you what --

24 MR. VERNER: She can go either way,
25 Judge.

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1 THE COURT: All right. Here's what I
2 want: Madame Juror, if you would just position
3 yourself on the very end of that pew so the
4 witness doesn't -- Madame Forelady, if you could
5 maybe slide back just a little bit, just so we can
6 keep good distancing. Just a little bit. Not
7 much. Very good. That will give you a little bit
8 more space to work with. You may want to stand
9 there and point.

10 MR. VERNER: I was going to give her a
11 red pen, Judge.

12 THE COURT: Just to, kind of, point.
13 Better yet, I have a laser pointer. Would you
14 like to use that?

15 THE WITNESS: Sure.

16 MR. VERNER: We always want a laser
17 pointer, Judge.

18 THE COURT: Excuse me just a minute.

19 THE WITNESS: Your Honor, is it going to work
20 on the screen?

21 THE COURT: Well, I don't know.

22 MR. VERNER: If not, I have a red pen,
23 Judge.

24 THE COURT: Let's try.

25 THE WITNESS: Okay.

Testimony of Dalila Jazic
THE COURT: Be right back.

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CROSS-EXAMINATION

BY MR. VERNER:

Q I'm just trying to have some understanding. Point out on this diagram, where is your main lobby when you come into the building?

A So this is the front door entryway, which is a covered walkway. You walk in through the front door right here and this would be the lobby.

Q Okay. So the room on the bottom left corner is the entranceway, the foyer, I guess?

A Yes, sir.

Q Okay.

A I just labeled it as the lobby area.

Q Okay. And then you walk into the lobby on the right.

Where was the first -- I think I see it marked, but just put your pen where -- I guess, the first hole -- there was one hole in the lobby area. Or, how many holes were in the lobby area?

A Yes, sir. I can't say it's the first hole, but there is a suspected bullet defect, and you see it approximately at this location in the lobby area.

Q And that's the one in the ceiling?

1 A Yes, sir, that's the one in the ceiling.

2 Q Okay. And then where are the next -- there are
3 four places that apparently were shot, the bullet
4 entered a wall or the ceiling?

5 A So the four suspected bullet defects, you got
6 -- I labeled it office one. So as soon as you
7 walk in through the main doorway into the common
8 business area right here, you've got on the
9 exterior of the east wall --

10 Q Can I back up just one second? The door that you
11 enter into, is that door with the deadlock or is that
12 the door that you enter with the employee's badge?

13 A I don't remember a badge or a door lock. The
14 door was already opened when we arrived on
15 scene.

16 Q Okay. And that seems -- did you watch the video
17 of the SERT team entering?

18 A No, sir. I did not see any surveillance
19 footage prior.

20 Q So you don't know if the door right there is where
21 he was arrested?

22 A No, sir. I do not.

23 Q Okay. Show me -- or show us where the next
24 bullets were found in the building -- bullet holes?

25 A So other suspected bullet defects are going

Testimony of Dalila Jazic

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1 to be located on the exterior east wall right here
2 into the wall, as well as what's labeled A. B is
3 another suspected bullet defect.

4 Q Those were two bullets in the wall or ceiling?

5 A Those are in the wall.

6 Q And does it appear -- were those fired from the
7 hallway towards the office or from office towards
8 the --

9 A Can you repeat that question, sir?

10 Q Were they fired from somebody inside the office
11 room or somebody in the main center room towards the
12 office?

13 A I can't say. I used trajectory rods in
14 defect A and B, which are just metal rods that we
15 can put through a wall or any kind of substrate
16 that shows an approximate angle or a location
17 where the bullet could have traveled.

18 So when we use lasers when we document with a
19 specialized setting on the camera, you can see that
20 they're traveling in this direction. So that's why we
21 align A to A-1 and A-2 in this angle here, and B to
22 B-1 and B-2 at this angle here.

23 So to continue, there is also a --

24 Q Well, on those two -- so the person who took -- so
25 Mr. Brown who fired these shots was not in the office

1 when he shot them, if you're saying the bullet
2 trajectory is going from your right to left looking at
3 the picture?

4 A I can't testify to that because I don't know
5 where he was standing at the time of the shooting.

6 Would you like for me to continue?

7 Q Two more bullets, yes.

8 A Okay. Then you also have a suspected bullet
9 defect, which is in a wooden beam above a window
10 area of office one right here, and defect E, which
11 is a suspected bullet defect in the ceiling and in
12 the common business area. And then you have your
13 two suspected bullet defects, which are entrances,
14 to my knowledge, in the north wall, interior north
15 wall of office one.

16 Q So the three bullets in the office wall are kind
17 of grouped. I know one went into the wood and two
18 went in the wall itself, but there are three grouped
19 bullets in that middle one.

20 A Which three?

21 Q B, C, and D would be grouped bullets. I assume A
22 is the one in the ceiling.

23 A Defect A is not the one in the ceiling. That
24 is the one to the exterior east wall.

25 Q Okay. In that wall are A, B, and, what, C?

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- 1 A No, sir. Defect D is in the wood beam
2 above.
- 3 Q Right. But my question is pretty simple. They
4 are all very close together.
- 5 A Yes, sir. They are close together.
- 6 Q Okay. And then one was about five or six feet
7 further down the hallway -- the wall?
- 8 A I can't testify that it's five to six feet,
9 but I did take measurements of the defects.
- 10 Q Okay. Could those have all been fired from
11 somebody standing in the same place?
- 12 A I can't testify to that, sir.
- 13 Q Okay. Clearly -- what is your -- what's the A, B,
14 C lettering for the bullet that was fired in the
15 ceiling?
- 16 A It's just a way to differentiate.
- 17 Q What is it? Is it F -- I mean, E, D? What are
18 you calling it?
- 19 A A label.
- 20 Q Is the bullet in the ceiling in the lobby A, B, C,
21 D or E?
- 22 A In the lobby, it would be defect D.
- 23 Q D, okay.
- 24 A Yes, sir.
- 25 Q You could not have fired -- I'll withdraw that.

1 You got one bullet in the ceiling in the
2 lobby.

3 A Yes, sir.

4 Q You have three bullets in very close proximity
5 into the office wall.

6 A Yes, sir.

7 Q That appear to have been shot by somebody in the
8 main room, the main center room?

9 A I can't testify to that.

10 Q Okay. But you can testify the bullets are
11 traveling from right to left on the screen, right?

12 A Yes, sir.

13 Q And they go through a wall.

14 A Correct.

15 Q And they hit another wall behind that wall?

16 A Correct.

17 Q And then there's -- the fifth bullet is just a
18 little bit -- it's a couple feet further down on the
19 same wall?

20 A Yes, sir.

21 Q Okay. Stay there for just one more second to make
22 sure I don't have any more.

23 A Yes, sir.

24 Q And just put your pointer where the shoes and the
25 bullets were recovered in the building?

Testimony of Dalila Jazic

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1 A The approximate location of the shoes in the
2 wall and the cartridges would be here in the main
3 lobby area.

4 Q Okay. And that's also marked with your pointer --
5 there's a line going through it pointing to it?

6 A Yes, sir. It's just marked within the
7 approximate location in the diagram, but they were
8 not marked on scene.

9 Q Okay. You can come on back down to your seat,
10 please.

11 When SLED takes possession of the handgun --
12 I believe you testified Investigator Bouknight
13 transferred the pistol to you.

14 A Yes, sir.

15 Q And then it is processed for SLED -- or for
16 fingerprints, gunshot residue, a lot of different
17 things. Is the gun also processed -- or compared to
18 other crimes?

19 A I can't testify to that. That would be
20 firearms.

21 Q So you don't know if it was linked to other
22 crimes?

23 A I can't testify to that, sir.

24 Q You've been in the building -- for how long were
25 you in the voc rehab building doing your processing?

1 THE WITNESS: Your Honor, may I look at
2 my notes?

3 THE COURT: Sure.

4 THE WITNESS: Thank you, sir.

5 We arrived on scene at approximately
6 3:07 p.m. and we departed the scene at approximately
7 6:24 p.m.

8 BY MR. VERNER:

9 Q Okay. And looking at the map that's on the
10 screen, is that laid out in a north, east, south, west
11 -- is the building -- is the top of the page in a
12 northern direction? I understand that the entrance is
13 on the bottom.

14 A Yes, sir.

15 Q But which direction would be north, east, west and
16 south on that page? I see a little area, kind of, on
17 the middle, top left?

18 A Yes, sir. The north arrow is an approximate
19 north direction only.

20 Q Okay. So the front door of the building faces the
21 south, generally?

22 A The front door of the building is
23 generally -- it's on the west side of the
24 building.

25 Q But you actually have to come through the southern

Testimony of Dalila Jazic

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1 wall?

2 A Yes, it comes through the southern wall.

3 Q Okay. And I guess my question is: If you were in
4 the main lobby in the center of the building -- you
5 were in the main lobby of the center building,
6 right?

7 A Yes, sir.

8 Q Are there any windows looking outside in that main
9 room?

10 A Of the lobby?

11 Q Of the main room -- I guess -- are you calling it
12 the lobby? Not the lobby. The main room in the
13 center, the office?

14 A The common business area?

15 Q The common business area.

16 A Not that I can recall.

17 Q Okay. So if you were in the main business area
18 and you were shooting into the wall where you
19 documented the four bullets holes into that wall, you
20 would not be looking through windows outside, right?

21 A I can't testify to that, sir.

22 Q Are there any windows pointing outside, facing
23 outside from the interior of the building?

24 A Not that I can recall, sir. I would have to
25 look back at what I documented.

1 Q Do you recall if you would see -- if you were in
2 the main business room, can you see outside, what's
3 going on outside the building?

4 A I can't testify to that, sir.

5 Q Okay. Thank you, agent. The prosecutor may have
6 follow-up.

7 THE COURT: You don't have any redirect?

8 MR. DANIEL: No, sir. I don't.

9 THE COURT: Agent Jazic, you are free to
10 step down. You're free to leave or you're more
11 than welcome to remain with us, if you would
12 like.

13 THE WITNESS: Thank you, Your Honor.

14 THE COURT: All right. Ladies and
15 Gentlemen, we're going to take a short break this
16 morning. And, again, as we've been doing the last
17 couple of days, if you need to take a restroom
18 break just remain seated. If you don't need one,
19 then we'll get the deputy to escort them down to
20 the jury room. You're free to go downstairs.

21 (Jury exits the courtroom at 11:42 a.m.)

22 (A break was taken from 11:42 a.m. to 12:07 p.m.)

23 THE COURT: Let's bring the jury out
24 please.

25 (Jury enters the courtroom at 12:08 p.m.)

Testimony of Walter Bentley

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1 THE COURT: Let the record reflect the
2 jury is back in. Solicitor, you can call your
3 next witness.

4 MR. DANIEL: Than you, Your Honor. The
5 State calls Walter Bentley.

6 THE CLERK: Raise your right hand. Do
7 you solemnly swear or affirm that the testimony
8 you shall give the Court and jury shall be the
9 truth, the whole truth, and nothing but the truth
10 so help you God?

11 THE WITNESS: Yes, ma'am.

12 THE CLERK: Have a seat and state your
13 name for the record.

14 THE WITNESS: It's Walter Bentley.

15 WHEREUPON:

16 WALTER BENTLEY,
17 after having been sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. DANIEL:

20 Q All right. Mr. Bentley, you're an investigator
21 with our office, correct?

22 A I am, sir.

23 Q And you've been in law enforcement for at least
24 two decades; is that right?

25 A I'm in my 25th year, yes, sir.

1 Q So your duties as an investigator with our office
2 is to help us prepare cases for trial; is that
3 correct?

4 A That's correct.

5 Q All right. The arresting agency in this case was
6 the City of Newberry Police Department; is that
7 correct?

8 A Yes, sir.

9 Q Did you have an occasion to review the City of
10 Newberry Police Department's investigative file
11 related to this incident?

12 A I did. I reviewed the SLED's file also.

13 Q And, Ricky Brown, did you have an occasion to look
14 at Ricky Brown's -- first of all, let me pack up.

15 On October 2nd, the incident in question,
16 October 2nd of last year, did you receive evidence
17 that Ricky Brown was in possession of a handgun? Is
18 that correct?

19 A I did. Yes, sir.

20 Q Any time you're reviewing a case like that where
21 someone is in possession of a handgun, what do you, as
22 an investigator, review at that point that's
23 relevant?

24 A I look at their history to see if they're
25 prohibited from possessing a firearm.

Testimony of Walter Bentley

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1 MR. VERNER: Your Honor, under 403, I do
2 offer my objection on the grounds I raised at bar
3 that the defense is willing to stipulate to this
4 element.

5 THE COURT: Okay. You may proceed.

6 MR. DANIEL: Thank you, Your Honor.

7 BY MR. DANIEL:

8 Q All right. So any type of weapons violation, you
9 review a suspect's criminal history; is that
10 correct?

11 A That's correct.

12 Q And that's to see if they're prohibited under
13 state or federal law from possession of a firearm?

14 A Yes, sir.

15 Q Did you have an occasion to review Ricky Brown's
16 criminal history?

17 A I did.

18 Q Did he have any type of conviction that would
19 disqualify him from possessing a firearm?

20 A He did. He had a violent crime conviction.
21 November 12th of 1998 was the disposition date.

22 Q So you verified -- how did you verify he had these
23 convictions?

24 A I consulted a state statute which lists out
25 the crimes that are considered crimes of violence

1 in South Carolina, and the crime was listed on
2 that as well.

3 Q Okay. So, in 1998, you verified Ricky Brown had a
4 violent crimes conviction?

5 A Yes. And I also verified that through the
6 clerk's office here in Newberry. I got a copy --
7 a certified copy of the indictment and sentencing
8 sheet to show that it was a true and accurate
9 record.

10 Q So the same Ricky Brown who was convicted of a
11 violent crime in 1998 is the same Ricky Brown who
12 possessed a firearm on October 2nd of last year?

13 A Yes. It's the same first, middle and last
14 name as well. The same individual.

15 Q And what is 16-23-500 in the South Carolina code
16 of laws?

17 A It's the statute used for possession of a
18 firearm for a person convicted of a violence
19 offense.

20 Q And how do you know what's a violent offense?

21 A It directs you to another statute, 16-1-60.
22 You can consult that statute and it lists out the
23 actual crimes that are violent offenses.

24 Q Okay. And, lastly, did you review SLED's
25 investigative files that pertains to this incident?

Testimony of Walter Bentley

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1 A Yes, sir.

2 Q All right. Was there anything of evidentiary
3 value that SLED tested in this case?

4 A He did a gunshot residue analysis on the
5 gunshot residue kit that Special Agent Jazic
6 testified earlier to concerning Mr. Brown.

7 Q Okay. And that's a State's exhibit, correct?

8 A It's State Exhibit 31.

9 Q And what was the result of this gunshot residue
10 analysis?

11 A The result was -- I'll read from the report.
12 It was a GSR kit for Ricky Bernard Brown, and it
13 tells the analysis they did. The result was
14 particles characteristic of a gunshot residue were
15 found, and it goes on to talk about what kind of
16 particles were possibly found.

17 Q So particles of gunshot residue were found on
18 Ricky Brown's hands, correct?

19 A Yeah, particles characteristic of gunshot
20 residue.

21 Q Thank you, Investigator Bentley.

22 THE COURT: Mr. Verner, any questions?

23 MR. VERNER: Just two.

24 CROSS-EXAMINATION

25 BY MR. VERNER:

1 Q Mr. Bentley, no one has ever disputed that
2 Mr. Brown fired the gun, though, did they?

3 A No, sir.

4 Q Okay. You all did this just out of an abundance
5 of caution of double-checking something?

6 A Yes, sir. It's just part of collecting
7 evidence and doing an investigation.

8 Q And just so we can get this clear, the legislature
9 classifies certain crimes as violent just by their
10 very nature?

11 A That's correct.

12 Q That doesn't mean violence was used at the time.
13 That just means that the legislature has classified
14 certain crimes in any category of violent crimes?

15 A I would agree with that.

16 Q Okay, thank you.

17 THE COURT: You can step down,
18 Mr. Bentley. Thank you, sir.

19 Next witness.

20 MR. DANIEL: Your Honor, the State calls
21 Officer Kevin Goodman.

22 THE COURT: Come around, sir. Make sure
23 your mic is your level because we got different
24 sizes of witnesses. Make sure it's, kind of, in
25 the direction of your mouth, please, sir.

Testimony of Kevin Goodman

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1 THE WITNESS: Yes, sir.

2 THE CLERK: Do you solemnly swear or
3 affirm that the testimony you shall give the Court
4 and jury will be the truth, the whole truth, and
5 nothing but the truth so help you God?

6 THE WITNESS: I do.

7 THE CLERK: Have a seat and state your
8 name for the record.

9 THE WITNESS: Kevin Goodman.

10 WHEREUPON:

11 KEVIN GOODMAN,

12 after having been sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. DANIEL:

15 Q Officer Goodman, you're employed with the City of
16 Newberry Police Department, correct?

17 A Yes, sir.

18 Q What's your rank there?

19 A Captain.

20 Q And you've been with that agency for quite some
21 time, correct?

22 A Twenty-five years.

23 Q All right. Let's go back to October 2nd of last
24 year. Were you working that day?

25 A Yes, sir.

1 Q Did you have an occasion to respond out to the
2 Newberry voc rehab building near the hospital?

3 A Yes, sir.

4 Q What was that in reference to?

5 A It was in reference to this incident, a
6 hostage situation, active shooter.

7 Q And give or take, how long did this hostage,
8 slash, standoff situation last?

9 A Several hours. As already has been said, the
10 crime scene unit had to get there. It started a
11 little after 1:00, so in excess of two hours, two,
12 three hours.

13 Q With Ricky Brown being taken into custody -- from
14 the time you all were called out there from the time
15 Ricky Brown was taken into custody, how long was that,
16 approximately, if you remember?

17 A I do not remember, but I'm going to say at
18 least an hour, hour and a half, maybe.

19 Q Okay, fair enough. And it was 96 degrees that
20 day; is that correct?

21 A It was hot.

22 Q Okay. And you were wearing tactical gear; is that
23 correct?

24 A That's right.

25 Q All right. Now, once Ricky Brown is taken into

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1 custody, where does Ricky Brown go from the point of
2 being taken into custody? Where he is transported?

3 A He went directly to the emergency room.

4 Q Okay. And did you respond out to the emergency
5 room, which was just across the street essentially,
6 correct?

7 A Correct. Well, we met with the victims,
8 myself and one of the other investigators. We met
9 with the victims and got them downstairs to what I
10 call a conference room, kind of, off to the side
11 of the cafeteria in the hospital, to make sure
12 they were secure and safe, and then I just started
13 checking on my guys. So, at some point, I did
14 walk up to the ER.

15 Q And you were aware that Ricky Brown was in custody
16 and he was being checked out at the Newberry ER?

17 A I was.

18 Q Did you have an occasion to encounter Ricky Brown
19 once he was at the Newberry ER?

20 A Yes.

21 Q Okay. And about what time was that do you
22 estimate?

23 A Maybe 20 minutes after we got the victims in
24 the room and settled, something like that. I'm
25 not really sure. I wasn't keeping up with how

1 long we were there. We were just making sure the
2 victims were okay.

3 Q It was still in the afternoon.

4 A It was still in the afternoon, yes.

5 Q And did you, at that point, remove your tactical
6 vest and gear and things like that?

7 A Yes, sir.

8 Q Tell us about your body camera. Do you all wear
9 that at the Newberry Police Department?

10 A We do.

11 Q Did you have your body camera on during this
12 hostage situation?

13 A The body cam was on, but it was attached to
14 my tactical vest. So when I took that off, it was
15 still attached to my tactical vest.

16 Q You didn't want to keep wearing that vest on a
17 96-degree day?

18 A No, sir, not at all.

19 MR. DANIEL: Walter, if you could, show
20 State's 43, please.

21 BY MR. DANIEL:

22 Q Is that how you remember Ricky Brown in a position
23 when you encountered him at the hospital?

24 A Well, he was in the hospital bed. I can't
25 say that he was sitting just like that, but, yes,

Testimony of Kevin Goodman

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1 he was in the hospital bed.

2 Q But you would agree he was in custody handcuffed
3 to a hospital bed when you encountered him, correct?

4 A Yes, yes.

5 Q So that picture is a fair and accurate depiction?

6 A Yes.

7 Q Well, how did you encounter him? Did you initiate
8 contact with Ricky, or how did that happen?

9 A No, sir. You know, like I said, I was
10 checking on my officers. And, at some point, I'm
11 standing at the doorway that you can't see in the
12 picture. He motioned for me to come in. He asked
13 me to come over to him, and I did.

14 Q Okay. So Ricky motioned with his hand; is that
15 correct?

16 A Yes, to come to him, and I did.

17 Q With his free hand?

18 A With whichever hand.

19 Q So he motioned for you to come over there and you
20 did?

21 A Yes.

22 Q All right. Well, tell us what ensues at that
23 point?

24 A Well, I mean, I go over and he starts telling
25 me that he had been --

Testimony of Kevin Goodman

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1 MR. VERNER: Your Honor, I got a written
2 motion. The Court's already evaluated it and I
3 already raised those same issues.

4 THE COURT: Right. You're renewing your
5 motion?

6 MR. VERNER: Yes, sir.

7 THE COURT: So noted for the record,
8 Mr. Verner. Thank you.

9 Start back over, Captain.

10 THE WITNESS: So I go over to him and he
11 immediately starts to tell me that he's been out
12 to mental health on four different occasions, and
13 he expressed that he had told his caseworker and a
14 doctor at mental health that he wanted to kill
15 himself and other people and they just sent him
16 away. He said, at some point in time, they put
17 him on a generic drug that did absolutely nothing
18 for him.

19 He said he had walked around the west end
20 doing drugs and drinking with a gun and waiting
21 for the first person that said something out of
22 the way to him, he was going to kill him because
23 that was only way for him to get help.

24 On the day in question, he expressed that
25 he had gone to mental health with the intent of

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1 killing his caseworker and this doctor out there,
2 but the caseworker was on lunch break and the
3 doctor wasn't there.

4 So he went to voc rehab where he said he
5 knew that if he went there and starting shooting
6 in the building, they would call the police and he
7 was going to go out with a blaze of glory with the
8 police, a shootout with the police.

9 Talking with Miss Sonya and talking with
10 his daughter, it changed his mind. He said he
11 decided to peaceably surrender.

12 Q All right. So, in a nutshell, Ricky admitted that
13 he went to Newberry mental health that day,
14 October 2nd, along with a gun, correct?

15 A That's right.

16 Q And he said he had the intent to kill at least two
17 staffers at Newberry mental health?

18 A That's right.

19 Q But they happened to not be there?

20 A Right.

21 Q And that's when he decided to go to voc rehab
22 instead?

23 A Yes.

24 Q And he indicated he did want to go in a blaze of
25 glory with the police?

1 A Right.

2 Q And what did you take that as?

3 A A shootout. I mean, I guess I'll refer to it
4 as suicide by cop, I guess.

5 Q Well, he's actually admitted to a murder/suicide,
6 correct?

7 A Right.

8 Q So he's not purely saying to you this was just
9 suicide. He's saying he wants to hurt other people
10 first and then suicide by cop.

11 A Right.

12 Q And you're clear on that, that's what he told
13 you?

14 A I'm clear.

15 Q And, again, your body cam was not activated
16 because it was on your tactical vest?

17 A Right.

18 Q And you had taken that off due to the heat, et
19 cetera.

20 A Right. Again, I didn't go to interview or
21 interrogate anyone. I went out to check on my
22 officers.

23 Q That's my next question: Why didn't you -- we all
24 see it on TV, before police -- at least we think,
25 before police talk to people, they give them their

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1 Miranda warnings. Why didn't you in this case?

2 A In this case, again, I wasn't interrogating
3 him. I didn't ask any questions. I didn't have
4 any intent to ask him any questions.

5 Q Because he initiated contact with you; is that
6 correct?

7 A That's right.

8 Q And that's why you did give Miranda warnings.

9 A Right.

10 MR. DANIEL: Thank you, Captain Goodman.
11 Please answer any questions Mr. Verner has.

12 THE COURT: Mr. Verner.

13 MR. VERNER: May it please the Court?

14 CROSS-EXAMINATION

15 BY MR. VERNER:

16 Q Captain Goodman, prior your promotion to captain,
17 you were an investigator?

18 A Yes, sir.

19 Q Were you an investigator as of October 2nd of
20 2019?

21 A I was a captain.

22 Q You were already a captain?

23 A Yes, sir.

24 Q Did that also include or still retain your
25 investigator responsibilities?

1 A Yes, sir.

2 Q Okay. Mr. Brown was in the hospital bed when you
3 saw him.

4 A Yes, sir.

5 Q Do you remember what time, roughly, that was?

6 A I do not.

7 Q Okay. But law enforcement had been outside the
8 building approximately two hours?

9 A Outside of the voc rehab, yes, sir.

10 Q But they were primarily waiting for the SLED or
11 SWAT team to arrive?

12 A They were negotiating.

13 Q Were there any gunshots exchanged towards law
14 enforcement that day?

15 A Not to my knowledge.

16 Q To your knowledge, were there any gunshots that
17 day towards any person law enforcement or not?

18 A In hindsight, no. At the time, we didn't
19 know.

20 Q Clearly a man with a gun --

21 A Right.

22 Q -- who had shot -- I understand, at the time, what
23 your mind set is.

24 A Right.

25 Q But now, looking back over everything, there was

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1 actually no shooting at people involved in this day's
2 events?

3 A There is nothing I've seen or heard that
4 would indicate that he shot at a particular
5 person.

6 Q The concern was that he could have.

7 A Yes.

8 Q He's armed and he could shoot civilians or he
9 could shoot police officers, and that's what the
10 concern was before we go in the building. We don't
11 want anybody to get hurt.

12 A We knew there was a shot fired. But, at that
13 time, obviously we didn't know if it was fired at
14 someone or just fired.

15 Q Okay. I do have some concern. The -- you were
16 not interrogating Mr. Brown that day, were you?

17 A No, sir.

18 Q There's no question Mr. Brown was in custody?

19 A That's right.

20 Q He had both of his hands handcuffed to the bed?

21 A I don't know if it was both handcuffed. I
22 know he had one that was handcuffed.

23 Q But he wasn't injured?

24 A He didn't appear to be injured.

25 Q But physically? He wasn't shot or had --

- 1 A No. No, sir.
- 2 Q But at some point he beckoned you over.
- 3 A Yes.
- 4 Q And then he starts talking to you?
- 5 A That's right.
- 6 Q Okay. Now, he's been identified as a suspect in
- 7 the crime?
- 8 A That's right.
- 9 Q He's in custody?
- 10 A Yes, sir.
- 11 Q You're aware that you've got a legal duty, at that
- 12 point, to advise him of his Miranda rights?
- 13 A If I'm going interrogate him, yes. If I'm
- 14 going to initiate questions, yes, I do have an
- 15 obligation it read him his rights.
- 16 Q Well, what did you think he was beckoning over to
- 17 do?
- 18 A I had no idea what he wanted to talk about,
- 19 honestly. I had no idea.
- 20 Q But you understood he wanted to talk.
- 21 A Yes.
- 22 Q And you understood he was in custody and a suspect
- 23 of a crime.
- 24 A That's right.
- 25 Q Okay. My question is very simple: You got an

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1 absolute legal duty to read someone his rights who's
2 in custody prior to talking to him about the crime?

3 A I do have an obligation if I am going to
4 interrogate or interview him. That is my legal
5 obligation, yes.

6 Q You didn't think he was going to talk to you about
7 the last night's football game, did you?

8 A I had no idea what he was going to talk
9 about.

10 Q You thought he was just going to chat you up about
11 the weekend activities, or you thought he might have,
12 at least, a reasonable possibility that he was going
13 to talk about his side of what happened?

14 A In my mind, he wanted to talk. He started
15 talking and I let him talk.

16 Q Okay. Could you, if you had wanted to, said just
17 wait one second, Brown, while I advise you of your
18 Fifth Amendment right before you speak?

19 A Absolutely, I could have.

20 Q Okay. And I'm not asking you what you knew at the
21 time, I'm just asking you, in your opinion, an
22 officer, reasonably think that he might want to talk
23 about the crime?

24 A When things like that happen, you know,
25 people want to talk about a lot. Is it reasonable

1 to believe that he wanted to talk about what
2 specifically happened, I wasn't sure what he
3 wanted to talk about, what he wanted to ask me, or
4 if he called me over to ask me anything, but that
5 was what I went over there for.

6 Q And what you just told the jury was basically the
7 sum and substance of everything he told you?

8 A Right.

9 Q But he didn't talk about football games or
10 girlfriends or pass times?

11 A No.

12 Q And he was actually with the Sheriff in custody at
13 that time, wasn't he?

14 A The Sheriff was standing beside him when I
15 first walked up, yes.

16 Q Just to clarify the solicitor's questions, you
17 testified that Ricky said he wanted to go out in a
18 blaze of glory.

19 A Yes.

20 Q That doesn't say I want to go out in a
21 murder/suicide, does it?

22 A He use the words "blaze of glory" with the
23 police.

24 Q I understand "blaze of glory" in the colloquial
25 use of it can mean, I'm shooting at them, they're

1 shooting at me, and we both go out. It could also
2 just be -- that doesn't automatically imply he wanted
3 to murder anybody just because he says, I want to go
4 out in a blaze of glory.

5 I'll withdraw that. The --

6 If you have any follow-up questions. That's
7 all I need.

8 THE COURT: Solicitor, do you have
9 anything in redirect?

10 MR. DANIEL: No, Your Honor.

11 THE COURT: Okay. Captain, you can step
12 down. Thank you, sir.

13 All right. Ladies and Gentlemen, I think
14 this would be a good time to take our lunch break.
15 We will be back here no later than 2:15. And
16 again, as I mentioned yesterday, if you'd do it
17 for me again today, if you go to a local
18 establishment, keep your juror badge visible so
19 people can know that you are on the jury.

20 Okay. Have a good lunch. Don't talk
21 among yourselves or anybody about this case, and
22 we'll see you back at 2:15.

23 (Jury exits the courtroom at 12:31 p.m.)

24 (Lunch break from 12:31 p.m. to 2:24 p.m.)

25 THE BAILIFF: All rise.

1 THE COURT: Thank you very much. Have a
2 seat.

3 THE COURT: Are we ready for the jury,
4 State?

5 MR. DANIEL: Yes, sir.

6 THE COURT: Defense?

7 MR. VERNER: Yes, sir.

8 THE COURT: Bring the jury out, please.

9 (Jury enters the courtroom at 2:25 p.m.)

10 THE COURT: Let the record reflect the
11 jury is back in.

12 Good afternoon, Ladies and Gentlemen, I
13 hope your lunch break was good. Everybody still
14 feeling okay?

15 JURY PANEL: Yes, sir.

16 THE COURT: Very good.

17 The State ready?

18 MR. DANIEL: Your Honor, may I beg the
19 Court's indulgence?

20 THE COURT: Sure.

21 MR. SCOTT: Your Honor, the State
22 rests.

23 THE COURT: All right. Ladies and
24 Gentlemen, we thought, possibly, there would be
25 another witness for State, but they've indicated

1 they don't have any other witnesses. So what I'm
2 going to have to ask you to do is go back to the
3 jury room. I've got some legal issues that I need
4 to talk to the attorneys about and we'll get you
5 back up here just as soon as we possibly can.
6 Okay? Thank you very much.

7 (Jury exits the courtroom at 2:27 p.m.)

8 THE COURT: Okay. Mr. Verner, do you
9 have any matters you would like to place on the
10 record for the Court's consideration?

11 MR. VERNER: Yes, I do.

12 Procedurally, first and foremost, I would
13 move that the State dismiss the indictments
14 against the remaining people involved in this case
15 and Mr. Brown. I understand the Court's ruling is
16 that's a double jeopardy for later use, but he was
17 certainly indicted for other victims at the same
18 time. It appears it would be a clear double
19 jeopardy violation.

20 THE COURT: And while you may very well
21 be correct, again, I think it would be better left
22 to the trial judge, if, in fact, they call for
23 trial these other indictments. And then I think
24 it would be incumbent upon the defense, at that
25 time, to move for a dismissal. I'm not going to

1 make my rulings, certainly without prejudice to
2 the defense, if that were to happen. Okay?

3 MR. VERNER: I would move for a directed
4 verdict on the five indicted that did go forward.
5 At least on the two kidnap charges.

6 THE COURT: Let's take those separately.

7 MR. VERNER: Okay. The one against
8 Miss Byrd, I believe, would be our stronger
9 argument.

10 THE COURT: Okay.

11 MR. VERNER: Judge, I don't think the
12 State has offered any specific evidence. I
13 understand that she didn't feel free to leave, but
14 that was because she wanted to stay there and help
15 other people in the situation.

16 He never grabbed her or physically held
17 her, ceased her, or abducted her. I think she
18 pretty clearly stayed there on her own volition to
19 help both Ricky and her workers. She thought --
20 it's clear from the video. He leaves her by
21 herself in the very first instance to go into the
22 other room, and she follows him into the other
23 room. She's communicating by telephone. She's
24 basically acting as the mediator between Ricky and
25 the police officers and his family members.

1 In the video tape, there are multiple
2 occasions where they were in separate parts of the
3 building. She's not restrained.

4 I understand that she had, in my opinion,
5 a reasonable and a generalized fear that, if she
6 did try to run, she would be shot, but kidnapping
7 actually requires a positive act. The State v.
8 Jefferies is -- and I did review today and last
9 night the kidnapping statute, and I feel pretty
10 comfortable State v. Jefferies is still
11 the seminal --

12 THE COURT: Do you have the cite handy?

13 MR. VERNER: I had it written down,
14 Judge, but in the other room.

15 THE COURT: Okay. Approximately, what
16 year would it be? We can find it.

17 MR. VERNER: 1994, I believe, is
18 State v. Jefferies. And Jefferies doesn't quite
19 fit the fact pattern in this case because
20 Jefferies was somebody who carjacked a car and
21 there was a baby inside, and the carjacker did not
22 realize that the child was in the car. But it is
23 the seminal case in terms of --

24 THE COURT: The elements.

25 MR. VERNER: The mens rea and the

1 elements of the crime.

2 THE COURT: Okay.

3 MR. SCOTT: I got a cite right here I pulled
4 up. It's 446 S.E.2d 427.

5 THE COURT: Okay.

6 MR. VERNER: And, in that case, the trial
7 judge charged the jury that the State needed to
8 prove a positive act --

9 THE COURT: Okay.

10 MR. VERNER: -- on the part of the
11 defendant. And the Supreme Court said that that
12 wasn't quite enough, that it has to be the
13 positive act -- it doesn't necessarily need to be
14 a positive act, but it has to be the mens rea of
15 knowledge and which of these specific elements of
16 the kidnapping because it encompasses the inveigle
17 and the decoy.

18 THE COURT: Okay.

19 MR. VERNER: But that that portion, what
20 is the act of kidnapping, has to have a mens rea
21 of it.

22 While the Supreme Court in that case
23 said, you don't necessarily have to say positive
24 act, but positive act is basically part of the
25 mens rea; guilty mind and guilty hand. So it's

1 the thought and the hand.

2 And the trial judge just thought positive
3 act was enough, and the Supreme Court said, no,
4 it's the positive act with the guilty knowledge
5 that you are committing that portion of it.

6 THE COURT: Okay.

7 MR. VERNER: The one with
8 Miss Cheri Braswell is a little bit tougher.

9 THE COURT: Let's do this, let's take
10 them one at time. Let me hear from the State
11 concerning the Byrd indictment, and then we'll
12 come back and hear from you on the Braswell
13 indictment.

14 MR. SCOTT: Judge, the first thing that
15 occurs to me is, fortunately, our standard for
16 kidnapping isn't how many chances did you have to
17 escape. That plays no part whatsoever in
18 analyzing a kidnapping case.

19 Miss Byrd did testify, the implication
20 was there that she would be hurt. She would be
21 harmed should she choose to escape, as Mr. Verner
22 would suggest she do. So the implication is
23 certainly there. That being him waving the gun
24 around, him making various verbal threats, vague,
25 but still threats nonetheless.

1 Now, he did not expression to her that he
2 had any specific ideas in mind how he would harm
3 her. Of course, he's armed with a gun. You see
4 in the video he's pointing it at people. He's
5 waving it around. He's chasing people through the
6 building. In fact, I don't know if Chad or
7 Kendall here knew about it at the time, but he's
8 chasing them out the door with a gun pointing at
9 their head. He certainly implied he means
10 violence upon them.

11 I do want to note in the 911 call when we
12 hear Mr. Brown's voice he is referring to
13 Sonya Byrd as a hostage. So, certainly, we
14 understand what's in his mind. But more
15 importantly to me is what's in Miss Sonya Byrd's
16 mind. Did she feel free to leave? The answer is
17 certainly not, and that's what our kidnapping
18 statute incorporates, that understanding by the
19 victim that they are confined against their will
20 and they are not free to leave. So we do believe
21 it does fits the elements of kidnapping.

22 THE COURT: Okay.

23 MR. VERNER: Very quick rebuttal, Judge.
24 I do disagree. Opportunity to escape is a very
25 much -- because you have to be actually kidnapped.

1 If you have an opportunity to leave, you are not
2 actually kidnapped.

3 THE COURT: That may be something -- I'm
4 probably going to take this under advisement, give
5 it some thought and go back through my notes. I
6 don't think I'm prepared right now, after you make
7 argument, to make a ruling. That may be something
8 that we need to take a look at. How does
9 opportunity to escape -- does that factor in or
10 not? I don't know either way.

11 MR. SCOTT: It doesn't. But look at
12 Elizabeth Smart, nationally. I mean, you know,
13 there's a certain psychology that goes along with
14 kidnapping. Did she have opportunities to escape
15 over the months she was confined? Yeah, she did.
16 But the psychology that goes along with the
17 victim/perpetrator relationship in a kidnapping
18 situation -- you know, of course, Sonya had an
19 opportunity to run out the back door, but, as she
20 said, she didn't want to get shot in the back.
21 Now, whether that fear was rational or not, I
22 think it was. But whether or not it is, is not
23 really all that relevant. It's what's in her
24 mind. She had the opportunity to run out the
25 door, but she really didn't want to get shot in

1 the back so she didn't want to take the chance.

2 That would be our argument.

3 THE COURT: All right. Now, let me hear
4 from you, Mr. Verner, next concerning the Braswell
5 kidnapping indictment.

6 MR. VERNER: Judge, I can see
7 Miss Braswell's situation is a little bit
8 different.

9 THE COURT: It is different, I agree with
10 you on that.

11 MR. VERNER: Where she did testify that
12 he had actually grabbed her either by the back of
13 the head or by the arm or on the bra strap.

14 I would move for a directed verdict,
15 though, Judge. The evidence, as I heard it, was
16 that the three employees of voc rehab came out
17 into the hallway immediately in close proximity of
18 the defendant. And, of course, we see the video.

19 But, at that time, the kidnapping statute
20 requires that he had the intent to cease her,
21 kidnap her, abduct her, carry her away. The
22 mens rea is not just that he touched her. That's
23 not the magic -- that I touched you, or I grabbed
24 your arm, that you are automatically seized at
25 that point. You might be factual seized, but the

1 mens rea component of that means that she has to
2 be seized with the knowledge that he is holding
3 her against her will, the mens rea portion.

4 THE COURT: And it's me. It's not you,
5 but I'm not following you. I'm not understanding
6 you.

7 MR. VERNER: It's not enough, to me, the
8 kidnapping elements, merely that he grabbed her by
9 the arm. That is not kidnapping. If your clerk
10 has a message for me that the Court delivers, and
11 then she's walking away back to you and I grab her
12 by her arm and pull her back and say, wait, I
13 forgot to tell you X to tell him. I have grabbed
14 her and I have seized her factually and
15 technically, but I have not kidnapped her or
16 seized her for the purpose of kidnapping.

17 THE COURT: Does it change things or does
18 it change your argument any that Miss Braswell
19 testified that he had a gun to her side? Would
20 that change your argument any?

21 MR. VERNER: The -- if the testimony was
22 he was threatening me that if -- either implied or
23 expressly that he was going to shoot me if I
24 walked away. If I happen to have a gun in my
25 hand, same situation, and your clerk delivered a

1 message, and I had something else to convey to
2 Your Honor and I grabbed her by the arm, merely
3 that I was holding a gun in and off itself would
4 not be -- that's still criminal kidnapping, unless
5 I still did something that would give her a
6 reasonable fear, either expressly or impliedly,
7 that I was holding her.

8 However, if I pointed the gun at her or
9 presented it in such a way that she reasonably
10 felt that she was no longer free to leave, then I
11 agree, Your Honor, that the gun is -- if the gun
12 is used as part of the kidnapping, it's certainly
13 pertinent. If the gun just happens to be present
14 while I grab her arm, but there's no actual
15 implied or expressed threat to you, then it's an
16 unlucky happenstance but not part of the
17 kidnapping elements.

18 THE COURT: All right.

19 MR. VERNER: I would note kidnapping, as
20 written, has no element or inclusion of whether a
21 weapon was used. That's not part of the
22 kidnapping statute.

23 THE COURT: All right. The State's
24 response to the Braswell indictment.

25 MR. SCOTT: Your Honor, as you know,

1 kidnapping involves unlawfully seizing, confining,
2 inveigling, decoy, kidnap, abduct, or carrying
3 away. The definition of seize means to take hold
4 of suddenly or forcibly, confine is defined as
5 limiting, restricting, or enclosing one within
6 bounds, imprisoning, or shutting in.

7 The testimony from Miss Braswell is she
8 was suddenly and forcibly grabbed from behind by
9 the back of the head. Thereafter, he held his
10 left arm around her while he stood behind her,
11 grabbed a hold of her bra strap, and her badge and
12 her shirt and said, you can't leave.

13 So he has expressed that he was holding
14 her against her will and his very actions -- that
15 was the only thing you could derive from his
16 actions.

17 And she certainly did testify that she
18 saw the pistol held against her side. The very
19 sight of it brought tears to her eyes even
20 yesterday. So, certainly, it does fit all the
21 agenda.

22 In the light most favorable to the State,
23 the weight of the evidence certainly does point to
24 all the elements of kidnapping, Your Honor.

25 THE COURT: All right. Just one second.

1 Yeah, I have that in my notes as well, that he
2 told her, you cannot leave, and grabbed her hair
3 or head in some fashion.

4 All right. Are you moving for a directed
5 verdict, Mr. Verner, on the two pointing and
6 presenting indictments?

7 MR. VERNER: I am to protect the record,
8 Judge.

9 THE COURT: All right.

10 MR. VERNER: The element of threatening
11 would be -- I mean, the element of presenting
12 would be that he has to threaten them with it,
13 either expressly or implied. The mens rea is not
14 showing the gun. It's brandishing it with a
15 threatening behind it.

16 THE COURT: I was not aware that there
17 has to be a threat associated with pointing or
18 presenting a firearm.

19 MR. SCOTT: Not pointing. Presenting is
20 the offer to view in a threatening manner or to
21 show in a threatening manner. Pointing is
22 pointing.

23 THE COURT: Right.

24 MR. SCOTT: But the presentation of a
25 pistol is defined, offer to view in a threatening

1 manor or to show in a threatening manner. Of
2 course, pointing is just what it sounds like.

3 THE COURT: Okay.

4 All right. And the last indictment
5 insofar as being in possession of a weapon after
6 having already been convicted of a violent
7 offense. I guess --

8 MR. VERNER: Judge, moving without
9 arguing.

10 THE COURT: Right. That's pretty much a
11 given, I believe, we have here.

12 All right. Let me ask you this,
13 Mr. Verner, if I don't grant your four motions, do
14 you intend to put up a case? What I'm trying to
15 figure out is, as far as time here, I need some
16 time to spend on this. My primary concern is the
17 Byrd indictment. I'll just be honest with you.
18 That's my primary concern to the extent I want to
19 really look hard at that indictment and the law
20 and the statute.

21 But with that said, I know you gave me a
22 witness list, but you're certainly not bound to
23 that. What are your plans? Are you at liberty to
24 tell me?

25 MR. VERNER: Well, Judge, in fairness to

1 to have them back in the morning at 9:45, but I
2 don't want the lawyers to go anywhere this
3 afternoon.

4 MR. VERNER: I would warn the State to be
5 prepared to go ahead and open on the law in the
6 morning. I think that that's very likely where we
7 could be.

8 THE COURT: Okay. Well --

9 MR. VERNER: But I'm reserving the
10 right to --

11 THE COURT: Sure. What's going to happen
12 is if, I don't deny your motions, or don't deny
13 all your motions, you decide not to put up a case,
14 then, yeah, we're going to be in the posture in
15 the morning sometime to go into closing arguments.
16 Sure.

17 MR. VERNER: Thank you, Judge.

18 MR. DANIEL: As it stands, if Mr. Verner,
19 assuming he does rest his case without putting up
20 a case, in terms of any mental health defenses, I
21 don't think he can even elude to that in closing
22 arguments, because, again, those are affirmative
23 defenses.

24 THE COURT: Right.

25 MR. DANIEL: And he would have the burden

1 by a preponderance of the evidence to prove that
2 related to insanity or guilty but mentally ill.

3 MR. VERNER: We can argue that tomorrow
4 or after the jury is gone, Judge. I think,
5 obviously, multiple people got into his mental
6 health background, so that would probably be an
7 issue for the jury. But the -- or we can argue
8 that after the jury is out.

9 THE COURT: Let me go ahead and cut the
10 jury loose. You can bring them up.

11 (Jury enters the courtroom the 2:45 p.m.)

12 THE COURT: Okay. Let the record reflect
13 the jury is back in.

14 Ladies and Gentlemen, here's the plan.
15 I'm going to go ahead and excuse you for the
16 remainder of the day. I've got some legal issues
17 that I need to work on with the lawyers. So I
18 want you back at ten o'clock in the morning and
19 we'll proceed forward.

20 You know, the option -- the other option
21 is just to leave you sitting down in the jury room
22 for an extended period of time. And I think,
23 probably, if I asked you to choose between the
24 two, you'd probably like to go on home, or go
25 somewhere apart from this courthouse.

1 We'll be in recess for a little bit.

2 (A break was taken.)

3 THE BAILIFF: Court will come to order.

4 THE COURT: Have a seat, thank you.

5 Okay. We are back on the record. I've
6 given a lot of consideration to your motion,
7 Mr. Verner, for directed verdict on the two
8 kidnapping and the two pointing and presenting.
9 I'm going to deny your motion, but let me just
10 make some comments related to it.

11 I think the indictment on Cheri Braswell,
12 I think that's very clear in my mind. I'll just
13 go through some of her testimony. The defendant
14 said that she could not leave and he grabbed
15 either her hair or her head, and she was also
16 aware that he a gun. The defendant grabbed her
17 across the chest, badge, and took a hold of her
18 bra strap, and had a gun to her side. She felt
19 restrained. She felt she was going to die. She
20 said she was not able to leave because he had a
21 hold of her. She begged him to let her go, and he
22 finally did. That tells me that prior to that he
23 did let her go after she was begging to leave.
24 She felt like she was not free to leave.

25 And even Sonya indicated that Cheri --

1 that the defendant stopped Cheri from going
2 outside. That would be, kind of, at the early
3 outset, so I think it's pretty clear on Cheri
4 Braswell.

5 Sonya Byrd, that's a really, really close
6 case. Of course, in viewing the directed
7 verdicts, and I don't have to tell you guys this,
8 I view it, first, in the light most favorable to
9 the State, and, two, if I find that there is any,
10 any direct evidence or any substantial
11 circumstantial evidence -- this really is not a
12 circumstantial evidence case. Doesn't appear to
13 me to be any. So any direct evidence. And here's
14 the direct evidence that I found concerning
15 Sonya Byrd.

16 I don't find that there's necessarily any
17 kidnapping until after Cheri Braswell leaves. I
18 think the motivating factor for Sonya Byrd was
19 trying to help her fellow co-workers. But after
20 Cheri Braswell leaves -- of course, you have to
21 look at what preceded that as far as the totality
22 of the circumstances where she's fully aware that
23 he has a gun, and I think the first opportunity to
24 leave when she thought about it was when the
25 defendant went back into the office. She was

1 right at the door. She could have left. She
2 didn't. I don't think there's any kidnapping
3 going on at that point in time.

4 But now, the second one, after
5 Cheri Braswell left and she went to get a bottle
6 of water for the defendant but she did not because
7 she was in fear of being shot in the back, I think
8 that would be some overt act or implied act of
9 some sort of confinement, fear of being shot.

10 He started closing doors and blinds.
11 Again, all this was after Cheri Braswell left.
12 She made the general statement or response to
13 Solicitor Scott's question, were you held against
14 your will, and she said yes. But I'm going beyond
15 that. He had a gun in his right hand and grabbed
16 her by the arm. Felt like I could not leave.
17 This is when he was going about closing the blinds
18 and locking the doors.

19 Even though it is an extremely, extremely
20 close case, I find that there is some, possibly
21 not strong, but some evidence, direct evidence to
22 justify sending this case to the jury.

23 Concerning the pointing and presenting,
24 the presenting requires some element of
25 threatening behavior. The pointing does not. He

1 took out the gun. It was pointed in her
2 direction. Of course, just moments later, he shot
3 it up in the ceiling. I think that's certainly a
4 threatening action. Cheri Braswell, it was stuck
5 in her side. I think that's certainly pointing
6 and presenting, so I find that there's enough to
7 send to the jury.

8 All right. Now, I think we need to
9 address the issue of whether or not insanity or
10 guilty but mentally ill should be charged. I
11 want -- I'm going to let Mr. Verner go first and
12 then the State can respond. Let me just get to my
13 notes. Wait one second before you start.

14 Okay. Mr. Verner, talk to me about,
15 first, the insanity charge that you would like to
16 have, please, sir.

17 MR. VERNER: May I do it by -- start with
18 the guilty but mentally ill.

19 THE COURT: You can do that.

20 MR. VERNER: That one actually leads
21 logically to it.

22 THE COURT: Okay. I'm glad to hear from
23 you.

24 MR. VERNER: Judge, the elements of
25 guilty but mentally ill are that the defendant

1 must have -- he may have understood right from
2 wrong, whereas the not guilty but mentally --
3 insanity means that he didn't know the difference
4 between right and wrong, is the not guilty by
5 reason of insanity. Guilty but mentally ill is he
6 did know right from wrong, but because of a mental
7 defect couldn't conform his behavior. Whereas,
8 the not guilty, he would have to meet both of
9 those elements.

10 So, basically, guilty but mentally ill is
11 half of the not guilty by reason of insanity. He
12 understood right from wrong, but he still couldn't
13 conform his behavior.

14 Judge, and I've shared it with the State,
15 I'm using the State v. Curry, 410 S.C. --

16 THE COURT: We just read that back
17 there.

18 MR. VERNER: I would note for the Court,
19 as far as whether this gets to the jury, it uses
20 language similar to the lesser included charges.
21 If there's any evidence that the jury should
22 consider, it needs to go back. It's reversible
23 error, which is very similar to the lesser
24 included charge standard.

25 It is -- the State is going to argue it's

1 an affirmative defense. Here's -- when the State
2 and I were dickering about it in chambers, Judge,
3 the State is going to tell the judge -- and it's
4 an affirmative defense that needs to be met by a
5 preponderance of the evidence.

6 The difference of opinion I have with the
7 State is, which finder of fact makes the decision
8 as to whether the evidence has reached the
9 preponderance of evidence. The State will argue
10 that Your Honor has to make that determination. I
11 would argue that that is a matter for the jury.
12 That the court has a gatekeeper role to make sure
13 the any evidence standard applies. But when the
14 Court intrudes on the finding of whether that was
15 reached by the preponderance of evidence, the
16 Court is making, basically, a guilty or a not
17 guilty finding and taking that from the jury. I
18 think the proper party to reach the decision of
19 whether the defendant has raised it to the
20 preponderance of evidence goes to the jury. That
21 is the finder of fact.

22 THE COURT: Let me just ask you, okay, we
23 have evidence from some of the voc rehab people, I
24 guess, primarily Sonya Byrd, maybe some of the
25 others touched on it, that he had several

1 diagnoses. He had schizophrenia, suicidal
2 ideation, maybe one other diagnosis. I can't
3 think of it.

4 MR. VERNER: PTSD.

5 THE COURT: PTSD, and he had the cutting
6 disorder, which probably is maybe just part of one
7 of the overall.

8 That, in and of itself, how can we say --
9 and I'm just asking this question for discussion.
10 It's not an indication where I'm leaning -- and
11 I'll probably take this under advisement as well.
12 That, in and of itself, how does that indicate
13 that he didn't -- that he could not conform to the
14 law, or that he did not know right from wrong and
15 could not conform? How does that tell us that?

16 MR. VERNER: Well, the --

17 THE COURT: And there's no question he
18 has these diagnoses, but does that allow us to
19 make the leap into there being evidence? I am the
20 gatekeeper of the evidence. I have to determine
21 if there's any evidence to go to the jury, whether
22 it's on the indicted charges or any of the
23 defenses that you raise. How does that allow us
24 to take that leap into knowing right from wrong or
25 not be able to conform to the law?

1 MR. VERNER: I understand the Court's
2 question, Judge.

3 And just on a threshold matter, Judge, I
4 think the witness, Miss Byrd, was wrong when she
5 said schizophrenia. I haven't seen that in any of
6 the other -- I think she was guessing at that
7 point, and I'm not prepared to argue schizophrenia
8 to the jury, but he certainly did have PTSD.

9 THE COURT: Right.

10 MR. VERNER: And the -- well, one, the
11 Curry case cites the Hartfield case --

12 THE COURT: Okay.

13 MR. VERNER: -- which was the drug case.
14 And, basically, they said that the Court, in
15 making this decision, needs to consider the
16 evidence from the competency hearing as well as
17 the evidence presented at trial.

18 THE COURT: Okay. All right. Let me
19 just stop you there. If I consider -- I'm going
20 to call her Dr. Gregiore because I can't remember
21 how she actually pronounces her name -- she
22 specifically said, as far as insanity -- now, I
23 don't think -- did she address guilty but mentally
24 ill?

25 MR. SCOTT: She did.

1 MR. DANIEL: Yes, sir. It's a dual
2 evaluation.

3 THE COURT: Okay. I know that it was a
4 competency to stand trial evaluation, but was the
5 guilty but mentally ill and insanity kind of
6 lumped together in the second evaluation?

7 MR. VERNER: She separately raised --

8 THE COURT: I think I've got it.

9 MR. DANIEL: Your Honor, this is Court's
10 Exhibit 2. This is criminally responsibility and
11 capacity.

12 MR. VERNER: He has it. The Court has
13 it.

14 THE COURT: I've got it. He had provided
15 it to me earlier.

16 MR. DANIEL: Yes, sir.

17 THE COURT: Okay. But she specifically
18 found against your position. So if it's incumbent
19 upon me to consider the -- well, we call it a
20 Blair hearing, but it was a McNaughton hearing
21 too. If I am to consider that, that goes against
22 your position, would it not?

23 MR. VERNER: Well, you're considering it
24 for the purpose of seeing if there is any evidence
25 standard.

1 THE COURT: All right.

2 MR. VERNER: And here's what she
3 testified, is that he had -- he had actually four
4 mental health diagnoses that would contribute to
5 suicidal behavior.

6 THE COURT: That's not before the jury.
7 The jury never heard that.

8 MR. VERNER: No, but they did hear it
9 through Miss Byrd. And we're at the Court's role,
10 not quite the jury's role yet, but the threshold
11 matter.

12 In Hartfield -- here's the only
13 distinguishing -- in Hartfield, the appellate
14 court said that the Court should have considered
15 both the evidence from the competency hearing as
16 well as the lay testimony of the trial. The lay
17 testimony was about the defendant's behavior that
18 would be consistent with lack of self control.
19 That behavior in that man's case was FCZ and --
20 but as far as the gatekeeping role, the appellate
21 court said that the Court -- whether it goes to
22 the jury or not, the Court considers both the
23 trial and the competency hearing.

24 The only real -- and then that if there
25 is testimony that he has mental illness --

1 THE COURT: Okay.

2 MR. VERNER: -- coupled with lay
3 testimony that his behavior is consistent with not
4 being able to conform his conduct.

5 Now, the problem for me, I think, in
6 Hartfield was, in Hartfield the Court prohibited
7 the defense from even bringing it up in the
8 beginning of the case. The defense lawyer wanted
9 to open on not guilty or guilty but mentally ill
10 and the Court stopped him in his opening and said
11 that based on -- I'm not letting argue that.

12 THE COURT: Let me just stop you. I
13 apologize for interrupting. Here's what I'm
14 struggling with. In every criminal case where the
15 person is guilty either by guilty plea or found
16 guilty by a jury, in every criminal case the
17 defendant did not conform to the law, okay? But
18 how can we say in this case that he was not able
19 to? That's what I'm struggling with. That's what
20 you're going to have to convince me that, by
21 virtue of having a mental health diagnosis, that
22 is any indication that he was unable. We know for
23 certain he did not -- assuming he is found guilty,
24 okay, he did not conform to the law. But his
25 inability to, that's where I'm struggling.

1 MR. VERNER: I guess the ultimate issue
2 is, who gets to make that decision; the Court or
3 the jury.

4 THE COURT: Yeah.

5 MR. VERNER: In this case, Judge, it's
6 undisputed that he's got mental illness.

7 THE COURT: Right.

8 MR. VERNER: I don't think the State is
9 going to argue he doesn't have mental illness.

10 THE COURT: Right.

11 MR. VERNER: The issue is capacity to
12 conform his conduct.

13 THE COURT: Yes.

14 MR. VERNER: All I can say is, in Curry,
15 the standard is, if there is any evidence that
16 supports both prongs, then it goes to the jury.
17 And considering both -- and then they say, the
18 Hartfield, it considers both testimony from the
19 competency hearing and the lay testimony that
20 supports not being able to control his behavior.

21 THE COURT: I want to read -- Madison did
22 pull up State vs. Curry, and did, kind of, read to
23 me a few excerpts. I want to take a look at that.
24 And then Hartfield, and certainly any cases that
25 the State has.

1 MR. VERNER: Well, Curry cites Hartfield,
2 but you do have to actually look at Hartfield for
3 kind of -- the Curry decision only mentions that
4 in Hartfield that the Court considered the
5 competency hearing as well as the trial.

6 THE COURT: Okay.

7 MR. VERNER: And then the -- and then in
8 Hartfield, I guess the reason that they considered
9 the competency hearing as opposed to the testimony
10 at trial too was, of course, the Court stopped
11 them at pretrial.

12 THE COURT: I only need to look at
13 Hartfield for the one proposition that considered
14 the competency hearing, and then, of course, look
15 at Curry for the other aspects of your argument.
16 Is that a fair statement?

17 MR. SCOTT: Yes. Except Curry basically
18 says Hartfield considered the evidence from the
19 competency hearing. So you can get both of those
20 really from Curry.

21 The tougher one then goes to the not
22 guilty by reason of insanity where you have to
23 meet both prongs.

24 THE COURT: Right. I know that.

25 MR. VERNER: And the Poindexter case,

1 Judge, was the most on point that I could find.

2 THE COURT: Poindexter?

3 MR. VERNER: State v. Poindexter, 314 --

4 THE COURT: Wait a minute. Wait a
5 minute. Wait a minute. State vs. Poindexter.
6 Cite again.

7 MR. VERNER: 314 S.C. 490.

8 THE COURT: Okay.

9 MR. VERNER: A 1993 case.

10 THE COURT: Okay.

11 MR. VERNER: But, really, Poindexter just
12 talks about the two prongs, that it's both
13 inability to distinguish right from wrong with the
14 lack of ability to conform.

15 Again, I guess I would argue who gets to
16 make that decision; the Court or the finder of
17 fact. I would argue that a jury trial -- in a
18 criminal capital jury trial, the jury is the
19 finder of fact. I understand it gets more
20 attenuated and tougher to prove that.

21 But I submit the only role the Court has
22 today is to determine if there is any evidence --
23 sound evidence that would -- just as a lesser
24 included, if there is any evidence in the record
25 that would allow it to go to the finder of facts

1 and it belongs to the jury.

2 THE COURT: And your position,
3 Mr. Verner, is solely based on the evidence of him
4 having some mental health illnesses. You believe
5 that you may be correct. You believe that is
6 enough to meet the any evidence test.

7 MR. VERNER: The fact that he has four
8 diagnoses that -- and Miss Byrd also corroborated
9 that the suicidal behavior can attribute to
10 several different mental illnesses. I believe I
11 asked Miss Byrd when she said suicidal is a mental
12 illness, she agreed to correct that and say it
13 would be a symptom of other mental illnesses.

14 But what the jury has before them, Judge,
15 is a guy who is, even by the State's witness, is
16 undeniably mentally ill, and then who is acting in
17 a suicidal manner.

18 Miss Byrd testifies he is trying to kill
19 himself through the incident with the police, or
20 shoot himself. But he's -- clearly, all the crime
21 occurs when he is in a suicidal posture. There's
22 no -- even an alternative theory in the State's
23 case that this was a crime gone wrong and then he
24 turned on himself. But the -- and I would argue
25 to the jury, he's clearly -- he's uncontestedly

1 mentally ill and he is acting in an irrational
2 suicidal manner.

3 The -- and I guess it would be an issue
4 for the jury to decide whether somebody who is
5 mentally ill trying to kill themselves, if they
6 can meet both prongs that he did know right from
7 wrong and that he couldn't conform his conduct. I
8 do think I have a must stronger case for guilty
9 but mentally ill.

10 Here is the hook of where we are, Judge.
11 In candor, I felt I had a reasonable shot of
12 getting guilty but mentally ill to the jury. I
13 told the State that I felt less confident of the
14 not guilty by reason of insanity.

15 The State, I believe they concede as well
16 that there's -- I don't remember the caption of
17 it, but they cited me a case that, in some
18 respects, is worse for me, but in some respects
19 says that if the Court has to send back one of
20 those verdicts, the Court has to send them both
21 back. If the State could help me with that cite?
22 What's the cite of that case?

23 THE COURT: Let me hear from the State
24 and then certainly you'll have the right to
25 respond.

1 MR. SCOTT: Your Honor, just to throw a
2 kink in the matter, it does seem to be what
3 Mr. Verner alluded to that, I think, if you give
4 one, you got to give both. So to me --
5 that's State v. Rimert. R-i-m-e-r-t, Rimert.

6 THE COURT: Wait a minute now. Can you
7 give me a case cite?

8 MR. SCOTT: Yes. 446 S.E.2d 400. It's a
9 '94 --

10 THE COURT: Wait a minute. Wait a
11 minute. What's page?

12 MR. SCOTT: 400.

13 THE COURT: 400. And the name of the
14 case is what?

15 MR. SCOTT: Rimert, R-i-m-e-r-t.

16 THE COURT: Okay. And it stands for the
17 proposition, if you give the jury one, you have to
18 give both.

19 MR. SCOTT: Yes, sir. And it's a Supreme
20 Court case. So, to me, if I'm analyzing it, I
21 think we first have to analyze whether not guilty
22 by reason of insanity is applicable. If it's not,
23 none of it is. If that doesn't come in, then
24 guilty but mentally ill does not come in either.
25 To me, that's, kind of, the threshold issue.

1 THE COURT: Okay. Since -- I guess that
2 would be the case because the inability to conform
3 is an element of both, so I guess that makes
4 sense. You first have to analyze insanity. And,
5 if that's doesn't come in, then, of course, the
6 other can't come in.

7 MR. SCOTT: That would be my analysis.
8 But this -- if we're going to take it a step
9 further, I do not feel that guilty but mentally
10 ill is appropriate.

11 I think Your Honor really hit on what we
12 were talking about back there. You know,
13 antisocial behavior is over represented in,
14 probably, our realm of work. Over represented in
15 SCDC certainly. But antisocial behavior alone,
16 which is what he was diagnosed with by the doctor
17 who testified at pretrial, is not enough to get to
18 the point where because of mental disease or
19 effect he lacks sufficient capacity to conform his
20 conduct to the requirements of law.

21 And that's the ultimate issue. We
22 understand he understood right from wrong, and
23 it's certain actions he sinned undertook.
24 Certainly, again, the report by the doctor
25 indicated he could distinguish right from wrong.

1 So what evidence if any affirmative
2 defense has been presented that his will was so
3 far overborne on this occasion that he could not
4 comport himself to the law. And there's simply
5 been no evidence of that.

6 We've -- you know, a lot of the cases we
7 do, we have defendants who have one mental illness
8 or another. But there's no lacking evidence that,
9 because of that mental illness and because of that
10 defect, they were unable to comport themselves to
11 the law. Lacking that, they are never entitled to
12 a charge of guilty but mentally ill.

13 THE COURT: Okay.

14 MR. SCOTT: An example -- I'm sorry. Go
15 ahead.

16 THE COURT: I was just going to say, we,
17 at least, agree that it's all or none. Either
18 both goes in or both goes out. Is that -- or,
19 Mr. Verner, you're not willing to pin yourself
20 down.

21 MR. VERNER: Judge, respectfully, I
22 understand that -- the Rimert case, it did say
23 that they go into together. Now, in this case
24 though, Judge, it did say that the doctor's
25 testified as to both of those diagnoses -- that

1 the defense was trying to get them both in
2 together. And I do -- where the defense seeks to
3 put one in but not the other, I think it probably
4 is appropriate to do one. I do think that that
5 fact finder would be a little different than the
6 Rimert case, that they were trying to get both
7 verdicts in. I'm trying to get both verdicts in.
8 But the Rimert case did say the proper verdict
9 form would include both.

10 THE COURT: All right. Now, secondly, do
11 we have an agreement that in deciding the defense
12 requests for these charges that I can consider the
13 competency hearing? Do we have an agreement on
14 that?

15 MR. SCOTT: Yes, sir. That's what the
16 law seems to indicate.

17 THE COURT: All right.

18 MR. SCOTT: In conjunction, I know Your
19 Honor's infinite wisdom has probably already
20 picked this up --

21 THE COURT: Why do have I to take so much
22 under advisement?

23 MR. SCOTT: I think that's just thinking
24 it through.

25 But looking at the clear language, the

1 four corners and the black and white language of
2 the Statute, 17-24-30, that dictates the form of a
3 verdict, it talks about, in the prosecution for a
4 crime when the affirmative defense of insanity is
5 raised sufficiently by the defendant, or when
6 sufficient evidence of a mental disease or defect
7 of a defendant is admitted into evidence, the
8 trier of fact shall find under the applicable law,
9 and the verdict must so state whether the
10 defendant is, and then it's got all four of the
11 choices; guilty, not guilty, not guilty by reason
12 of insanity, or guilty but mentally ill.

13 So the clear language of the statute
14 coupled with that Rimert case seemed to indicate
15 that you either hit it on all four or just a
16 standard of guilty or not guilty.

17 THE COURT: And that statute again --
18 that's in the charge book, but what's the statute?

19 MR. SCOTT: 17-24-30.

20 THE COURT: Okay.

21 All right. Anything further from the State?

22 MR. SCOTT: Well, just the standard
23 charges from our case. You're going to read it,
24 but I just want to note that in that particular
25 case the defense called two doctors, called the

1 defendant's own mother and daughter, and the
2 defendant himself testified. There was a doctor
3 in that particular case that opined, at the time
4 of the incident, Mr. Curry suffered from mania.
5 Said, you had some competent evidence in that case
6 to provide for the affirmative defense of
7 insanity.

8 In our incident case, again -- I sound
9 like a broken record -- we have nothing -- so far,
10 any evidence, much less the preponderance of the
11 evidence, which shows at the time of the
12 kidnapping, at the time of the incident in the voc
13 rehab building that he was so overborne by some
14 mental effect that he overcame his understanding
15 of right and wrong and was, kind of, held hostage
16 by his own mental defect. There's been no
17 evidence of that.

18 I want to point Your Honor to two other
19 cases. And just when Your Honor reviews this
20 issue -- I've already given you to Rimert.

21 THE COURT: You've given me Rimert.

22 MR. SCOTT: You got the State v. Curry.
23 I got a State v. Smith, that's another Supreme
24 Court case.

25 THE COURT: Okay. Cite.

1 MR. SCOTT: Yes, sir. The reporter lists
2 that as 298 S.C. 205.

3 THE COURT: What's the page number?

4 MR. SCOTT: 205.

5 THE COURT: Okay.

6 MR. SCOTT: State v. Smith, and that kind
7 of deals with some of the issues we're talking
8 about as well.

9 THE COURT: Okay. And the other case you
10 got?

11 MR. SCOTT: Well, Curry, Rimert, and
12 Smith, I think were the three I wanted to cite to
13 Your Honor.

14 THE COURT: Okay.

15 MR. VERNER: Could I have just a
16 two-second rebuttal, Judge?

17 THE COURT: Oh, sure. I told you after
18 I've heard from the State, I'd let you stand back
19 up and respond.

20 MR. VERNER: The two points I'd raise,
21 Judge, the statute says sufficiently raised. It
22 doesn't say the Court makes the beyond the
23 preponderance of the evidence finding. That the
24 statute just says that they have to be
25 sufficiently raised, and that would be the

1 gatekeeping standard.

2 THE COURT: Okay.

3 MR. VERNER: And the other issue, Judge,
4 is, we do have evidence from mental health
5 professionals, or people in -- voc rehab
6 professionals that he is mentally ill and he was
7 act, although not manic, but he was acting in
8 suicidal methodology, or he was in a suicidal
9 state, and that is attributable to his mental
10 illness.

11 THE COURT: All right, thank you. I'll
12 take a look at all this and let's try to -- this
13 is not on the record.

14 (Off the record.)

15 THE COURT: Let's get back together at
16 9:00. I appreciate you all's hard work. I'll
17 take a look at all this.

18 (Court was adjourned at 4:53 p.m.)

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1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF NEWBERRY

4 State of South Carolina,
5 Plaintiff,

6 vs. Transcript of Record
7 2019-GS-36-00710;
8 2020-GS-36-00712;
9 2020-GS-36-00733;
10 2020-GS-36-00734 &
11 2020-GS-36-00736

12 Ricky Bernard Brown,
13 Defendant.

14 November 19, 2020
15 Newberry, South Carolina
16 Volume IV of IV

17 B E F O R E:

18 The HONORABLE DONALD B. HOCKER

19 A P P E A R A N C E S:

20 Dale Scott, Deputy Solicitor
21 Taylor Daniel, Assistant Solicitor
22 Charles Verner, Representing the Defendant

23
24
25

SHARON G. HARDOON, CSR
Official Circuit Court Reporter, III

1 THE COURT: We are back on the record in
2 the State vs. Ricky Brown case. Yesterday, before
3 we adjourned for the day, we had an on the record
4 argument concerning whether or not I would charge
5 insanity defense and/or guilty but mentally ill,
6 and I had an additional informal conference in
7 chambers with the lawyers. And, again, this is
8 very close on this, but in light of 17-24-30 and
9 Rimert, 315 S.C. 527, which appears to say, if I
10 charge one, I would have to charge both. And I do
11 not believe that the evidence warrants charging
12 both, so I will not charge either.

13 I would also, just for purposes of the
14 record, state that I am still mindful of
15 Dr. Gregiore's testimony at the competency hearing
16 where she said that Mr. -- or she didn't find any
17 evidence to warrant insanity or guilty but
18 mentally ill.

19 Lastly, which is the Curry case, seems to
20 suggest to the proffer guilty but mentally ill.
21 It is recognized that in that case the defense put
22 up several doctors, several witnesses, and the
23 defendant himself. In our case, he did not put a
24 case. Taking everything into consideration,
25 recognizing this is a very close issue, I am not

1 going to charge not guilty by reason of insanity
2 and not charge guilty but mentally ill.

3 Now, Mr. Verner, before we went on the
4 record you indicated another issue that the Court
5 will need to address.

6 MR. VERNER: Yes, sir. Before we
7 backtrack, Judge, we haven't rested the defense's
8 case yet.

9 THE COURT: Right.

10 MR. VERNER: So the Court was just
11 pre-announcing. We indicated that we intend to
12 present a defense.

13 THE COURT: Just so it's clear, should
14 that be the case, and it should be announced in
15 court.

16 MR. VERNER: Then the Court is announcing
17 it.

18 THE COURT: Certainly, once we bring the
19 jury out and you decide to put up a case, then,
20 certainly, I would be in a position to revisit
21 this issue. I was just going on your indication.

22 Just for the record, the Court wanted to
23 put on the record that in conference -- what the
24 Court's rulings were on that issue.

25 MR. VERNER: I did object to specifically

1 to the portion without the not guilty by reason of
2 insanity. I think they could be separate, but I
3 understand the Court's ruling. Just to put it out
4 there, the Court did ask me about -- the defense
5 did procure the services of a psychiatrist to
6 testify in this matter, or we had our psychiatrist
7 who said that she would not be able challenge
8 Dr. Gregiore's findings. However, I do think that
9 the inference from his behavior could support the
10 burden.

11 The second issue we understand the bond
12 hearing was on video. I went to the Internet,
13 several different local news stations ran stories
14 about this trial last night on the evening news,
15 at least one of them. The Fox station ran all the
16 video footage of the defendant's bond hearing. At
17 the bond hearing my client, the defendant, does
18 indicate that he was suffering from mental
19 disorder, but he may informed the jailor or judge
20 that, I should have killed you too, or I should
21 have shot you.

22 I would ask that the Court, in the
23 Court's discretion, to voir dire the jury if they
24 were exposed to that.

25 THE COURT: So you are personally aware

1 the media, the television and the like about this
2 case?

3 JURY PANEL: No, sir.

4 THE COURT: All right. Thank you very
5 much.

6 All right. Mr. Verner, is the defense
7 ready?

8 MR. VERNER: Your Honor, I think we're
9 prepared to argue our case after the State's case.
10 We would close the defense case.

11 THE COURT: Okay.

12 MR. VERNER: I would move for a directed
13 verdict on the grounds that we argued yesterday
14 afternoon.

15 THE COURT: What now?

16 MR. VERNER: I move for a directed
17 verdict on the grounds that we argued yesterday
18 afternoon.

19 THE COURT: Right. Everything that was
20 put on the record yesterday, you're protected on
21 the record, and your motions are renewed.

22 MR. VERNER: I'm prepared to argue the
23 case.

24 THE COURT: All right, very good.

25 The defense rests.

1 Ladies and Gentlemen, what that means is
2 what we have left to do are the closing arguments.
3 The State will argue first, and then the defense
4 will argue after the State. And then, since it's
5 almost 10:30, probably what we will do then is
6 break for lunch and then come back and I will
7 charge you the law that applies to this case and
8 then I will give you the case to begin your
9 deliberations.

10 Just for your information, I'll explain
11 more about this in just a little bit, we're going
12 to let you deliberate in the courtroom here.
13 Okay? And the reason why we're doing that is
14 because you got access to the restrooms, and also
15 access to this TV monitor if you want to play the
16 videos that are in evidence. Mr. Bentley is going
17 to set everything up for you. Because if you're
18 downstairs in the jury room, there's one public
19 bathroom and we don't have the equipment, so I
20 think you would be better off deliberating up
21 here, and I'll talk a little bit more about that
22 when we get to it.

23 Now, closing arguments are very important
24 in any case. This is the last opportunity that
25 these fine lawyers have to advocate for their

1 respective sides. So it's extremely important, as you
2 have done throughout this case, very important for you
3 to be very alert and attentive to these closing
4 arguments.

5 Solicitor Scott, are you ready, sir?

6 MR. SCOTT: Yes, sir.

7 Good morning, Ladies and Gentlemen.

8 JURY PANEL: Good morning.

9 MR. SCOTT: Your Honor, may it please the
10 Court?

11 THE COURT: Yes, sir.

12 CLOSING ARGUMENT

13 MR. SCOTT: This case you guys have been
14 listening to the last few days, to me, it's about
15 selfishness versus selflessness. To me, it's
16 about anger versus compassion. To some degree,
17 it's about cowardice versus heroism.

18 On one hand, you see a person who thinks
19 his issues are more important than anyone else's.
20 But on the other hand, you see a person in
21 Sonya Byrd who is willing to put her life on the
22 line to protect others. To me, it really is a
23 striking dichotomy.

24 October 2nd, 2019, it was a Wednesday.
25 It was a workday. I guess the one thing to most

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1 people that was a little bit noteworthy, it was an
2 incredibly hot day. The records show it was
3 96 degrees in Newberry October 2nd of last year.

4 Within the Newberry County vocational
5 rehabilitation building that was probably the talk
6 of the day, can you believe how hot it was. That
7 and the fact that they were all celebrating
8 Chad Ulmer's anniversary, I guess. He had met
9 some kind of milestone in his career with voc
10 rehab. And they were celebrating. And someone in
11 that office had thought to buy pizza and
12 everybody, kind of, celebrated Chad's milestone.
13 That's, kind of, indicative what kind of office
14 that was. It was, kind of, a close knit office.
15 It's been described that they were all, kind of,
16 like family. That's how Sonya described them.

17 We know that earlier in the day
18 Ricky Brown had called Sonya Byrd. And Ricky knew
19 Sonya. We heard about that. He was a former
20 client of hers. They call them consumers in that
21 particular line of work. And she had helped him
22 looking to become employed. And he called her and
23 said he was feeling suicidal.

24 Sonya did what Sonya Byrd seems to do a
25 lot; she tried to help. She talked to

1 Cheri Braswell and said, Cheri, do you still have
2 those contacts over at Laurens Memorial Hospital,
3 and can you speak to your contact and see if we
4 can pull some strings and get Ricky Brown a bed
5 ASAP. Well, Cheri, did just that. She stopped
6 what she was doing, she called her contact and
7 arranged for a bed in Laurens for Ricky Brown.
8 Okay? I guess they could have said, Ricky, you're
9 not a client with us anymore. Go find somebody
10 else, but they're trying to help this guy. He
11 says he wants help. They were doing their best to
12 help him.

13 Sonya formulated a plan. She said,
14 Ricky, we have a bed for you. We're going to get
15 you some help. I'm going to call Shamique --
16 that's his sister -- and have her take you over
17 there. Sonya did speak to Shamique and thought
18 she had done what she could.

19 Then the buzzer went off in the lobby of
20 voc rehab. You heard that there's a little chime
21 that goes off when anyone enters that lobby there
22 to alert people in the back that somebody is
23 there.

24 Kendall Armstrong was sitting in the
25 conference room with everyone enjoying lunch, and

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1 she got up to see who was there and she met Ricky.
2 She went back to the conference room where
3 everybody was enjoying lunch and said, Sonya,
4 Ricky Brown is here.

5 Now, Sonya is confused because Ricky
6 wasn't supposed to show up. This wasn't the plan.
7 He was supposed to be on his way to the hospital
8 so professionals could see to his needs and why
9 was he here. Voc rehab, we heard, their job is to
10 help people find placement and employment. It's
11 not a place you go for treatment. It's not a
12 place you go get medications, so what was he doing
13 here.

14 It occurs to me she could have sent word
15 to the front that he's going to have to wait until
16 I get done with lunch. I don't even know why he's
17 here. I told him he's supposed to be at the
18 hospital. And she did. She excused herself from
19 the conference room and went out to speak with
20 Ricky.

21 Sonya had been in that lobby for some
22 time and Chad, Kendall, Tammy, and Cheri heard a
23 pop. Chad and Kendall thought it sounded like a
24 crash of some sort. They described what they
25 thought was a metallic, kind of, crashing sound.

1 Tammy and Cheri knew otherwise. They thought it
2 sounded like a gunshot, which it was.

3 In the video, you see Sonya sitting close
4 to Ricky Brown. They talked for quite awhile.
5 You see another client come in to speak with
6 Sonya, and it appears that Sonya's conversation
7 with Ricky Brown is interrupted by this client.
8 Sonya mentioned that this particular client, or
9 consumer, had come in and she needed help getting
10 something notarized. Apparently, Ricky Brown
11 didn't like that. Apparently, Ricky Brown thinks
12 he's the only one that matters, and, apparently,
13 just that, that triggers Ricky Brown.

14 Imagine something so small, so minor, so
15 inconsequential as that triggering you. Imagine
16 something like that making you so angry that you
17 pull out a gun in front of Miss Sonya Byrd who's
18 there trying to help you and you fire in front of
19 her. That's what we see in slide one. You guys,
20 you're going to have this video. You're going to
21 get to go back and watch as much as you want. I
22 mean, we have all on the video here. You get to
23 see it unfold.

24 But there he is right in front of her. I
25 don't know that she fully grasped what had

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1 happened. I think -- you know, he pulls the gun
2 out and says, what is that Ricky? He says, a gun.
3 And then before she could even react to that, he's
4 firing it into the ceiling.

5 Go to slide two, Walter.

6 He's waving it. He's pointing at her. I
7 mean, this is ramped up in a split second. From
8 poor Sonya Byrd eating pizza in the back to going
9 up front to try to help Ricky Brown to him pulling
10 out a gun and terrorizing the place.

11 Go to slide three.

12 This is the layout. This is the SLED
13 diagram.

14 Click it once for me, Walter.

15 That far left is the conference room.
16 This is where everybody would have been enjoying
17 what was a celebratory mood. They were enjoying
18 pizza and, kind of, celebrating Chad up and Chad's
19 anniversary working at voc rehab.

20 You see them leave the conference room.
21 This would be the general direction of travel.
22 Once they hear the pop, Kendall, Tammy, you have
23 Cheri, and Chad, they all proceed to the front to
24 see what's going on. And you heard about a left
25 door and a right door that you could approach the

1 back office from the lobby. They would have gone
2 to what people have been describing as the left
3 door, if you're in the lobby facing the rear of
4 the office.

5 It was at that point, though, as they
6 were approaching the front that Ricky Brown, as
7 you see there the area, he had left the lobby,
8 gone in the right door. Okay? And it was at this
9 point that he was confronting Chad Ulmer,
10 Kendall Armstrong, and, unfortunately,
11 Cheri Braswell was last.

12 Now, you heard Tammy, she left the
13 conference room. She sees Ricky before most other
14 people do, and so she was able to peel to the left
15 make her way to that back door exit, but she's
16 sees him with the gun. She doesn't want to get
17 shot, so she makes, kind of, a split second
18 decision herself and she goes into the women's
19 room and locks herself there.

20 As Chad continued towards the front
21 lobby, he caught a glimpse of Ricky Brown to his
22 left. He saw the gun. He said something Tuesday
23 that it kind of stuck with me -- and maybe it did
24 with you -- but he said he saw the gun and his
25 immediate thought was, how bad is this about hurt?

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1 How bad will it hurt to get shot?

2 Again, a minute before they were in there
3 eating pizza. You know, innocent as can be, a
4 work day. Ricky Brown made the decision to go and
5 terrorize these people. So you go from eating a
6 slice of pepperoni pizza to wondering how bad is
7 it going to hurt to get shot by this man who's got
8 a gun pointing at me.

9 Go to slide four.

10 You see Ricky chasing these people arm
11 out stretched with a pistol aimed at them. Within
12 a millisecond, Chad's mind compelled him to do
13 something extraordinary. This was Chad Ulmer's
14 hero moment. He could have run. He could have
15 run. He could have saved himself, but, instead --
16 I find this just extraordinary -- he grabs
17 Kendall's arm. Now, Kendall didn't know what was
18 going on. She hasn't processed it yet. I don't
19 think she even saw Ricky. Chad did. He's
20 thinking, I'm about to get shot. But instead of
21 saving himself, he grabs Kendall in his hero
22 moment and he pulls her to safety. This is now
23 remarkable.

24 Go to the next slide. That's it right there.

25 Look at this. This is Ricky aiming a gun

1 at these two as they're fleeing. What is his
2 intent. What's your intent when you're aiming a
3 gun and chasing people out of a building. Think
4 maybe he wanted them as two other hostages but
5 they were getting away? Why is he aiming a gun at
6 them as they run out? Ricky had two less hostages
7 now.

8 Flip it, Walter.

9 You're going to get to watch this again
10 as many times as you want. It happens very
11 quickly.

12 Cheri Braswell, as you can see, was not
13 so lucky. With the gun raised, Ricky Brown had
14 chased Kendall and Chad all the way to the front
15 door. When they got away, he was able to block
16 Cheri from following them. He grabbed her by the
17 hair and said, you're not leaving. What is your
18 intent when you grab a hold of somebody and you
19 tell them, you're not leaving?

20 She fell on her knees and begged for her
21 life. Sonya tried to diffuse the rapidly evolving --
22 or devolving situation.

23 When Ricky had fired the gun into the
24 ceiling, Sonya had watched as he made his way to
25 the back where her working family was. What was

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1 going through her mind was the safety of her
2 co-workers. The defense attorney asked her
3 multiple times, well, why didn't you just run?
4 You could have run, right? That would have been
5 easy, right? Just run and let them fend for
6 themselves, but that's not the kind of person
7 Sonya is. Okay? She is a protector. She's a
8 hero. All right? She could have run. He's
9 right. She could tucked tail and hauled butt.

10 But she was watching a man with a gun,
11 who had already fired into the ceiling, going to
12 the back where her family was, her working family
13 was.

14 I believe there's probably a handful of
15 times in everyone's life where they can be heroes.
16 Okay? I don't know if this sounds corny, but they
17 can be the right person at the right time to
18 really help others in profound life-changing ways.
19 The key is, do they seize that opportunity,
20 though. Do they have the courage of bravery or
21 the compassion to be that savior that these people
22 desperately needed, or do they tuck tail and run
23 out of the room and think only of themselves and
24 think of self-preservation only.

25 I'm here to tell you being a hero is the

1 hard choice. Running out the door is the easy
2 choice. Maybe it was some devine intervention
3 because Sonya to this day really can't answer why
4 she followed Ricky back there. She knew her work
5 family was in serious trouble, but she still can't
6 really describe what compelled her. I think, as
7 she watches the video, she thinks, why did I do
8 that? But what would have happened had she not
9 gone back there?

10 Now, Cheri is on her knees begging for
11 her life. Sonya is trying to get between -- you
12 can see it here in this still shot. She's trying
13 to inject herself into the situation to protect
14 Cheri, trying to get in between them. She's
15 already trying to calm Ricky down, trying to
16 encourage him to put the gun down. Ricky pulls
17 Cheri Braswell up and holds her from behind with
18 his gun at her side, clearly showing he meant
19 business. Cheri Braswell thought she was going to
20 die that day.

21 After what seemed like forever,
22 Ricky Brown released the Cheri. Would this have
23 happened without Sonya trying her best to diffuse
24 the situation? No.

25 The police outside were making their

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1 presence known, and Ricky Brown walked to the back
2 to lock the back door. And it was in this moment
3 that Cheri was able to flee out the front door to
4 safety.

5 Sonya Byrd is begging Ricky to put the
6 gun down and abandon whatever mission he was on.
7 She called 911 and spoke to Ricky the whole time.
8 She reminded him that she had a child. She was
9 encouraged him just to give it up, but please
10 don't hurt me. I've got a child. And she said, I
11 can't let her be raised by her dad. Please don't
12 take me away from my child. That's her mindset
13 right there. I mean, that's how serious this
14 situation was.

15 We're playing armchair quarterback.
16 We're looking at it a year ago and, kind of,
17 analyzing it shot by shot. And, if we're the
18 defense attorney we're saying, just leave, just
19 run, you know. But that's her mindset right then.
20 You know, I got a child, please don't hurt me.

21 He walked her through the building,
22 closing all the blinds and shutting the office
23 doors. At some point, she offered him water.
24 And, again, at this moment, this is her mind.
25 This is the mindset of a hostage, which is what

1 Ricky called her on the 911 call. You can listen
2 to it. He refers to her as a hostage. What is
3 his intent? Why would he call her hostage?

4 She said she thought for a minute, as she
5 went back there to get that water, I could run out
6 this back door. She thought about it. But then
7 she said, what if he shoots me in the back?
8 That's her mindset right then.

9 Is she free to leave? I'll tell you she
10 is not free to leave because he's already proved
11 that he's willing to fire that gun. She truly
12 believed she would get shot in the back should she
13 try and go out the back door.

14 Ricky Brown made demands to speak with
15 his friend and his aunt. At some point, he
16 decided, finally, to let Sonya go. For some
17 reason, he turned to her and told her she could
18 leave. Sonya ran out the front door and heard
19 shots in quick succession. The SWAT team swarmed
20 in, and, thankfully, they were able to take
21 Ricky Brown without anybody getting hurt. Ricky
22 didn't get hurt. They didn't get hurt. So that
23 portion of it was a success.

24 Five people had been terrorized that day
25 with a lifetime of psychological harm, an entire

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1 medical complex had to go on lock down, and why?
2 Why did this happen? It's because Ricky Brown was
3 angry and because Ricky Brown didn't get what he
4 wanted at the exact moment he wanted it.

5 Ricky Brown told Sonya he was fed up. He
6 had been prescribed medications by doctors at the
7 department of mental health, by professionals, but
8 he didn't like them. So what he did plan to do?
9 He told Sonya he had gone to their office and
10 intended on going in and killing his doctor and
11 counselor. And thank goodness they weren't there
12 when he stopped by. They were out of the
13 building. I don't know. Was it serendipity? But
14 thank goodness they weren't there, because he
15 certainly had the means to complete the plan he
16 indicated that he was there for.

17 Unfortunately, when they weren't
18 available as targets, he shifted his attention
19 over to the people over at voc rehab. After he
20 was taken to the hospital, he spoke with
21 Captain Goodman. You heard Captain Goodman. He
22 indicated to Captain Kevin Goodman the same thing
23 he had told Sonya. He said that he expressed to
24 his caseworker and doctor at mental health that he
25 wanted to kill himself and other people and they

1 had just sent him away. He said at some point
2 mental health had prescribed him a generic brand
3 medication that didn't do anything for him. He
4 said on this particular day he had been walking
5 around the west end community, high on drugs,
6 drinking liquor, armed with a gun, and looking for
7 the first person to say something out of the way
8 to him in order to kill them. He said he thought
9 this was the way he was going to get help.

10 He further indicated to Captain Goodman
11 that the day of this incident he had gone to
12 mental health to kill his caseworker and kill his
13 doctor, and then go out in a blaze of glory with
14 the police. Okay? You know, I get it. He says
15 he's suicidal, but he had 20 rounds of 357
16 bullets. Okay? If you're suicidal, is not one
17 bullet enough? What did he want to do with the
18 other 19 bullets?

19 And here's the thing I talked about a
20 little bit with Sonya yesterday. There's a lot of
21 people out there with mental health issues.
22 There's a lot of people walking around with other
23 problems. The difference is most people don't
24 resolve to outright violence to address these
25 issues. If your kid is getting bullied at school,

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1 you don't show up to school at night to threaten
2 the bully, do you? If your insurance agent denies
3 you on a claim, you don't show up at his office
4 with a gun, do you? If a doctor doesn't prescribe
5 a certain medicine you ask for, you don't threaten
6 to kill him, do you?

7 I mean, Ricky Brown isn't the only person
8 who's got an issue. We all got issues, don't we?
9 But it's how we choose to handle those problems
10 and handle those issues.

11 Here's the thing, everyone who has dealt
12 with Ricky Brown has tried to help him. Okay? So
13 you can't just ask for help and not take it when
14 people are offering it to you. The people at the
15 department of mental health were doing everything
16 they could to help him. The problem is this, and
17 anybody will tell you this: If somebody wants
18 help, they truly want help, they're not just
19 playing lip service, they're not just trying to
20 manipulate, if they really want help, you've got
21 to want to help yourself. I know that sounds
22 cliché, but you got to want to help herself. You
23 got to be open to receiving help that people are
24 trying to give you. Right?

25 You don't walk around with a gun in the

1 west end, drinking liquor all day, smoking weed.
2 You don't show up to a doctor's office with a
3 pocket full of bullets and a loaded pistol.
4 Right? You don't show up and terrorize somebody
5 like poor Miss Sonya Byrd, and pull out weed and
6 start smoking it front of her, and try to smoke
7 meth. Is that what you do if you got a mental
8 health issue and you really want help? I think
9 that's what you do if you're selfish. This isn't
10 somebody who really wants help.

11 Sonya and Cheri had arranged for him to
12 be admitted into medical care he said he really
13 wanted, but apparently didn't care about that. He
14 didn't really want help. He shows up at the
15 medical park with 20 rounds of ammo instead of
16 going to Laurens Memorial Hospital where they
17 arranged for medical professionals to treat him if
18 he truly was suicidal and he truly did want help.

19 People may not have been physically
20 harmed that day, but people were hurt. Lives were
21 changed because Ricky Brown is an angry, selfish.

22 To this say Sonya Byrd has not stepped
23 foot in the Newberry branch of voc rehab. She
24 chooses to work in the Columbia branch. That's a
25 major loss for Newberry, by the way. We don't

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1 have Sonya Byrd up here anymore. That's because
2 of the Ricky Brown.

3 Cheri Braswell is no longer a counselor.
4 She works in the Columbia branch as well for
5 finance. That's a loss for other people who need
6 help. Right? Ricky Brown isn't the only one who
7 needs help. It ain't all about Ricky Brown, but
8 he's taking away these people's services from
9 other people who need help, who want help, who ask
10 for help, and who will receive help.

11 Chad, Tammy, and Kendall will never
12 forget that day.

13 It could have been a lot worse, though.
14 I think we all get a chance a few times in life to
15 be a hero. It's really up to us to seize the
16 moment. On October 2nd of last year, we saw
17 heroism. Chad Ulmer grabbing Kendall Armstrong
18 and pulling her to safety. How did he have the
19 presence of mind to do it in the heat of that
20 moment.

21 Sonya Byrd, again, what can you say about
22 her? She could have run, but that's not the kind
23 of person she is.

24 She wasn't about to watch this man go
25 back there and hurt the people she cared about.

1 She's a hero.

2 And it truly is frightening to think
3 about what very well may have happened if Sonya
4 wasn't there counseling and diffusing an extremely
5 dangerous situation, but we thank her for that.

6 And we are here this week to address
7 Ricky Brown's culpability. You understand the
8 charges you heard earlier, there's two counts of
9 kidnapping, two counts of pointing and presenting
10 a firearm.

11 Kidnapping -- this is what the law
12 envisioned, okay. Kidnapping is a charge that in
13 real life, in prosecution, it's a struggle because
14 the movies always portray you get your hostage,
15 you kidnap them, tie their ankles up, you tie
16 their wrists together, you put tape over their
17 mouth, and then you throw them in the trunk, and
18 then you take them somewhere and you ask for a
19 ransom. That's really not what kidnapping entails
20 in the real world in the legal realm. It's got
21 some antiquated verbiage there, but let me see if
22 I can explain it to you. Whoever shall unlawfully
23 seize or confine any other person by any means
24 whatsoever without authority of law is guilty of
25 kidnapping.

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1 So the terms of art that we're going to
2 use in our particular case are seizing and
3 confining. Seizing as you see means to take hold
4 of suddenly or forcibly. All right? This applies
5 to Cheri. Okay? He certainly took hold of her
6 suddenly and forcibly. You heard her talk about
7 trying to run out that front door, trying to
8 follow Chad, trying to follow Kendall when he
9 grabs her by the back of the hair and then he
10 expressly informs her, you're not leaving. Okay?
11 At that moment, he has seized her forcibly and
12 suddenly. Thereafter, he held her against her
13 will by grabbing her from behind and holding on to
14 her with that gun at her side. Okay? Certainly,
15 she wasn't free to leave. Certainly, his intent
16 was to restrain her. Certainly, her understanding
17 was harm would come to her should she try to break
18 free to flee.

19 Confining means to limit, restrict, or
20 enclose within bounds, imprison, or shut in.

21 Okay. Cheri is the one that I think we
22 can all apply the verb seize to. He definitely
23 took hold of her suddenly and forcibly.

24 Sonya is one that we need to dig into a
25 little bit more. Okay? When Sonya goes to the

1 back -- to the back office to help her other
2 co-workers, okay, she's back there and she's
3 trying to diffuse the situation. And, at some
4 point, it comes clear to her that she has put
5 herself in danger now. She is one of the hostages
6 as well. Okay? Because what has happened is,
7 Chad and Kendall has left, Cheri is eventually
8 released, and it's just her. And you got to look
9 at what Mr. Ricky Brown's intent was at that time
10 throughout that 911 call.

11 And it is interesting, he refers to
12 her -- she's the only one in there when that 911
13 call is made -- as his hostage. What is in her
14 mind? Does she feel free to leave? But for his
15 actions, if Ricky Brown wasn't there, sure, she
16 could walk out of the building. Probably wouldn't
17 fear anything whatsoever. But Ricky Brown in
18 there has fired a gun, who had said multiple times
19 very concerning things, who has walked through the
20 building locking doors and closing blinds, now, in
21 her mind, she is in serious danger. She is not
22 free to leave. In fact, she had indicated that
23 his implication was she was not free to leave.
24 That's why it's noteworthy.

25 When she goes back there to get the

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1 water, you know, we ask, why didn't you run then?
2 She really felt, truly believed that she would be
3 shot should she try to leave. Okay? So that is
4 the contention of the State. She was not free to
5 leave because of Ricky Brown's actions. She was a
6 kidnapping victim, a hostage in his own words.
7 Those are the two kidnapping indictments. Cheri
8 Braswell is a victim, and the other one is
9 Sonya Byrd as a victim.

10 The next two charges are pointing and
11 presenting, and it's just what it sounds like.
12 There's the verbiage there, it is unlawful to
13 present or point a loaded or even an unloaded
14 weapon at another person. Okay? You saw my slide
15 one and you saw slide two and everything. I got
16 some still shots. Again, you all get to watch the
17 video, but you see him pointing the gun at various
18 people.

19 We got one indicted charge of pointing a
20 gun at Cheri Braswell. Another charge of pointing
21 and presenting a gun at Sonya Byrd. Pointing is
22 what it sounds like. You point a gun at somebody.
23 You can't do that. We all understand that's
24 wrong.

25 But presenting a firearm, that means to

1 offer to view in a threatening manner or to show
2 in a threatening manner a pistol, or a firearm of
3 any kind, really.

4 Even at the moment when they are in the
5 lobby, when he first shows that firearm to Sonya
6 and she says, what is that, and he says, a gun,
7 that right there is presenting the firearm. But
8 then he doesn't stop there. He goes to fire it
9 into the ceiling and he's waving it around
10 pointing it at her. That's pointing and
11 presenting at Sonya Byrd.

12 You're going to see back behind where the
13 receptionist sits, when he's got Cheri, he's got
14 her held right here. He's presenting the gun the
15 whole time. She testified he pressed it
16 against her. Certainly watch the video. I mean,
17 he's pointing as well. You can see it with your
18 own eyes.

19 Finally, and I don't have a slide for it,
20 but he's got a charge of possession of a weapon by
21 somebody who has been previously convicted of a
22 violent crime. You heard testimony that he does
23 have a prior violent crime conviction. And your
24 eyes aren't lying to you. He clearly had a
25 pistol. You heard all the testimony from people

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1 that he was walking around to the terror of
2 everybody in that building with a pistol, clearly
3 it was loaded. He discharged five times in the
4 building. So that's what that charge is. You got
5 a total of five indictments to consider.

6 I ask you, what is his intent that day?
7 Okay? He's not merely just suicidal, because, you
8 know, if he really wants some attention, why
9 didn't he just walk down the street shooting the
10 gun in the air, or walk outside the police
11 department and wave a gun around? What is his
12 intent? Why did he bring them there? Why did he
13 shoot the gun? Why did he take hold of a person?
14 Why did he refer to Sonya as his hostage?

15 I don't know what compelled him, but I do
16 know he is guilty of kidnapping, he's guilty of
17 presenting that firearm, and he's guilty of
18 possessing a firearm when he had no legal right to
19 own a gun in the first place.

20 You guys have been very attentive and I
21 appreciate that, and I know it takes patience.
22 And I know some you guys have taken issue with
23 some of the -- the length of time. This is a
24 serious case. I mean, really. There are people
25 that are never going to be the same. This is a

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1 serious and important case for Mr. Ricky Brown as
2 well, but the law is the law. Okay?

3 All I'm asking to do is look at the
4 evidence, recall what the testimony was, see it
5 with your own eyes, listen to the 911 tape with
6 your own ears. And when you apply that law to
7 what you've heard and with all the evidence that's
8 shown, there is only one verdict that speaks the
9 truth. Okay?

10 I'm going to ask you to render that
11 verdict. I'm going to ask you find Mr. Brown
12 guilty of two counts of kidnapping, one against
13 Cheri Braswell and the other against Sonya Byrd,
14 for what he did to them, not just what he did that
15 day, but for what they still struggle with today.

16 Find him guilty of pointing and
17 presenting that firearm and waving it around as
18 recklessly and dangerously as you possibly can.

19 And than find him guilty, of course, of
20 having a gun in the first place, which we've heard
21 he has no right to possess.

22 Ladies and Gentlemen, thank you.

23 THE COURT: Thank you, Solicitor.

24 Mr. Verner, are you ready for your
25 closing?

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1 MR. VERNER: I am.

2 JUROR 89: Excuse me, Judge. May I have a
3 quick bio break?

4 THE COURT: Okay. You need to take a
5 quick break.

6 JUROR 89: Yes, sir.

7 THE COURT: Everyone sit tight.

8 (A break was taken from 10:58 a.m. to 11:05 a.m.)

9 THE COURT: Mr. Verner, you ready to
10 proceed?

11 MR. VERNER: I am.

12 THE COURT: You may proceed.

13 CLOSING ARGUMENT

14 MR. VERNER: Ladies and Gentlemen, I will
15 say, I've been a lawyer here in Newberry for
16 20 years. I was born on College Street right up
17 here in front. A little bit of a disappointment
18 or unhappy -- by biggest problem with this case,
19 just in theory, just as a person in Newberry, is
20 that someone can go to a hospital, a Newberry
21 Hospital on Sunday suicidal, with a long history
22 of suicide attempts, and clearly diagnosed
23 throughout his life with the bipolar, and with the
24 PTSD, post-traumatic stress disorder, with the
25 depression and he's out the same day, and then

1 here we are Wednesday afternoon, two and a half
2 days later. It's just pathetic.

3 But Ricky's got to account for his
4 behavior. I understand that. And I know it
5 probably wasn't meant this way, but the
6 solicitor's argument is just offensive, that
7 suicidal people are selfish. That everybody I've
8 known in my life is selfish who killed themselves.
9 That everybody I've heard of, it's just
10 selfishness. Why don't you help yourself? Why
11 doesn't the battered wife leave the husband? The
12 door is right there. I don't think that's quite
13 the spirit he meant it, but that's just absurd.
14 We're dealing with real mental illnesses. We're
15 not dealing with selfish people, although that is
16 probably a factor in it too. I don't doubt that.

17 Here's my issue. Okay, we got five
18 charges. Ricky Brown has got a gun. He's got a
19 handgun, a 357 that, by law, he is prohibited from
20 carrying it. That one is pretty easy for us.
21 Let's knock that one out. I would ask you to give
22 him -- and the judge is going to tell you, under
23 your oath, you got to give him the benefit of the
24 doubt. He's got a crime classified as violent.
25 That does not mean -- and I hope you all can

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1 separate in your minds that crimes that are
2 classified as violent doesn't necessarily mean the
3 defendant did anything violent. The legislature
4 just says that certain crimes you get convicted
5 of -- it can be felony DUI, it can be drug cases,
6 it can be burglary, but certain crimes are
7 classified as violent. But that is not the same
8 as he has a propensity to do violence, and I think
9 the judge is going to charge you that you all need
10 to separate that in your mind. Just certain
11 charges by their nature are classified as
12 inherently dangerous and are violent. Ricky has
13 got one. He is prohibited in South Carolina from
14 possessing a pistol. I think we can knock that
15 one out.

16 He's got two charges of pointing and
17 presenting against both of the ladies,
18 Miss Braswell and Miss Byrd. I think it's very
19 clear he never pointed -- there's no real evidence
20 that he pointed the gun at either one of the two
21 ladies, but you don't have to point a gun to break
22 that part of the law. Just pointing it is enough.
23 If I have a gun in my waistband and I'm at a bar
24 and somebody I don't like is kind of coming up on
25 me, that's enough. I've got a gun. That is a

1 threat of a gun. Obviously, pulling it out,
2 shooting into the ceiling. Presenting just
3 basically means displayed in a threatening manner.

4 I'd like to be able to more forcibly, but
5 I can't. You've seen the evidence. I've seen the
6 videos. I think you all can deliberate those
7 pretty quickly without having to bog down what
8 really are the two issues, the kidnapping charges.
9 That is what I am strenuously asking you all to
10 consider clearly under all the considerations.

11 South Carolina has an incredibly broad,
12 vague kidnapping statute from old time days. It
13 uses words like inveigle that just -- decoy. It
14 is a broad -- but it is the law. It's kidnapping.

15 As far as Miss Sonya Byrd goes, and this
16 is where we need to break it down. The -- don't
17 get me wrong, I am happy -- I've been here a long
18 time. I like the people at vocational rehab. I
19 respect them. I am happy things turned out where
20 nobody was harmed physically. I understand there
21 is harm. I do. But I am happy that Miss Byrd did
22 not leave the building. She is a hero. I
23 understand. I said, you could have left.
24 Miss Byrd is a hero, but she is not a kidnapping
25 victim because there are two ways to think about

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1 it. As a person, I am happy she stayed and
2 diffused the situation as a professional mental
3 health therapist.

4 Looking at it legally, if the door is
5 there and you can leave voluntarily, you are not a
6 kidnapping victim. You are not kidnapped if you
7 have the ability to leave. And I understand, at
8 some point, clearly from the beginning, he leaves
9 her and he goes into the front part of the
10 building. She was follows him. As the solicitor
11 said, his own words were, she has put herself in
12 danger, and I do think she was in danger. I think
13 Ricky could have snapped and turned on her.

14 But it's not subjectively what she
15 thinks, mistakenly thinks. The kidnapping is you
16 have be kidnapped. He has to kidnap you. It
17 isn't that you subjectively think that I might be
18 in danger or things could happen. It is, are you
19 being held against your will? If you can leave,
20 you're not kidnapped. The -- and I -- she's a
21 victim of several crimes, it's just not
22 kidnapping. Many times he's in different parts of
23 the building as Miss Sonya. She voluntarily takes
24 it upon herself to call his family members. She
25 is trying to help other people and diffuse the

1 situation. She is a hero. She is not kidnapped
2 if you can leave.

3 The -- and the solicitor has tacitly
4 admitted to you in his -- when he talks about
5 Miss Sonya, I just noted -- the only thing I
6 really noted that he told you was, we need to dig
7 down into this one. That's a tacit admission from
8 the solicitor that he doesn't feel he's got a
9 strong case of kidnapping. This is the one we
10 need to really dig into. It's just a tacit
11 admission that that's not a strong kidnapping
12 case. And, please, because his behavior was bad,
13 find him guilty of something he probably was not
14 guilty of, because, I mean, we are all offended by
15 his conduct on that day.

16 I don't think you can look at Ricky Brown
17 where it's just uncontested he is, from childhood,
18 a mentally disabled man. Just multiple psychosis
19 that -- a long history of suicide. He was trying
20 to get help in an irrational way. I will admit
21 that here's -- if I was sitting on the other side
22 of the bench, here's the case -- and the victim
23 I'll bog down on is Miss Cheri Braswell because
24 there is actually touching involved in that. She
25 is not on the same footing as Miss Sonya.

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1 I submit when you watch the video, like I
2 have, and you've heard the testimony, what
3 probably happened is, they're in that small
4 hallway when the three people come through. When
5 they hear the gunshot, you got three people, kind
6 of, rushing through. Ricky is in close proximity
7 to them. He does -- just like my daughter at
8 home, when she comes through a closet or she comes
9 through a hallway and I'm there, my first reaction
10 is to grab her or to stop her. And I think that
11 that's probably a fair inference of how she
12 actually came into contact with Ricky Brown. She
13 came through that door quickly, followed her
14 friends. Ricky was in that hallway. They were in
15 close proximity. His natural response was to grab
16 her. That is not kidnapping.

17 The most important part of -- you know,
18 kidnapping, if you all read it literally from the
19 book, the way the legislature has kidnapping
20 written, it says to seize somebody. That can
21 be -- if you read it strictly by the book, that
22 can be just grabbing somebody by the arm.

23 You know, an argument I made yesterday,
24 if the judge had sent his clerk to give me a
25 message yesterday in my back office and then I

1 thought about something else I needed to tell her
2 and I grabbed her by the arm and said, wait, don't
3 forget to tell him that, you know, I want pizza
4 for lunch. That literally would be a kidnapping,
5 but that's not what -- this is a kidnapping
6 charge.

7 More than any other crime in
8 South Carolina, this is the one that the
9 legislature -- and we rely on the jury using your
10 common sense. It has to be common sense what
11 people understand kidnapping as.

12 And the judge is going to tell you
13 that when you look at these terms and you look at
14 these crimes and these offenses, the only way you
15 all can interpret them is through your common
16 sense as -- their common meaning. What would any
17 other person in Newberry think kidnapping is.

18 I would argue that merely grabbing
19 somebody, particularly if it's instinctively, just
20 they're walking in front of me, that's not
21 kidnapping. The judge is going to have to tell
22 you that, beyond any reasonable doubt, it has to
23 be done with the intention of kidnapping somebody.
24 Knowledge. He has to know he's kidnapping
25 somebody.

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1 The only thing that even supports that is
2 when he says -- when he uses the term "hostages"
3 in the 911 tape. I would just ask you, beg you to
4 listen. That's not what he says. He says, they
5 think I've got hostages. That is as clear a
6 statement as anything that I don't have any
7 intention of holding anybody against their will.
8 Listen to the 911 tape. They're going to assume I
9 have hostages. He made that statement not
10 self-serving. Later on he made that statement
11 during the incident.

12 He told the ladies to leave. Miss Sonya
13 wanted to diffuse and help her kin out, and she
14 wanted to help her friends out and her co-workers
15 in Newberry.

16 It was not Ricky's intention to take
17 hostages or to hold anybody against their will.
18 It was his intension to get into the hospital to
19 get his medicine changed. I submit calling it
20 selfish is just a fairly callous way of looking at
21 mentally ill people.

22 You've got what you need and it boils
23 down to this: If Miss Sonya was free to leave,
24 she's not a kidnapping victim. I don't think your
25 deliberation needs to go further than it.

1 If you think that Ricky Brown had the
2 intention, the knowledge that he was kidnapping
3 Miss Cheri, you got a duty to find him guilty. If
4 you think it was just incidental that he grabbed
5 her because they were in close contact, then he --
6 just watch the video tape, how long she was there
7 before she's allowed to leave.

8 If it's just incidental contact that they
9 approached each other quickly -- he held the gun
10 at her side -- he's holding the gun. He's got to
11 hold it somewhere. If he had the intention to
12 kidnap her and he knows he's kidnapping her, and
13 he knows he's holding her against her will, you
14 got a duty convict him. If you think you might
15 not be sure, then you got a sworn duty to find him
16 not guilty.

17 The jury here is not to find the truth of
18 what happened, because there's no way we can do
19 that. You don't know any more than I do, and I
20 don't know anything because this thing happened
21 when I wasn't there a year ago.

22 What your job is, before the State can
23 take somebody's life, or liberty, or property,
24 they have to get through a jury of the man's
25 peers. You are not here to help the State. We're

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1 not here to learn the truth together like a
2 science equation on a board. Your constitutional
3 role is to protect the citizen from the State
4 unless the State has presented all the evidence.
5 That means that there is no other likelihood that
6 the man is guilty as they've charged him. And
7 then they get to him, but not until they get over
8 you.

9 If there is any doubt or any reasonable
10 doubt -- and reasonable means it could have
11 happened this way, but it could have happened this
12 way, even if it's a small chance, you're duty
13 bound to find him not guilty on the kidnapping
14 charge.

15 I don't concede the gun charges, but I'm
16 not going to be able to change your mind on
17 that.

18 Just, when you review the case, those are
19 the principles I would ask you to keep in mind.
20 If Miss Sonya Byrd is free to leave, she's not a
21 kidnapping victim. That does not mean she's not a
22 victim. That means, under that particular crime,
23 she is not a victim of that kidnapping.

24 If Mrs. Braswell was not an intended
25 kidnapping -- if he's not knowingly kidnapping

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1 her, if it's incidental grabbing, Ricky is also
2 entitled to the benefit of that doubt. The other
3 charges, we don't dispute.

4 Thank you for your attention today.

5 THE COURT: Okay. Ladies and Gentlemen,
6 what we're going to do -- I realize it's a little
7 early for lunch, but we're going to take an early
8 lunch break and I'm going to give you a bit longer
9 time so you can be at lunch time and/or each
10 lunch, and be back here at one o'clock. I will
11 charge you on the law that applies to this case,
12 and then I will give you instructions to begin
13 your deliberations. And, again, kind of talk a
14 little bit about keeping you in here during your
15 deliberations.

16 Okay. So we'll see you back at
17 one o'clock. Again, I remind you no discussions
18 among yourselves. Or anybody you come in contact
19 with. Don't take a look at the TV or newspapers,
20 or anything like that, and see you back at
21 one o'clock. Thank you very much.

22 (Jury exits the courtroom at 11:16 a.m.)

23 THE COURT: All right. We will be in
24 recess. You all hang around, somewhere around
25 here because we'll get you the charge. You can

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1 THE COURT: Is that the one we made the
2 change?

3 MR. SCOTT: I think he showed Madison.

4 LAW CLERK: I don't know what the page
5 numbers are.

6 MR. DANIEL: Page 16. I think after
7 violent crime on the first sentence maybe do a
8 comma and say the previous violent crime.

9 THE COURT: We added that.

10 MR. DANIEL: Perfect, thank you.

11 THE COURT: What you penned in on the
12 copy, yeah, we made that change.

13 MR. DANIEL: Great. Thank you, Judge.

14 THE COURT: All right. Other than that,
15 is the State good with the charge?

16 MR. SCOTT: Yes, sir.

17 THE COURT: Defense, other than what has
18 already been placed on the record, are you good
19 with the charge?

20 MR. VERNER: No objection. And to the
21 verdict form as well.

22 THE COURT: All right. Let's bring the
23 jury out.

24 (Jury enters the courtroom at 1:14 p.m.)

25 THE COURT: Let the record reflect the

1 jury is in.

2 Ladies and Gentlemen, I normally charge
3 the jury from the bench, but since we've got that
4 little barrier around the court reporter, it, kind
5 of, blocks a little bit, so that's where I'm down
6 here where the lawyers stood during their closing
7 arguments.

8 Madame Forelady and Ladies and Gentlemen
9 of the Jury, I now charge will charge you the law
10 that is applicable to this case. You must
11 consider that charge as a whole and not focus on
12 some portions to the exclusion of others.

13 The indictments charge the defendant with
14 two counts of kidnapping, possession of a firearm
15 by a person convicted of a violent crime, two
16 counts of pointing or presenting a firearm.

17 I remind you, the fact that the defendant
18 was arrested, charged, and indicted in this case
19 is not evidence in this case and cannot considered
20 by you as evidence of guilt in this case, nor does
21 it create any presumption or inference of guilt.
22 These documents are simply the formal written
23 instruments which contain the charges made against
24 the defendant. These are the formal documents by
25 which this case is brought into this court.

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1 The indictments in this case allege five
2 different offenses against the defendant. Each
3 indictment charges a separate and distinct
4 offense. You must decide each indictment
5 separately on the evidence and the law applicable
6 to it uninfluenced by your decision as to any
7 other indictment.

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

12 There's a verdict form, Madame Forelady,
13 that I will show you at the end of my charge.

14 The defendant has pled not guilty to
15 these indictments and that plea puts the burden on
16 the State to prove the defendant guilty. A person
17 charged with committing a criminal offense in
18 South Carolina is never required to prove himself
19 innocent. I charge you that it is an important
20 rule of the law that the defendant in a criminal
21 trial, no matter what the seriousness of the
22 charge may be, will always be presumed to be
23 innocent of a crime from which indictment was
24 issued unless guilt as has been proven by evidence
25 satisfying you of that guilt beyond a reasonable

1 doubt. This presumption of innocence does not end
2 when you begin your deliberations, but it
3 accompanies the defendant throughout the trial
4 unless you reach a verdict of guilt based on
5 evidence satisfying you of that guilt beyond a
6 reasonable doubt.

7 The presumption of innocence is like a
8 robe of righteousness placed about the shoulders
9 of the defendant which remains with the defendant
10 unless it has been stripped from the defendant by
11 evidence satisfying you of the defendant's guilt
12 beyond a reasonable doubt. The presumption of
13 innocence is not mere legal theory. It's not just
14 a legal phrase. It is a substantial right to
15 which every defendant is entitled unless you, the
16 jury, are satisfied from the evidence of the
17 defendant's guilt beyond a reasonable doubt.

18 Once again, the State has the burden of
19 proving the defendant guilty beyond a reasonable
20 doubt. Some of you may have served as jurors in
21 civil cases where you were told that it is only
22 necessary to prove that a fact is more likely true
23 than not true, such as by the greater weight or
24 the preponderance of the evidence. In criminal
25 cases, the State's proof but be more powerful than

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1 that. It must be beyond a reasonable doubt.
2 Proof beyond a reasonable doubt is proof that
3 leaves you firmly convinced of the defendant's
4 guilt.

5 Now, there are very few things in this
6 world that we know with absolute certainty. And
7 in criminal cases, the law does not require proof
8 that overcomes every possible doubt. If, based on
9 the consideration of the evidence, you are firmly
10 convinced that the defendant is guilty of the
11 crime charged, you must find the defendant guilty.

12 If, on the other hand, you think there's
13 a real possibility that the defendant is not
14 guilty, you must give the defendant the benefit of
15 the doubt and find him not guilty.

16 Madame Forelady and Ladies and Gentlemen
17 of the Jury, I remind you once again that during
18 this trial you and I have had certain duties to
19 perform. As the trial judge, it is my
20 responsibility to preside over the trial of this
21 case, and I also have the duty to rule on the
22 admissibility of the evidence offered during this
23 trial. You are to consider only the competent
24 evidence before you. If there was any testimony
25 ordered stricken from the record in this case

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1 during this trial, you must disregard that
2 testimony. You are to consider only the testimony
3 which has been presented from this witness stand,
4 any exhibits which have been made a part of the
5 record in this case and any stipulations of
6 counsel.

7 I have the additional duty to charge you
8 the law that applies to this case. As the
9 presiding judge, I am the sole judge of this case,
10 the sole judge of the law of this case, and it is
11 your duty as jurors to accept and to apply the law
12 as I now state it to you. If you already had any
13 ideas as to what the law is or what the law ought
14 to be and it does not agree with what I now tell
15 you the law is, you must abandon your idea because
16 you are sworn to accept the law and apply the law
17 exactly as state it to you.

18 In every case tried in this court before
19 a jury, the jury becomes the sole and exclusive
20 judge of the facts of the case. The trial judge
21 does not intimate, state, comment on, or make any
22 statement to a trial jury about the facts in a
23 case. Since you, the jury, are the sole judge of
24 the facts in this case, you are not to infer from
25 what I have said during the progress of this trial

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1 and ruling upon the admissibility of evidence or
2 otherwise, or anything that I say now during the
3 course of this instruction to you that I have any
4 opinion about the facts in this case. The law
5 does not allow me to have an opinion about the
6 facts in this case. This is a matter solely for
7 you, the jury, to determine. As jurors, it is
8 your duty to determine the effect, value, and
9 weight of the evidence presented during this
10 trial.

11 Now, there are two types of evidence
12 which are generally presented during a trial;
13 direct evidence and circumstantial evidence.
14 Direct evidence directly proves the existence of a
15 fact that does not require a deduction.
16 Circumstantial evidence is proof of a chain of
17 facts and circumstances indicating the existence
18 of a fact. Crimes may be proven by circumstantial
19 evidence. The law makes no distinction between
20 the weight or value to be given to either direct
21 or circumstantial evidence. However, to the
22 extent the State relies on circumstantial
23 evidence, the circumstances must be consistent
24 with each other, and, when taken together, point
25 conclusively to the guilt of the accused beyond a

1 reasonable doubt. If the circumstances merely
2 portray the defendant's behavior as suspicious,
3 the proof has failed.

4 The State, once again, has the burden of
5 proving the defendant guilty beyond a reasonable
6 doubt, and this burden rests with the State
7 regardless of whether the State relies on direct
8 evidence, circumstantial evidence, or some
9 combination of the two.

10 Necessarily, Ladies and Gentlemen, you
11 must determine the credibility of the witnesses
12 who have testified in this case and the evidence
13 presented. Credibility simply means
14 believability. It becomes your duty as jurors to
15 analyze and to evaluate the witnesses and the
16 evidence and determine the credibility of the
17 witnesses and the evidence.

18 In determining the credibility of
19 witnesses who have testified in this case, you may
20 believe one witness over several witnesses, or
21 several witnesses over one witness. You may
22 believe a part of the testimony of a witness and
23 reject the remaining part of the testimony of that
24 same witness. You may believe the testimony of a
25 witness in its entirety, or reject the testimony

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1 of a witness in its entirety. You may consider
2 whether any witness has exhibited to you any
3 interest, bias, prejudice, or other motive in this
4 case. You may also consider the appearance and
5 manner of a witness while on the witness stand.

6 Now, a statement alleged to have been
7 made by the defendant has been admitted into
8 evidence in this case. While the Court has
9 determined that this statement is admissible, I
10 instruct you that you make the ultimate decision
11 of whether or not the defendant made the
12 statement. If the defendant did make the
13 statement, you must determine whether the
14 statement was made by the defendant voluntarily
15 and of his own free will. This means that the
16 statement was not caused by pressure, force, fear,
17 threats, coercion, or intimidation, or by hope or
18 a promise of leniency, or a reward of any kind.

19 In determining whether the statement was
20 voluntary, you should consider both the
21 characteristics of the defendant and the details
22 of the questioning. Some of the factors that you
23 may consider are age of the defendant, defendant's
24 education or lack thereof, the defendant's mental
25 ability or capacity, the defendant's psyche or

1 intelligence, the defendant's background and
2 environment, place and length of detention, the
3 nature of the questioning, and the advice or lack
4 thereof to the defendant of his constitutional
5 rights, including, but not limited to, the right
6 to remain silent, that any statement could be used
7 against him in a court of law, the right to have a
8 lawyer present, and if he cannot afford a lawyer,
9 a lawyer would be appointed to represent him
10 without any cause and that he could stop making
11 the statement at any time. You must carefully
12 consider all of the surrounding circumstances
13 before you give any weight to an alleged
14 statement.

15 The State, once again, has the burden of
16 proving beyond a reasonable doubt that the
17 statement was voluntarily. If you determine it
18 was, you may give the statement any further
19 consideration that you deem proper. You must
20 decide what weight, if any, should be given to the
21 alleged statement. If you determine the alleged
22 statement was not the free and voluntarily
23 statement of the defendant, you should not
24 consider this statement at all.

25 Madame Forelady, Ladies and Gentlemen of

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

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

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

21 Now, in order to establish criminal
22 liability criminal intent is required. For
23 example, the mental state required to be proven by
24 the State for a particular crime might be purpose,
25 intent, knowledge, recklessness, or criminal

1 negligence. Criminal intent must be proven by the
2 State beyond a reasonable doubt. Criminal intent
3 is always a matter that must be determined by the
4 jury from the circumstances surrounding the
5 situation. There is no way to prove intent to a
6 mathematical certainty. There is no way medical
7 science can dissect a person's brain and determine
8 what the person had in mind, so the law says that
9 criminal intent may be inferred from the
10 circumstances shown to have existed.

11 This is how you make a determination of
12 whether or not the element requiring intent was
13 present. It's not necessary to establish intent
14 by direct and positive evidence, but intent may be
15 established by inference, and the same way as any
16 other fact, by taking into consideration the acts
17 of the parties and all the facts and circumstances
18 of the case. Criminal intent is a mental state, a
19 conscience wrongdoing. It is up to you to
20 determine what the defendant intended to do based
21 on the circumstances shown to have existed.

22 Now, Ladies and Gentlemen, I'm going to
23 go through each charge and charge you the law as
24 to each of the charges against the defendant.

25 First is kidnapping. The defendant is

Closing-Mr. Verner

1 charged with two counts of kidnapping and the
2 State must prove beyond a reasonable doubt that
3 the defendant knowingly and unlawfully seized,
4 confined, inveigled, decoyed, kidnapped, abducted
5 or carried away another person without authority
6 of the law. To do a thing unlawfully is to do it
7 willfully against the law.

8 Knowingly means with knowledge
9 consciously, not accidentally, aware that the
10 result is practically certain to follow from his
11 conduct.

12 Seize mean to take hold of suddenly or
13 forcibly.

14 Confine means to limit, restrict, or
15 enclose within bounds, imprison, or shut, or keep
16 in.

17 Inveigle means to lure, entice, or lead
18 astray by false representation, promises, or other
19 deceitful means.

20 Decoy means to lure by or as if by decoy,
21 and decoy is something to entice a person into a
22 trap.

23 Abduct means to carry of secretly or by
24 force for an illegal purpose.

25 Carry away means to remove.

1 The State does not have to prove that the
2 defendant did all of these things. Instead, if
3 you find, beyond a reasonable doubt, that the
4 defendant did any of these things, you may find
5 the defendant guilty of kidnapping.

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

12 Next, pointed or presenting a firearm.
13 The defendant is charged with two counts of
14 pointing or presenting a firearm. The State must
15 prove beyond a reasonable doubt that the defendant
16 presented or pointed at another person a loaded or
17 unloaded firearm. Point means the firearm in the
18 direction of a person. Present means that the
19 firearm is shown in a threatening manner.

20 And lastly, Ladies and Gentlemen, the
21 charge of possession of a firearm by a person
22 convicted of a violent crime. It is unlawful for
23 a person who is convicted of a violent crime that
24 is classified as a felony to possess a firearm or
25 ammunition within this state.

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1 In your consideration of the charge of
2 possession of a firearm by a person convicted of a
3 violent crime, the previous violent crime
4 conviction cannot be a part of your consideration
5 and deliberations on other four charges. In
6 addition, your consideration of the charge of
7 possession of a firearm by a person convicted of a
8 violent crime cannot be considered as evidence by
9 you concerning the character of the defendant.

10 Now, Ladies and Gentlemen, there are two
11 possible verdicts for each of five charges, that
12 being not guilty and guilty. Your verdict as to
13 each charge must be unanimous among the 12 of you.
14 And I have verdict form, Madame Forelady, and it
15 breaks down each charge. And as to each
16 indictment and as to each charge, you will place
17 your initials on the line next to either guilty or
18 not guilty. The fact that guilty appears before
19 not guilty is of no significance whatsoever. You
20 will do that for each of the charges, the five
21 charges, and then there's a place to sign and date
22 it. Okay?

23 Now, in the event, Ladies and Gentlemen,
24 during your deliberations there is a split in the
25 vote, the Court does not at any time want to be

1 informed of the actual split by number in the vote
2 if one does exist.

3 Now, what we're going to do send you, all
4 14 down to the jury room, and we're going to -- I
5 want to discuss with the lawyers and make sure
6 there are no exceptions or objections to the
7 charge. We're also going to get together all of
8 the exhibits that have been put into evidence in
9 this case. And if there's no further
10 instructions, then certainly none will be given.
11 We'll bring you back up and this is where you will
12 conduct your deliberations. The whole courtroom
13 is yours. You can situate yourselves, scatter
14 yourselves in whatever manner that you feel the
15 most comfortable. Okay? You probably just want
16 to stay in this general area, but that's up to
17 you. We have access to the restrooms. You're
18 welcome to use those. If any at any time one of
19 the 12 goes to the restroom, stop deliberations.
20 Your deliberations must be conducted at all times
21 when all 12 are present. So if someone goes in
22 there for a break -- I think the clerk has put
23 some snacks back there. There are some drinks in
24 the refrigerator.

25 If someone goes back there, Madame

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1 Forelady, make sure the deliberations stop.

2 Also, the computer has been hooked up to
3 the TV monitor and you're welcome to use that in
4 any way that you feel like it is necessary.

5 When you come back up, then I will need
6 to take the two alternates to the side for further
7 instructions and certainly give you my thanks for
8 serving as alternates in this case.

9 Now, once you begin your deliberations,
10 if there is a question or an issue, or certainly
11 when you have reached a verdict as to the five
12 charges, that door that you've been exiting, just
13 knock on it loud enough because there will be a
14 person that is seated out there that will hear you
15 knock and then come to see exactly what you have.
16 Mr. lane will be at that door there to make sure
17 no one comes in this courtroom. Okay?

18 But I need for you to do is all 14 of you
19 go back down to the jury room. And, again, don't
20 start your deliberations yet.

21 Finally, I realized what I just read to
22 you, the charge that I prepared, there was a lot.
23 Therefore, I'm going to give you a copy of this
24 for your use in whatever manner you would like to
25 use it. Okay?

1 All right. Go down, all 14 of you. Don't
2 begin any discussions yet.

3 One last thing, this disk has all of the
4 exhibits on there, so it might make it a little
5 easier review the exhibits by just using this.
6 But certainly, all the exhibits are into evidence,
7 but this just has all of them on this disk. Just
8 to make you aware of that.

9 Go on down for a minute, please.

10 (Jury exits the courtroom at 1:35 p.m.)

11 THE COURT: All right. Other than what's
12 been noted, does State have any exceptions or
13 objections to the jury charge?

14 MR. SCOTT: No, Your Honor.

15 THE COURT: Defense?

16 MR. VERNER: No. I was going to bring up
17 the disk, but the Court caught it at the very end.
18 No objections.

19 THE COURT: Thank you very much. We're
20 going to go off the record. Get with Sharon to
21 make sure we got all the exhibits together.

22 (Off the record.)

23 THE COURT: Let's bring the jury on up,
24 then.

25 (Jury enters the courtroom at 1:39 p.m.)

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1 THE COURT: Let the record reflect the
2 jury is back in.

3 Ladies and Gentlemen, the gun and the
4 ammo, the Court will have that in its possession.
5 If at any time the jury wants to look at the gun
6 or the ammo, you just let me know, but it's not
7 going to be with the exhibits. You just need to
8 let me know if you want to take a look at this.

9 Lastly, once everything is over, you
10 concluded your deliberations, your checks for
11 service plus any work excuses will be downstairs,
12 so don't leave the courthouse without getting
13 that. Okay?

14 Again, remind me who my two alternates
15 are. If you will come with me. And I just need
16 everybody, including security, to exit the
17 courtroom.

18 Madame Forelady, once everybody is out
19 then you can begin, but give us just a minute
20 okay.

21 You got exhibits, verdict form, Court's
22 charge, and some paper and some pens there. Okay?

23 We're off the record.

24 (Off the record.)

25 (Deliberations from 1:40 p.m. to 3:50 p.m.)

1 THE BAILIFF: All rise.

2 THE COURT: Thank you very much. Have a
3 seat. We are back on the record.

4 Madame Forelady, without telling me your
5 verdict, is your verdict unanimous on all five
6 charges?

7 MADAME FORELADY: Yes, sir.

8 THE COURT: Madame clerk, would you go
9 get the verdict and bring it to me, please.

10 THE CLERK: Yes, sir.

11 THE COURT: Okay. Mr. Brown, would you
12 please stand with Mr. Verner?

13 Madame Clerk, will you publish the verdict?

14 THE CLERK: State of South Carolina vs.
15 Ricky Bernard Brown. As to indictment number
16 2019-GS-36-710, Cheryl Braswell, with charges the
17 defendant with kidnapping, we, the jury find the
18 defendant guilty.

19 As to indictment number 2019-GS-36-712,
20 Sonya Byrd, which charges the defendant with
21 kidnapping, we, the jury, find the defendant not
22 guilty.

23 As to indictment number 2020-GS-36-736,
24 which charges the defendant with possession of a
25 firearm by a person convicted of a violent crime,

1 we, the jury, find the defendant guilty.

2 As to indictment number 2020-GS-36-733,
3 which charges the defendant with pointing or
4 presenting a firearm, Sonya Byrd, we, the jury,
5 find the defendant guilty.

6 As to indictment number 2020-GS-36-734,
7 Cheryl H. Braswell, which charges the defendant
8 with pointing and presenting a firearm, we, the
9 jury find the defendant guilty.

10 Signed, Sarah Lyon.

11 Ladies and Gentlemen of the Jury, if this
12 is your verdict, please indicate so by raising
13 your right hand.

14 THE COURT: Let the record reflect 12
15 hands were raised.

16 Mr. Verner, do you wish individual
17 polling of the jury?

18 MR. VERNER: No, sir.

19 THE COURT: Ladies and Gentlemen, let me
20 first thank you for your jury service. I know
21 it's a difficult task to undertake, and we
22 appreciate all your hard work, your patience, your
23 attentiveness. One of the jobs that a judge has
24 is to, kind of, keep a check on the jury. I
25 looked at you on a very regular basis. And every

1 time I looked at you, you all were very attentive
2 and alert. You did what I asked you to do.

3 Your verdict in this case does not matter
4 to me whatsoever. What matters to me is that my
5 jury performs the duties assigned to you
6 efficiently and conscientiously, and I'm confident
7 that you have done that.

8 What I would like to do is go downstairs
9 to the jury room with you and just talk to you,
10 not necessarily about this case, but just talk to
11 you about the safety protocols that we have
12 implemented. And anything that you would --
13 either positive or negative, so we can continue to
14 improve the way we do things in light of this
15 pandemic that we're still finding ourselves in.

16 After we do that, Mr. Brown will be
17 sentenced. And if you want to sit in on that,
18 then you will be permitted to. You don't have to.

19 And also downstairs will be your check and
20 work excuse. Okay?

21 So, if you want to -- if I can get an
22 escort to escort the jury down to the jury room.

23 And, Madame Clerk, if you will join me
24 along with Madison, I'm going to follow you down
25 there so we can chat for just a few minutes.

1 Okay?

2 The foreperson, Madame Forelady, you need
3 to sign the indictments. You can do that after we
4 have talked. I'll just bring them. Just go get
5 them, Madison, if you would, and we'll just take
6 them down with us.

7 Solicitor, that will give you time to get
8 the sentencing sheets done.

9 (Jury exits the courtroom at 3:54 p.m.)

10 (Sentencing; 4:08 p.m.)

11 SENTENCING

12 THE BAILIFF: All rise.

13 THE COURT: Thank you, have a seat.

14 Give me just a minute, everybody.

15 Okay. We are on the record in the
16 sentencing phase of the State of South Carolina
17 vs. Ricky Brown.

18 Solicitor, you want anything on the
19 record as it relates to sentencing?

20 MR. SCOTT: Your Honor, not a lot from
21 the State, this being an LWOP case.

22 THE COURT: Right.

23 MR. SCOTT: I do want to gratitude to the
24 jury on behalf the State, and on behalf of the
25 victims especially. Thank you very much for your

1 patience in rendering your verdict.

2 Your Honor, underlying -- as noted in the
3 Court's exhibit, the underlying triggering offense
4 on his criminal history is a voluntarily
5 manslaughter from 1998 being a violent most
6 serious offense, and, of course, this too is a
7 violent most serious offense.

8 We do recognize there are two named
9 victims in our indictments, but we do recognize
10 Chad Ulmer, Miss Wood, and Miss Armstrong as well,
11 as being victims in this case, so we recognize
12 them as well.

13 I believe Your Honor has a written impact
14 statement from Sonya Byrd. She wishes for you to
15 read that to yourself from the bench.

16 But at the appropriate time,
17 Miss Braswell has an impact statement she would
18 like to read aloud to the Court.

19 THE COURT: All right. Let me ask you,
20 Solicitor, because this is an LWOP case, and I'm
21 not being unmindful of the impact that this has
22 had on everybody, would it be suitable with the
23 State for me to just has this marked as a Court's
24 exhibit as opposed to reading it into the record?

25 Now, I can -- based upon the testimony,

1 especially from Miss Braswell and Miss Byrd, I can
2 certainly -- pretty much know what's in this.

3 MR. SCOTT: Yes, sir.

4 THE COURT: Would that be suitable for
5 the Court, instead of reading it into the record,
6 just make it part of the record?

7 MR. SCOTT: Yes, sir. I think she just
8 wanted Your Honor to read that. This may be
9 therapeutic to some degree. This may be cathartic
10 to some degree.

11 THE COURT: Okay.

12 MR. SCOTT: I think she wanted Your Honor
13 to understand how it impacted her.

14 THE COURT: What I will do is, I will
15 read it but I won't read it into the record and we
16 can have it marked.

17 MR. SCOTT: And that's what she had in
18 mind.

19 THE COURT: Miss Braswell, I'll be glad
20 to read yours and have it made a part of the
21 record, if that's suitable. Okay?

22 All right.

23 MR. SCOTT: Your Honor, if you would be
24 willing, if you would indulge us, she would like
25 to read it out loud in the court. I don't know if

1 it might be for her own good.

2 THE COURT: That's fine. Let me just
3 Miss Byrd's first, and then I'll be glad to let
4 you read yours.

5 MR. SCOTT: Thank you, Your Honor.

6 THE COURT: Miss Byrd, very well written,
7 and I'm so sorry that you've had to go through
8 what you've had to go through. But I'm going to
9 tell you this, your faith is going to get you
10 through it.

11 MS. BYRD: Amen.

12 THE COURT: Thank you.

13 All right. Miss Braswell, unless you can
14 -- you may want to maybe use that microphone to
15 make sure we can hear you.

16 MS. BRASWELL: Yes, sir.

17 THE COURT: All right. I'll be glad to
18 hear from you.

19 MR. BRASWELL: Your Honor, I first want
20 to say thank you to the Judge and the jury for
21 taking precautions and to keeping us safe as we've
22 been in here.

23 On October the 2nd, I was held at
24 gunpoint by Ricky Brown against my will. Ricky
25 grabbed me as I was attempting to escape out the

1 front door of the office. He turned me around
2 with his left arm across my chest, grabbed my ID
3 badge, my shirt, my bra strap, pulling me with my
4 back was against his chest. He then put the
5 revolver into my right this.

6 This event being held against my will is
7 not only a traumatic experience, but an
8 life-changing event that has impacted me in
9 several different ways.

10 I've had to go on medication for
11 post-traumatic disorder, anxiety and sleep disorders
12 due to nightmares.

13 I have switched positions so I am no
14 longer working in the Newberry office as a
15 counselor, but rather in an entirely different
16 department in an entirely different county where I
17 am not working with the public.

18 I am anxious in crowded settings in
19 public places with certain noises, certain smells.
20 What Ricky did has changed me tremendously as a
21 person.

22 Since the incident, I have lost my
23 feelings of security. I had to be treated for
24 PTSD and other medical issues. I fight through
25 triggering moments every day. Triggers are

1 anything that sets you off emotionally and
2 activates feelings of your trauma that are
3 particular to you and what your experience has
4 been. When the triggers come, I live that
5 forceful hold Ricky had across my chest. I can
6 remember the way he smelled, the sound of his
7 voice in my head that keeps repeating, "You can't
8 leave," and the feeling of the black revolver he
9 had pointed at my right side.

10 If you have ever experienced PTSD because
11 of an event, you know about the nightmares and the
12 uncontrollable crying and the feeling of not being
13 able to catch your breath.

14 Since the event, I struggle every day to
15 get back to the surface where my emotions are not
16 running crazy, having to remind myself that I am
17 safe, and keeping my mind on track.

18 I truly believe that his sentencing
19 should be the maximum he can get in the state of
20 South Carolina with a chance of no parole. This
21 man is a danger to himself and to others. He was
22 given a chance before to become a better citizen
23 and he made the choice to hold an innocent victim
24 against her will at gunpoint.

25 Thank you.

1 THE COURT: Thank you, Miss Braswell, and
2 that was very well written. I am sorry you had to
3 endure that tragedy in your life.

4 Anything further from the State?

5 MR. SCOTT: No, Your Honor.

6 THE COURT: Mr. Verner, anything from
7 you, sir?

8 MR. VERNER: Your Honor, Mr. Ricky Brown
9 is 42 years old, lifelong in Newberry, as we
10 presented pretrial. He has been a mental health
11 client since age 11. I wish I could say something
12 more than that, but the sentence doesn't give us
13 much latitude to argue beyond that.

14 Ricky, you don't have to, but if you want to
15 say anything?

16 Your Honor, my client would waive his right
17 to speak.

18 THE COURT: Okay, very good. Everybody
19 be at ease for just a moment, please. You can
20 have a seat.

21 Let me explain to the jury, the statute
22 provides that if a person receives two convictions
23 for crimes that are classified as most serious,
24 then the sentence is an automatic life sentence
25 without parole.

1 In 1998, Mr. Brown received a conviction
2 for voluntary manslaughter. That is classified in
3 our laws as a most serious offense. And then the
4 kidnapping conviction of today is classified as a
5 most serious offense, so the law provides for a
6 mandatory life sentence without parole.

7 Mr. Brown, if you would please stand.

8 On indictment 2019-GS-36-00710 for the
9 offense of kidnapping, the sentence of the Court
10 is that you be committed to the State Department
11 of Corrections for the balance of your life
12 without the possibility of parole.

13 On the other three indictments, they will
14 be concurrent, five years sentences on each.

15 Good luck to you, sir.

16 This hearing is adjourned.

17 (The trial was concluded at 4:25 p.m.)

18

19

20

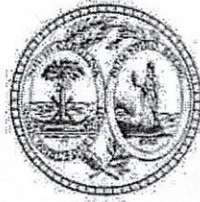
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State of South Carolina Department of Mental Health

MENTAL HEALTH COMMISSION:

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Alison Y. Evans, PsyD
Bob Hiott

STATE DIRECTOR
Kenneth N. Rogers, MD

**Division of Inpatient Services
Forensic Evaluation and Outpatient Services**
7901 Farrow Road, Building #6
Columbia, SC 29203
Information: (803) 935-5600

October 14, 2020

Taylor Daniel
Assistant Solicitor
P.O. Drawer 10
Newberry, SC 29108

Re: The State of South Carolina vs. Brown, Ricky
DMH Case #: 947-3748
Newberry County, Court of General Sessions


Dear Assistant Solicitor Daniel:

In accordance with the court order issued by the Honorable Eugene C. Griffith, a competency to stand trial evaluation was conducted by the South Carolina Department of Mental Health, pursuant to S.C. Code Ann. § 44-23-410 (1976):

Please see the attached report for the results of this evaluation.

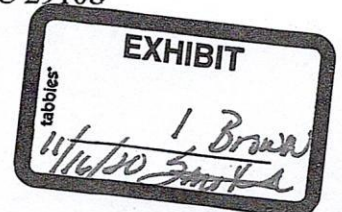
This 16 page document is certified to be the original court-ordered evaluation report issued pursuant to S.C. Code Ann. § 44-23-410 (1976).

10/14/20
Date

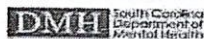

Kelly Gothard, Ph.D.
Clinical Director
Forensic Outpatient Services
Department of Mental Health

cc: Charles V. Verner, Attorney at Law, 1226 College Street, Newberry, SC 29108

KG/aw



MISSION STATEMENT
To support the recovery of people with mental illnesses.



**CAPACITY TO STAND TRIAL EVALUATION
FORENSIC EVALUATION SERVICE
SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH (SCDMH)**

NAME: Ricky Bernard Brown

DATE OF BIRTH: [REDACTED] 1977

DATE OF REPORT: October 12, 2020

PRESIDING EXAMINER: Casey L. Gregoire, D.O.
Fellow in Forensic Psychiatry
University of South Carolina School of Medicine

SECOND EXAMINER: Elizabeth Dawn Whetstone, LISW-CP

PSYCHIATRIC DIAGNOSIS:

Antisocial Personality Disorder
Alcohol Use Disorder, severe, in a controlled environment
Cannabis Use Disorder, severe, in a controlled environment
Methamphetamine Use Disorder, mild, in a controlled environment

OPINION REGARDING CAPACITY TO STAND TRIAL: Mr. Brown currently has the capacity to stand trial.

DISPOSITION: Mr. Brown returned to the Newberry County Detention Center at the conclusion of the evaluation.

IDENTIFYING INFORMATION: Ricky Bernard Brown is a 43-year-old African-American male who was seen at the Forensic Evaluation Service pursuant to a court order from the Newberry County Court of General Sessions. This court order requested an evaluation of his competency to stand trial pursuant to State vs. Blair, 275 S.C.529, 273 S.E.2d 536 (1981) and S.C. Code Ann. §44-23-410 (1976). He is currently charged with five counts of Kidnapping, Discharging a Firearm in City Limits, Possession of a Weapon During Commission of a Violent Crime, Possession of a Weapon by a Person Convicted of a Violent Crime, Pointing and Presenting a Firearm, Resisting Arrest with a Deadly Weapon, Threatening the Life of a Public Official, two counts of Malicious Injury to the jail, and Possession of Methamphetamine. According to the court order, this request was issued for the following reason: "the State and Defense Counsel have consented to such evaluation."

Prior to participating in the examination, Mr. Brown was warned regarding the limitations of confidentiality. He was informed that this evaluation was court ordered and not meant

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SCDMH# 947-3748

for the purposes of treatment. He was informed that the evaluators were employed by the South Carolina Department of Mental Health and were not being paid by his attorney or the solicitor in his case. He was informed that after the evaluation was completed a report would be submitted to his attorney, the solicitor, and the judge in his case. Finally, he was informed that the evaluators could be called to court to testify at a hearing related to his competency to stand trial. He was able to answer questions regarding this information correctly and he voluntarily agreed to participate in the evaluation.

SOURCES OF INFORMATION:

1. Newberry County Court of General Sessions Order requesting competency to stand trial evaluation, dated September 14, 2020.
2. Clinical forensic interview with the defendant conducted on September 29, 2020 for approximately two and a half hours duration.
3. Telephone interviews with Bertina Lewis, LPN at Newberry County Detention Center for approximately five minutes conducted on September 28, 2020 and for approximately 15 minutes conducted on October 1, 2020.
4. Newberry County Detention Center medical records from May 18, 2017 through September 18, 2020.
5. Newberry County Court of General Sessions grand jury indictment# 2020-GS-36-00265 for Possession of Methamphetamine, dated July 31, 2020.
6. Newberry County Sheriff's Office Incident Report for case number 20-01053, dated February 11, 2020.
7. Newberry County Court of General Sessions grand jury indictments for the following charges on December 13, 2019:
 - a. 2019-GS-36-00681 for Malicious Injury to a Courthouse or Jail
 - b. 2019-GS-36-00714 for Threatening the life, person or family of a public employee
 - c. 2019-GS-36-00706 for Possession of a Weapon during the Commission of a Violent Crime
 - d. 2019-GS-36-00707 for Possession of a Firearm by a Person Convicted of a Violent Offense
 - e. 2019-GS-36-00708 for Pointing/Presenting a Firearm
 - f. 2019-GS-36-00709 for Resisting Arrest with a Deadly Weapon
 - g. 2019-GS-36-00711 for Kidnapping
 - h. 2019-GS-36-00712 for Kidnapping
 - i. 2019-GS-36-00713 for Kidnapping
 - j. 2019-GS-36-00710 for Kidnapping
 - k. 2019-GS-36-00705 for Kidnapping
8. Defendant's National Crime Information Center (NCIC) report, dated October 22, 2019.
9. Newberry County Sheriff's Office Incident Report for case number 19-08423, dated October 16, 2019.
10. Arrest Warrant 2019A3610100489 for Malicious injury, willful injury to courthouse or jail, dated October 16, 2019.

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11. Arrest Warrant 2019A3610100490 for Malicious injury, willful injury to courthouse of jail, dated October 16, 2019.
12. Newberry County Sheriff's Office Incident Report for case number 19-08431, dated October 16, 2019.
13. South Carolina Law Enforcement Division Crime Scene Investigation Summary and Crime Scene Notes, dated October 16, 2019.
14. City of Newberry Incident Supplemental Report for case number 2019-8669, dated October 14, 2019.
15. Newberry Police Department Voluntary Statements from Chad Ulmer, Tammy Wood, Sonya Byrd, Kendall Armstrong, and Cheri Braswell on October 2, 2019; statements from Shelley Remion and Stephen Steiger on October 3, 2019.
16. Video recording of the alleged Threatening the life, person or family of a public employee on October 3, 2019.
17. City of Newberry Incident Report for case number 2019-08705, dated October 3, 2019.
18. City of Newberry Incident Reports and Supplemental Reports for case number 2019-08669, dated October 2, 2019.
19. Arrest Warrant 2019A3620200177 for Threatening the life of public employee, dated October 3, 2019.
20. Arrest Warrants for the following offenses, dated October 2, 2019:
 - a. 2019A3620200171 for Kidnapping
 - b. 2019A3620200172 for Discharging a Firearm in the City
 - c. 2019A3620200173 for Possession of Weapon during a Violent Crime
 - d. 2019A3620200174 for Possession of Firearm by a Convicted Felon
 - e. 2019A3620200175 for Pointing and Presenting a Firearm
 - f. 2019A3620200176 for Resisting Arrest with a Deadly Weapon
 - g. 2019A3620200179 for Kidnapping
 - h. 2019A3620200180 for Kidnapping
 - i. 2019A3620200181 for Kidnapping
 - j. 2019A3620200182 for Kidnapping
21. Video surveillance from South Carolina Vocational Rehabilitation Newberry Clinic on October 2, 2019.
22. Earle E. Morris Alcohol and Drug Addiction Treatment Center medical records for the hospitalization from July 25, 2017 to August 15, 2017.
23. Beckman Center for Mental Health Services medical records from January 14, 2017 through September 16, 2019.
24. Newberry County Memorial Hospital medical records from November 14, 2016 through July 10, 2020.
25. Palmetto Baptist Hospital medical records from July 19, 2018 through August 2, 2018.
26. South Carolina Department of Corrections medical records from June 2, 2015 through June 1, 2016.
27. SCDMH Episodes of Care report, undated.

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SCDMH Forensic Evaluation Service social work assessment could not be completed due to lack of availability of next of kin. We have requested video surveillance from the Newberry County Detention Center from October 16, 2019. This evaluator received an email received on October 5, 2020 from Ms. Jackie Lawrence, Court Coordinator in the Newberry County Solicitor's Office; this email stated, "There is no video of that incident as far as I am aware. I will check with the county and get back to you." At the time of submission of this report we have not received that recording.

We reserve the right to alter our opinion should further information become available.

CURRENT PSYCHIATRIC FUNCTIONING: Mr. Brown reported that he has been incarcerated at the Newberry County Detention Center for approximately one year. He stated that he was initially housed in the booking area of the detention center and placed on suicide watch, where he remained throughout October 2019. The defendant mentioned that he was housed in a single cell in "lockup" from November 2019 to April or May 2020. He reported that he did not know why he was housed in lockup. Mr. Brown stated that he was moved into general population in April or May 2020, where he has remained since that time. He stated that he spends the majority of his day napping in between meal times or "looking at the TV." He added that he prefers to keep to himself. The defendant stated that he has gotten into verbal altercations with other inmates, but he denied engaging in physical altercations.

He stated that he could not recall significant portions of his first month in the detention center, but he stated that several correctional officers informed him of his actions during that time. Mr. Brown stated that he was throwing his food, talking to himself, and was running around "butt naked." He added that he was hospitalized at Newberry County Memorial Hospital for six days for an unknown reason. He denied attempting suicide during this incarceration. The defendant indicated that when he returned from the hospital in October 2019, he engaged in self-injurious behavior by attempting to cut himself with a button on his uniform. He denied engaging in self-injurious behavior since that episode.

Mr. Brown described his mood as "ok, I get frustrated, but it's been pretty decent." He mentioned that there have been "ups and downs" during this incarceration, but he attributed his overall stability to his current medications. He denied experiencing symptoms of depression, mania, or psychosis. The defendant reported experiencing chronic passive suicidal ideation; however, he vehemently denied having a current plan or intent to commit suicide. Mr. Brown denied current homicidal ideation. He denied experiencing auditory or visual hallucinations. He denied possessing unusual beliefs or special powers.

Mr. Brown reported that he sleeps well at night. He added that he frequently takes naps during the day in between meal times and pill call. He denied problems with his appetite. The defendant denied using alcohol or illicit substances the night prior to this evaluation or on the day of this evaluation. There was no evidence of substance intoxication or

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withdrawal. He indicated that he is prescribed lithium (Eskalith[®], a mood stabilizer); risperidone (Risperdal[®], an antipsychotic medication); mirtazapine (Remeron[®], an antidepressant medication); benztropine (Cogentin[®], a medication used to treat the side effects of antipsychotic medications); metformin (Glucophage[®], an anti-diabetic medication); and a blood pressure medication. He reported good compliance with his prescribed medications. Mr. Brown denied experiencing side effects from these medications.

The defendant reported that prior to his arrest he was living in an apartment with his girlfriend of two years. He stated that he spent his days watching television, drinking alcohol, and smoking marijuana. He reported that he received outpatient mental health treatment at the Beckman Center for Mental Health Services until the time of his arrest. He added that he was not taking mental health medications prior to this incarceration due to financial limitations. Mr. Brown stated that he was unemployed and having difficulty finding a job due to his prior conviction.

A review of Newberry County Detention Center medical records and telephone interviews conducted with Bertina Lewis, LPN revealed the following information: Mr. Brown arrived at Newberry County Detention Center on October 2, 2019 at which time he was placed on suicide watch, although he denied having suicidal ideation during his receiving screening. He reported a history of Bipolar Disorder and Schizophrenia to staff. The defendant endorsed drinking beer and smoking marijuana daily, using cocaine two to three times a week, and using methamphetamine occasionally prior to his arrest. He remained on suicide watch until October 30, 2019.

The defendant was prescribed a mood stabilizer, an antipsychotic, and an antidepressant on October 4, 2019; however, he did not receive the mood stabilizer or the antidepressant until October 9, 2019. On October 10, 2019, the antipsychotic medication that he was prescribed was changed to olanzapine (Zyprexa[®]), which he began receiving that day. On October 6, 2019, correctional officers observed Mr. Brown attempting to cut himself with a button from his uniform. He informed the officers that he was hearing voices that were telling him to harm himself at the time. He requested to be placed in a restraint chair several times over the course of the following two days to prevent him from harming himself.

On October 16, 2019, Mr. Brown reportedly ran into a different room yelling "he got [sic] a gun," and refused to exit the room. Later that same day, he was observed to be naked and standing on the toilet before he allegedly broke the sprinkler head. A mental health services note from that day described the defendant as uncooperative and having a circumstantial thought process. On October 19, 2019, he was observed to be shaking, mumbling to himself, had swollen hands and feet, and was ignoring his name when called. Officers expressed concern about his behavior and noted that he had not eaten or slept for six days. Mr. Brown was admitted to Newberry County Memorial Hospital with altered mental status and diagnosed with mild rhabdomyolysis (i.e. mild breakdown of muscle

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tissue). A urine drug screen was positive for marijuana. He received treatment with intravenous fluids and his altered mental status resolved; he was discharged on October 21, 2019. Detention center medical staff opined that the rhabdomyolysis may have been caused by Mr. Brown taking Zyprexa®, which was subsequently listed as an allergy.

Since November 2019, the defendant has been described as stable, having a normal sleep pattern, not endorsing suicidal or homicidal ideation, and having a logical thought process. There has been no evidence of depression or mania. Aside from October 2019 when he was observed to be mumbling to himself and self-reported experiencing "voices," there have been no signs of psychosis. Mr. Brown's current medications are lithium, Risperdal®, Remeron®, Cogentin®, Glucophage®, and amlodipine (Norvasc®, an anti-hypertensive medication).

PAST PSYCHIATRIC HISTORY: Mr. Brown reported taking methylphenidate (Ritalin®, a stimulant used to treat Attention Deficit Hyperactivity Disorder) and seeing a therapist when he was eight years old for approximately one year. He added that he was instructed to attend mental health appointments after he was released from the Department of Juvenile Justice (DJJ); however, he did not follow up with mental health. The defendant stated that he began regularly receiving psychiatric treatment at age 18 during his incarceration in the South Carolina Department of Corrections (SCDC). Mr. Brown stated that he was hospitalized once prior to his incarceration at SCDC. He added that he was hospitalized at Palmetto Baptist Hospital in 2017 after an episode of severe self-injury following his release from SCDC. The defendant reported that during his SCDC incarceration he was admitted to Gilliam Psychiatric Hospital (GPH) multiple times for self-injurious behavior.

Mr. Brown described a long history of serious self-injury beginning when he was 11-years-old. He mentioned that he cuts himself to experience a "rush and a release, it's something that makes me feel better about myself." The defendant reported that the vast majority of his self-harm episodes require sutures or surgical repair. He stated that he participated in a "cutter's program" for five years while he was incarcerated at SCDC. He added that his most recent episode of self-injurious behavior was in October 2019 at which time he attempted to cut himself with a button. Mr. Brown indicated that he has attempted suicide several times. He stated that he attempted to hang himself once or twice and overdosed on pills once while incarcerated. He reported that his most serious and most recent suicide attempt occurred in 2005, at which time he "cut [his] intestines out" and required abdominal surgery.

The defendant stated that he has been diagnosed with Bipolar Disorder and that he has been prescribed "all kinds of medicine." Although the defendant endorsed a history of experiencing depressed mood and chronic suicidal ideation, he denied other symptoms associated with depression (e.g. loss of interest, low energy, or loss of appetite). He reported experiencing insomnia and feelings of hopelessness when he was released from SCDC in 2016. He attributed those feelings to being turned away from job opportunities

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due to his criminal history. The defendant reported experiencing a trauma when he heard his brother get struck and killed by a car while he was on the phone with him. He added that he arrived at the scene and saw his brother's body. He reported having thoughts about his deceased brother on a daily basis. The defendant denied re-experiencing the event or avoidance behaviors relating to the trauma. He denied a history of experiencing symptoms of mania in the absence of substance use. Mr. Brown denied a history of experiencing auditory or visual hallucinations. The defendant denied a history of possessing special powers or unusual beliefs. He stated that his longest period of sobriety from alcohol and illicit substances was during the five year period of time that he spent in the "cutter's program" at SCDC. He added that during that period of time he did not experience symptoms of depression, mania, or psychosis.

A review of available medical records and collateral information revealed the following: He became involved in mental health treatment with South Carolina Department of Mental Health (SCDMH) in 1994 when he sought services from Beckman Center for Mental Health Services; he was diagnosed with Conduct Disorder. Due to SCDMH medical records retention policy, these records were not available.

Mr. Brown was released from SCDC in June 2016 with a diagnosis of Bipolar Disorder. He was prescribed a mood stabilizer, an antipsychotic, an antidepressant, and an antianxiety medication. It was noted that he had not engaged in self-injurious behavior in over four years at the time of his release. Although he was described as having anxiety regarding his pending release, his thought process was described as logical.

Mr. Brown was hospitalized overnight in the Newberry County Memorial Hospital intensive care unit for observation on January 25, 2017 following a reported overdose on ziprasidone (Geodon[®], an antipsychotic medication). The defendant had been drinking alcohol and his urine drug screen was positive for marijuana. He had initially indicated that he took an entire bottle of the medication due to stress about "the police...getting out of jail." He later informed the psychiatrist that he took fewer pills than he first reported. His vital signs remained stable throughout the visit, there were no lab abnormalities, and no EKG abnormalities. The defendant expressed feeling nervous about the police and a legal hearing that was scheduled on January 25, 2017. He vehemently denied that the overdose was a suicide attempt and he denied suicidal ideation. Mr. Brown was discharged on January 26, 2017.

The defendant was admitted to Earle E. Morris Alcohol and Drug Addiction Treatment Center (i.e. Morris Village) from July 25, 2017 through August 15, 2017 as ordered by the probate court. Mr. Brown was diagnosed with Alcohol Use Disorder, Cannabis Use Disorder, Cocaine Use Disorder, Ecstasy Use Disorder, Bipolar Disorder, and Post Traumatic Stress Disorder. He was not taking psychiatric medications at that time and was not prescribed psychiatric medications during this hospitalization. There was no evidence of symptoms of depression, mania, or psychosis. He left the treatment facility early "due to personal conflicts with other patients."

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Mr. Brown went to the Newberry County Memorial Hospital emergency room on July 16, 2018 for "agitation and brief thoughts of hurting someone." His urine drug screen was positive for cocaine and marijuana. He denied suicidal or homicidal ideation; he also denied experiencing psychotic symptoms. He was noted to be restless and tremulous. The defendant was given intravenous fluids and discharged the same day. The following day, on July 17, 2018, Mr. Brown was brought to the emergency room after cutting himself with a pair of scissors and a razor. He indicated that the self-injury was a suicide attempt after he received bad news regarding his grandmother. His urine drug screen was positive for cocaine and marijuana; he also had alcohol in his system. The defendant reported depression, anxiety, and feelings of hopelessness. His injuries required staples and he was admitted to the acute behavioral care unit at Palmetto Baptist Hospital from July 19, 2018 through August 2, 2018. He was started on a mood stabilizer medication, an antipsychotic medication, and an antidepressant/sleep aid. The defendant's mood improved and he was discharged with the diagnoses of Unspecified Depressive Disorder, Borderline Personality Disorder, and Cocaine Use Disorder.

Mr. Brown received outpatient mental health treatment at the Beckman Center for Mental Health Services following his release from SCDC in 2016. These medical records described a pattern of ongoing alcohol and illicit substance use along with variable sleep patterns and moods. The defendant reported multiple stressors related to employment and the health of his family members. He had intermittent compliance with psychiatric medications. He consistently denied suicidal or homicidal ideation. On September 16, 2019, Mr. Brown reported experiencing auditory hallucinations of "derogatory things." His thought process was consistently described as "concrete" and "logical."

The defendant was evaluated at Newberry County Memorial Hospital on October 2, 2019 following his arrest for the index offenses. At that time he reported "excessive methamphetamine and marijuana use" as well as heart palpitations. Additionally, he reported drinking "a gallon a day of beer and liquor." He denied suicidal ideation and he was described as calm and cooperative. A urine drug screen was not obtained as he was "very forthcoming." He was given intravenous fluids and discharged into police custody.

ALCOHOL AND DRUG USE HISTORY: The defendant stated that he had his first drink at age 14 or 15 and added that it became a problem "right away." A note from Morris Village in 2017 indicated that he began drinking alcohol when he was 11-years-old. Mr. Brown reported that he would drink beer and liquor until he "passed out." He mentioned that he did not drink alcohol while he was incarcerated in SCDC, but that he resumed drinking the week following his release. He reported that he went to inpatient rehabilitation in 2017 and resumed drinking shortly after his discharge from the facility. The defendant stated that he drank every day from the moment he awoke until he passed out at night. He estimated drinking approximately a pint of liquor and a case of beer on a daily basis. He endorsed developing a tolerance to alcohol and experiencing cravings for alcohol. Mr. Brown denied experiencing withdrawal symptoms upon stopping the use

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of alcohol. After reviewing available records and conducting a clinical interview, it is our opinion that he meets diagnostic criteria for Alcohol Use Disorder, *severe* with the specifier *in a controlled environment* as he does not currently have access to alcohol while incarcerated.

Mr. Brown reported that he began smoking marijuana when he was 11-years-old and stated that marijuana is his drug of choice. Morris Village records indicated that he began smoking marijuana at age 15, with problems from cannabis use beginning at that time. The defendant stated that he "smoked all day every day." He added that it helped him relax, stay calm, and sleep. Mr. Brown estimated that he smoked approximately ten "blunts" on a daily basis. Morris Village records reported that he smoked up to 15 blunts on a daily basis. He endorsed developing a tolerance to cannabis and experiencing cravings for marijuana. He denied experiencing withdrawal symptoms upon stopping the use of marijuana. The defendant indicated that he continued smoking marijuana during his incarceration at SCDC. He stated that he last smoked marijuana on the day of his arrest for the index offense; he added that this incarceration represents his longest abstinence from marijuana. After reviewing available records and conducting a clinical interview, it is our opinion that he meets diagnostic criteria for Cannabis Use Disorder, *severe* with the specifier *in a controlled environment* as he does not currently have access to marijuana while incarcerated.

The defendant reported that he started smoking and snorting methamphetamine in April 2019 because he was "hanging around the wrong people." Mr. Brown reported that using methamphetamine exacerbated his mental health symptoms and made him "jittery [and] feeling funny." He denied developing a tolerance to methamphetamine or experiencing withdrawal symptoms upon stopping use of methamphetamine. He stated that he never purchased methamphetamine and could not quantify the amount or frequency of use. The defendant mentioned that he has continued using methamphetamine during this incarceration. He stated that his last use was in March 2020. After reviewing available records and conducting a clinical interview, it is our opinion that he meets diagnostic criteria for Methamphetamine Use Disorder, *mild*. Although he has endorsed continued use of methamphetamine during this incarceration, he has limited access to methamphetamine while incarcerated. The specifier *in a controlled environment* was added to this diagnosis.

Mr. Brown reported that he snorted one to two grams of cocaine on weekends around the age of 16. He added that he continued to occasionally snort powdered cocaine during his incarceration at SCDC. He denied developing a tolerance to cocaine or experiencing withdrawal symptoms upon stopping the use of cocaine. The defendant denied financial, interpersonal, or legal problems arising from his cocaine use. He reported that he has not used cocaine since he was released from SCDC in 2016. However, the medical screening assessment from this incarceration indicated that he was using cocaine one to two times each week. He had also tested positive for cocaine on two urine drug screens in July 2018. Based on the available information, Mr. Brown does not meet diagnostic

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criteria for Cocaine Use Disorder. Additional information may reveal sufficient diagnostic criteria for Cocaine Use Disorder.

Mr. Brown denied a history of using heroin, prescription opiates, sedatives, hallucinogens, ecstasy, crack, PCP, synthetic marijuana, or bath salts. Morris Village records from his admission in 2017 revealed that he used ecstasy beginning at age 38. At that time he reported using two pills of ecstasy every three to four days. Based on the available information, the defendant does not meet diagnostic criteria for Hallucinogen Use Disorder. Additional information may reveal the presence of sufficient diagnostic criteria for Hallucinogen Use Disorder.

MEDICAL HISTORY: He reported receiving a diagnosis of diabetes and high blood pressure during this incarceration. Mr. Brown reported a history of two abdominal surgeries. He mentioned that one abdominal surgery followed a self-inflicted injury and the other abdominal surgery occurred after he was stabbed in the abdomen. He added that he has required sutures and staples after nearly every episode of self-harm behavior. The defendant denied a history of head injuries or seizures. He denied allergies to medications.

A review of available medical records revealed that he received a diagnosis of Type II Diabetes and hypertension from Newberry County Memorial Hospital on July 10, 2020 during an emergency room visit. Mr. Brown was admitted to Newberry County Memorial Hospital on October 20, 2019 due to altered mental status and received a diagnosis of mild rhabdomyolysis (i.e. a mild breakdown of muscle tissue). Common causes of altered mental status were ruled out and the cause in his case was not determined. His urine drug screen was positive for marijuana. His altered mental status resolved after he received intravenous fluids. The defendant was discharged from the hospital on October 21, 2019.

Following Mr. Brown's hospitalization, his mental health provider at Newberry County Detention Center discontinued his previously prescribed olanzapine (Zyprexa[®], an antipsychotic medication) as the detention center medical staff opined a relationship between the medication and his hospitalization. Zyprexa[®] was subsequently listed as a medication allergy in his medical record. Available records do not indicate a history of head injuries or seizures.

FAMILY HISTORY: Mr. Brown reported that his maternal uncle has been "in and out of mental health hospitals his whole life." He stated that his mother struggles with substance abuse. The defendant reported that his biological father died from suicide when he was 12-years-old.

SOCIAL HISTORY: Mr. Brown reported that he was born and raised in Newberry County, South Carolina. He indicated that he was raised by his maternal grandmother because his mother was "on drugs" throughout his life. He mentioned that his biological father was

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not involved in his upbringing. The defendant reported that he has a younger half-sister and younger half-brother who had different fathers and were raised by their paternal grandparents. He described having close relationships with his siblings. He expressed grief over the death of his younger brother in March 2019 when his brother was struck and killed by a car while the defendant was on the phone with him.

He denied a history of physical, sexual, or emotional abuse. A note from Palmetto Baptist Hospital on July 19, 2018 indicated that the defendant was sexually abused by a cousin as a child. Mr. Brown stated that his grandmother spoiled him throughout his childhood. He added that his grandmother passed away when he was 13-years-old. Following her death he reported that he was living on the streets and with friends doing what he could to "make it." He denied previous involvement of the Department of Social Services.

Mr. Brown reported that he was expelled from school in the 10th grade and did not get a GED. He stated that prior to age 13, he did well in school and did not get in trouble. He added that following the death of his grandmother he began failing classes and getting in trouble. He reported getting suspended and expelled from school multiple times for fighting. The defendant stated that he repeatedly skipped school and only attended school to use the gym shower when he was homeless. He denied repeating grades. Mr. Brown stated that he attended special education classes starting at age 13 for "a learning disability."

The defendant denied a history of engaging in animal cruelty or running away from home. He reported that he "burned a whole field down" with a friend that required the assistance of the fire department to put out the fire. He stated that he used to shoot guns at truck tires while the trucks were on the road; he added that his actions led to a car accident on one occasion when he was ten years old. Mr. Brown reported that he often stole items including a firearm and broke into "places." He stated that he frequently got into physical altercations. The defendant mentioned spending approximately one year in the Department of Juvenile Justice at age 14 for "receiving stolen goods and breaking into a concession stand."

Mr. Brown reported that his first job was at a lumber company when he was released from prison in 2016. He stated that he held that job for approximately six months prior to being fired following an argument with his supervisor regarding his criminal history. He stated that he has held multiple jobs since his release from prison; however, he added that he has gotten fired from each one after approximately three months when the employers discovered his previous conviction. Mr. Brown reported that he last worked in January 2018 with his uncle doing landscaping until he left due to conflict with his uncle. The defendant denied gang involvement. He denied serving in the military.

The defendant denied previous marriages. He indicated that he was in a relationship "on and off" with the mother of his daughter between 1991 and 1997. Mr. Brown stated that the relationship ended due to his incarceration. His daughter is 22-years-old and he

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mentioned having a fair relationship with his daughter. He added that he has been in his current relationship for approximately two years. The defendant stated that his current relationship is good and that they were living together prior to this incarceration.

Mr. Brown reported a criminal history beginning at age 14 when he was incarcerated in DJJ as described above. He reported that he was convicted of "murder" when he was 18-years-old and that he served 20 years in SCDC. Following his release in June 2016, he reported being on probation for two years. He mentioned that he violated probation on three occasions, once for "not reporting," once for being found with a gun in his house, and the third time for using substances. He added that his probation was completed in August or September 2018. Mr. Brown reported being arrested in April 2019 for "attempted murder, armed robbery, possession of a weapon by a felon, and possession of weapon during a violent crime." The defendant stated that he spent approximately three months incarcerated in Newberry County Detention Center before the charges were dropped in June 2019. The defendant's NCIC report revealed the following:

- a. July 16, 1996 – Arrested for Failure to Appear, no disposition listed; convicted of three counts of Burglary and one count of Petit Larceny, sentenced to one to six years "Y.O.A."; and convicted of Unlawful Carrying of Weapon and Trespassing, sentenced to 30 days or a fine
- b. November 1, 1996 – Convicted of two counts of Burglary 2nd degree, one count of Petit Larceny, and three counts of Malicious Injury/Personal Property, sentenced to one to six years
- c. September 21, 1997 – Convicted of Involuntary Manslaughter and sentenced to 20 years. Convicted of Malicious Injury to Property, sentence unknown
- d. April 4, 2019 – Arrested for Armed Robbery Armed with Deadly Weapon, Attempted Murder, Possession of a Weapon during a Violent Crime, and Possession of a Firearm by Convicted Violent Felon, charges were dismissed
- e. October 3, 2019 – Arrested for current charges, case pending

MENTAL STATUS EXAM: Mr. Brown was alert and oriented to person, place, date, and time. He had adequate hygiene and he dressed in the standard detention center uniform. He requested that the notification form be read to him as he stated that he could not read well. The defendant wore a facemask in accordance with the COVID-19 policy at the Forensic Evaluation Service. There were several visible tattoos. There was significant scarring on both of his forearms. He made good eye contact and he was cooperative with the evaluation. He did not display abnormal movements. His gait was normal. He spoke at a normal rate, tone, and volume.

The defendant was able to name the current President and one past President. He named the capital of South Carolina as well as a current news story. He was able to perform a calculation involving money. His fund of knowledge was judged to be consistent with his level of education. He was able to register three objects and he recalled two of the objects spontaneously after a period of distraction (he recalled the remaining object when provided several choices). Mr. Brown was able to recall significant

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past personal information and we find no evidence of clinically significant long- or short-term memory impairment. His performance on a test of concentration was good. His interpretation of similarities and proverbs were concrete. When asked what the saying, "What goes around comes around" means, he stated, "Something bad gonna [sic] happen." His judgment to a hypothetical situation was poor. If he were in a crowded theater and smelled smoke, he stated that he would "run."

He described his current mood as "been OK, I get frustrated, but it's been pretty decent." It was hard to judge his outward expression of emotions given the fact that this evaluation was conducted wearing a mask due to the COVID-19 pandemic. However, his inflection and tone of voice appeared euthymic and consistent with the topics being discussed. He laughed and joked appropriately during the evaluation. The defendant endorsed chronic suicidal ideation; however, he denied possessing a current plan or intent to commit suicide. He denied having homicidal ideation. He denied experiencing auditory or visual hallucinations. He was not observed to be responding to internal stimuli. There was no evidence of disturbed thought process. Mr. Brown expressed mild generalized paranoia, which is not uncommon in incarcerated individuals. His thinking was logical and goal directed without loosening of associations or flight of ideas.

DIAGNOSTIC FORMULATION: Mr. Brown meets diagnostic criteria for several substance use disorders as described in the Alcohol and Drug Use History section above.

The defendant has evidence of a childhood history of Conduct Disorder and he has continued to engage in activities which are grounds for his arrest as an adult. He has failed to meet normal adult role responsibilities. Mr. Brown has repeatedly acted with reckless disregard for the safety of himself and others. He rationalizes his past actions and does not acknowledge how his actions may have affected others. After reviewing available medical records and conducting a clinical interview, it is our opinion that he meets diagnostic criteria for Antisocial Personality Disorder.

Mr. Brown has been diagnosed with Bipolar I Disorder with psychotic features in the past; however, he does not have clear evidence of mania, depression, or psychosis in the absence of alcohol and illicit substance use. He reported a five-year period of time at SCDC during which he was not actively using alcohol or illicit substances. During that five-year period of abstinence, he denied experiencing depression, mania, or psychosis. For these reasons, he does not meet diagnostic criteria for Bipolar Disorder.

CONCLUSION REGARDING CAPACITY TO STAND TRIAL: Mr. Brown required education on certain topics (see below) but he was able to retain the information that was presented to him. He stated that he could ask his attorney questions about his case, courtroom officials, and courtroom procedures.

Mr. Brown was aware of the majority of the charges against him as well as the alleged acts that resulted in these charges. He was educated regarding the "Possession of

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Methamphetamine" charge, which he retained throughout the evaluation. He reported that his charges were serious, particularly the charges incurred on October 2, 2019. He was aware which charges were felonies and which were misdemeanors. The defendant was aware of the maximum punishment he could receive if he was convicted of the charges against him. Mr. Brown stated that he could ask his lawyer questions regarding possible sentences.

Mr. Brown stated that his public defender was "Charles Verner." He indicated that he met Mr. Verner briefly in October 2019 at his bond hearing, but that he has not spoken with him since that time. He stated that his attorney's job is to "represent me." He stated that his lawyer is supposed to be "for me." The defendant indicated that he is hopeful that his public defender will do what he needs to do in order to defend him. He expressed some concern about the perceived effort that his public defender is putting into his case and added "if I had a paid attorney, they'd be all in." He stated that he would not keep secrets from Mr. Verner and acknowledged that his attorney could assist him better if he was honest with him. Mr. Brown was aware that his discussions with his attorney were confidential.

The defendant was aware of the adversarial role of the solicitor. He stated that the role of the solicitor was to "make you the worst person in the world, trying to convict you." Mr. Brown was aware that he should not speak to the solicitor without his attorney being present. The defendant stated that the job of the judge was "hear your case, gives you the time." He was educated about the judge's role in ensuring order in the courtroom. Mr. Brown was aware of the impartiality of the judge.

Mr. Brown stated the pleas *guilty* and *not guilty*. He stated that a guilty plea means "you did it." He understands that if he pleaded *guilty* he would be giving up his right to a trial and receiving a sentence. He stated that *not guilty* means "you didn't do it." He was aware that a plea of *not guilty* would result in a trial with the potential outcome of "either you beat it or you get found guilty." Mr. Brown discussed how his previous charges were resolved. The defendant required education that a plea bargain consists of a deal in order for him to plead guilty to get a lighter sentence; he retained this information throughout the evaluation. He was aware that he did not have to accept a plea bargain. He was aware that he would undergo a jury trial should he not accept a plea bargain.

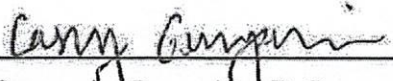
Mr. Brown was educated about the number of the people in a jury. He was aware that the jury is comprised of people he does not personally know. He stated that the job of the jury was "sit there and listen." The defendant was aware of the jury's role in determining the verdict. He was aware of the unanimous requirement for a *guilty* and *not guilty* verdict. The defendant reported that a *guilty* verdict would result in a sentence and a *not guilty* verdict would result in being released from custody. He understands that he could ask his attorney should he have questions about courtroom officials.

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Mr. Brown correctly solved a hypothetical problem involving the courtroom. For example, if someone was lying about him in court, he stated he would "whisper" to his attorney. He understands the importance of appropriate courtroom behavior and understands that if he were to be disruptive in court, he would get an additional charge. He was able to describe the role of evidence and witnesses in his case. He was able to describe the role of evidence and witnesses in a hypothetical situation presented to him. The defendant was aware of the requirements of probation.

He understands the concept of testifying in court. He was aware of his right to not testify. He was aware that lying in court would result in an additional charge. Mr. Brown understands that he could ask his attorney should he have questions about testifying in the future. He expressed his intended plea as well as his ideal outcome for his case. The defendant was aware that he could potentially be found guilty of the charges against him based on the available evidence and witness statements. He expressed mistrust regarding the criminal justice system in Newberry County, particularly in regards to the way he perceives that he is treated as a result of his previous involuntary manslaughter conviction. His mistrust of the legal system is not based on paranoid delusions, but rather a cultural mistrust amongst defendants that have previously been incarcerated. Despite this belief, he expressed hope that his attorney will assist him in getting a fair trial.

Although Mr. Brown required education regarding certain information about his case, courtroom officials, and courtroom procedures, he was able to retain the information that was presented to him. The defendant currently has the ability to understand the proceedings against him and assist his attorney in his own defense. He demonstrated the ability to cooperatively work with other people as evidenced during this evaluation. It is our opinion that he has a factual as well as a rational understanding of the legal system and sufficient present ability to rationally assist his attorney in the preparation of a defense. The defendant understands the proceedings against him and he is able assist his attorney in his own defense if he chooses to do so. Therefore, it is our opinion that he has the capacity to stand trial pursuant to State vs. Blair, 275 S.C. 529, 273 S.E. 2d 536 (1981) and S. C. Code Ann. §44-23-410 (1976).


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State of South Carolina
Department of Mental Health

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October 14, 2020

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1226 College Street
Newberry, SC 29108

Re: The State of South Carolina vs. Brown, Ricky
DMH Case #: 947-3748
Newberry County, Court of General Sessions

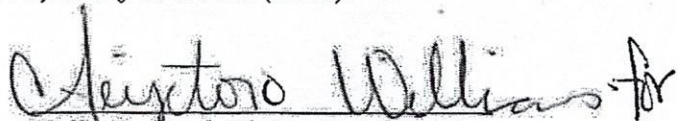
Dear Attorney Verner:

In accordance with the court order issued by the Honorable Eugene C. Griffith, evaluations of criminal responsibility and capacity to conform were conducted by the South Carolina Department of Mental Health (SCDMH) pursuant to S.C. Code Ann. § 17-24-10 (1976) and § 17-24-20 (1976).

Please see the attached report for the results of this evaluation.

This 19 page document is certified to be the original court-ordered evaluation report issued pursuant to S.C. Code Ann. § 17-24-10 (1976) and § 17-24-20 (1976).

10/14/20
Date


Kelly Gothard, Ph.D.
Clinical Director
Forensic Outpatient Services
Department of Mental Health

cc: Taylor Daniel, Assistant Solicitor, P.O. Drawer 10, Newberry, SC 29108

KG/aw

MISSION STATEMENT
To support the recovery of people with mental illnesses.



**CRIMINAL RESPONSIBILITY/CAPACITY TO CONFORM EVALUATION
FORENSIC EVALUATION SERVICE
SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH (SCDMH)**

NAME: Ricky Bernard Brown

DATE OF BIRTH: [REDACTED] 1977

DATE OF REPORT: October 12, 2020

PRESIDING EXAMINER: Casey L. Gregoire, D.O.
Fellow in Forensic Psychiatry
University of South Carolina School of Medicine

SECOND EXAMINER: Elizabeth Dawn Whetstone, LISW-CP

PSYCHIATRIC DIAGNOSIS:

Antisocial Personality Disorder
Alcohol Use Disorder, severe, in a controlled environment
Cannabis Use Disorder, severe, in a controlled environment
Methamphetamine Use Disorder, mild, in a controlled environment

OPINION REGARDING CRIMINAL RESPONSIBILITY: Mr. Brown would have been criminally responsible on or about October 2, 2019; October 3, 2019; October 16, 2019; and February 11, 2020.

OPINION REGARDING CAPACITY TO CONFORM: Mr. Brown would have had the capacity to conform his behavior to the requirements of the law on or about October 2, 2019; October 3, 2019; October 16, 2019; and February 11, 2020.

DISPOSITION: Mr. Brown returned to the Newberry County Detention Center at the conclusion of the evaluation.

IDENTIFYING INFORMATION: Ricky Bernard Brown is a 43-year-old African-American male who was seen at the Forensic Evaluation Service pursuant to a court order from the Newberry County Court of General Sessions. This court order requested an evaluation of his criminal responsibility for his actions on or about October 2, 2019; October 3, 2019; October 16, 2019; and February 11, 2020, and, if responsible, a determination of his capacity to conform his conduct to the requirements of the law pursuant to S.C. Code Ann §17-24-10 (1976). He is currently charged with five counts of Kidnapping, Discharging a Firearm in City Limits, Possession of a Weapon During Commission of a Violent Crime, Possession of a Weapon by a Person Convicted of a Violent Crime, Pointing and Presenting a Firearm, Resisting Arrest with a Deadly Weapon, Threatening the Life of a

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Public Official, two counts of Malicious Injury to the jail, and Possession of Methamphetamine. According to the court order, this request was issued for the following reason: "both parties by consent request this evaluation."

Prior to participating in the examination, Mr. Brown was warned regarding the limitations of confidentiality. He was informed that this evaluation was court ordered. He was informed that the evaluators were employed by the South Carolina Department of Mental Health and were not being paid by his attorney or the solicitor in his case. He was informed that after the evaluation was completed a report would be submitted to his attorney, the solicitor, and the judge in his case. Finally, he was informed that the evaluators could be called to court to testify at a hearing related to his criminal responsibility and his capacity to conform his behavior. He was able to answer questions regarding this information correctly and he voluntarily agreed to participate in the evaluation.

SOURCES OF INFORMATION:

1. Newberry County Court of General Sessions Order requesting criminal responsibility and capacity to conform evaluation, dated September 14, 2020.
2. Clinical forensic interview with the defendant conducted on September 29, 2020 for approximately two and a half hours duration.
3. Telephone interviews with Bertina Lewis, LPN at Newberry County Detention Center for approximately five minutes conducted on September 28, 2020 and for approximately 15 minutes conducted on October 1, 2020.
4. Newberry County Detention Center medical records from May 18, 2017 through September 18, 2020.
5. Newberry County Court of General Sessions grand jury indictment# 2020-GS-36-00265 for Possession of Methamphetamine, dated July 31, 2020.
6. Newberry County Sheriff's Office Incident Report for case number 20-01053, dated February 11, 2020.
7. Newberry County Court of General Sessions grand jury indictments for the following charges on December 13, 2019:
 - a. 2019-GS-36-00681 for Malicious Injury to a Courthouse or Jail
 - b. 2019-GS-36-00714 for Threatening the life, person or family of a public employee
 - c. 2019-GS-36-00706 for Possession of a Weapon during the Commission of a Violent Crime
 - d. 2019-GS-36-00707 for Possession of a Firearm by a Person Convicted of a Violent Offense
 - e. 2019-GS-36-00708 for Pointing/Presenting a Firearm
 - f. 2019-GS-36-00709 for Resisting Arrest with a Deadly Weapon
 - g. 2019-GS-36-00711 for Kidnapping
 - h. 2019-GS-36-00712 for Kidnapping
 - i. 2019-GS-36-00713 for Kidnapping
 - j. 2019-GS-36-00710 for Kidnapping

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- k. 2019-GS-36-00705 for Kidnapping
8. Defendant's National Crime Information Center (NCIC) report, dated October 22, 2019.
 9. Newberry County Sheriff's Office Incident Report for case number 19-08423, dated October 16, 2019.
 10. Arrest Warrant 2019A3610100489 for Malicious injury, willful injury to courthouse or jail, dated October 16, 2019.
 11. Arrest Warrant 2019A3610100490 for Malicious injury, willful injury to courthouse of jail, dated October 16, 2019.
 12. Newberry County Sheriff's Office Incident Report for case number 19-08431, dated October 16, 2019.
 13. South Carolina Law Enforcement Division Crime Scene Investigation Summary and Crime Scene Notes, dated October 16, 2019.
 14. City of Newberry Incident Supplemental Report for case number 2019-8669, dated October 14, 2019.
 15. Newberry Police Department Voluntary Statements from Chad Ulmer, Tammy Wood, Sonya Byrd, Kendall Armstrong, and Cheri Braswell on October 2, 2019; statements from Shelley Remion and Stephen Steiger on October 3, 2019.
 16. Video recording of the alleged Threatening the life, person or family of a public employee on October 3, 2019.
 17. City of Newberry Incident Report for case number 2019-08705, dated October 3, 2019.
 18. City of Newberry Incident Reports and Supplemental Reports for case number 2019-08669, dated October 2, 2019.
 19. Arrest Warrant 2019A3620200177 for Threatening the life of public employee, dated October 3, 2019.
 20. Arrest Warrants for the following offenses, dated October 2, 2019:
 - a. 2019A3620200171 for Kidnapping
 - b. 2019A3620200172 for Discharging a Firearm in the City
 - c. 2019A3620200173 for Possession of Weapon during a Violent Crime
 - d. 2019A3620200174 for Possession of Firearm by a Convicted Felon
 - e. 2019A3620200175 for Pointing and Presenting a Firearm
 - f. 2019A3620200176 for Resisting Arrest with a Deadly Weapon
 - g. 2019A3620200179 for Kidnapping
 - h. 2019A3620200180 for Kidnapping
 - i. 2019A3620200181 for Kidnapping
 - j. 2019A3620200182 for Kidnapping
 21. Video surveillance from South Carolina Vocational Rehabilitation Newberry Clinic on October 2, 2019.
 22. Earle E. Morris Alcohol and Drug Addiction Treatment Center medical records for the hospitalization from July 25, 2017 to August 15, 2017.
 23. Beckman Center for Mental Health Services medical records from January 14, 2017 through September 16, 2019.

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24. Newberry County Memorial Hospital medical records from November 14, 2016 through July 10, 2020.
25. Palmetto Baptist Hospital medical records from July 19, 2018 through August 2, 2018.
26. South Carolina Department of Corrections medical records from June 2, 2015 through June 1, 2016.
27. SCDMH Episodes of Care report, undated.

SCDMH Forensic Evaluation Service social work assessment could not be completed due to lack of availability of next of kin. We have requested video surveillance from the Newberry County Detention Center from October 16, 2019. This evaluator received an email received on October 5, 2020 from Ms. Jackie Lawrence, Court Coordinator in the Newberry County Solicitor's Office; this email stated, "There is no video of that incident as far as I am aware. I will check with the county and get back to you." At the time of submission of this report we have not received that recording.

We reserve the right to alter our opinion should further information become available.

CURRENT PSYCHIATRIC FUNCTIONING: Mr. Brown reported that he has been incarcerated at the Newberry County Detention Center for approximately one year. He stated that he was initially housed in the booking area of the detention center and placed on suicide watch, where he remained throughout October 2019. The defendant mentioned that he was housed in a single cell in "lockup" from November 2019 to April or May 2020. He reported that he did not know why he was housed in lockup. Mr. Brown stated that he was moved into general population in April or May 2020, where he has remained since that time. He stated that he spends the majority of his day napping in between meal times or "looking at the TV." He added that he prefers to keep to himself. The defendant stated that he has gotten into verbal altercations with other inmates, but he denied engaging in physical altercations.

He stated that he could not recall significant portions of his first month in the detention center, but he stated that several correctional officers informed him of his actions during that time. Mr. Brown stated that he was throwing his food, talking to himself, and was running around "butt naked." He added that he was hospitalized at Newberry County Memorial Hospital for six days for an unknown reason. He denied attempting suicide during this incarceration. The defendant indicated that when he returned from the hospital in October 2019, he engaged in self-injurious behavior by attempting to cut himself with a button on his uniform. He denied engaging in self-injurious behavior since that episode.

Mr. Brown described his mood as "ok, I get frustrated, but it's been pretty decent." He mentioned that there have been "ups and downs" during this incarceration, but he attributed his overall stability to his current medications. He denied experiencing symptoms of depression, mania, or psychosis. The defendant reported experiencing chronic passive suicidal ideation; however, he vehemently denied having a current plan or intent to commit suicide. Mr. Brown denied current homicidal ideation. He denied

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experiencing auditory or visual hallucinations. He denied possessing unusual beliefs or special powers.

Mr. Brown reported that he sleeps well at night. He added that he frequently takes naps during the day in between meal times and pill call. He denied problems with his appetite. The defendant denied using alcohol or illicit substances the night prior to this evaluation or on the day of this evaluation. There was no evidence of substance intoxication or withdrawal. He indicated that he is prescribed lithium (Eskalith®, a mood stabilizer); risperidone (Risperdal®, an antipsychotic medication); mirtazapine (Remeron®, an antidepressant medication); benztropine (Cogentin®, a medication used to treat the side effects of antipsychotic medications); metformin (Glucophage®, an anti-diabetic medication); and a blood pressure medication. He reported good compliance with his prescribed medications. Mr. Brown denied experiencing side effects from these medications.

The defendant reported that prior to his arrest he was living in an apartment with his girlfriend of two years. He stated that he spent his days watching television, drinking alcohol, and smoking marijuana. He reported that he received outpatient mental health treatment at the Beckman Center for Mental Health Services until the time of his arrest. He added that he was not taking mental health medications prior to this incarceration due to financial limitations. Mr. Brown stated that he was unemployed and having difficulty finding a job due to his prior conviction.

A review of Newberry County Detention Center medical records and telephone interviews conducted with Bertina Lewis, LPN revealed the following information: Mr. Brown arrived at Newberry County Detention Center on October 2, 2019 at which time he was placed on suicide watch, although he denied having suicidal ideation during his receiving screening. He reported a history of Bipolar Disorder and Schizophrenia to staff. The defendant endorsed drinking beer and smoking marijuana daily, using cocaine two to three times a week, and using methamphetamine occasionally prior to his arrest. He remained on suicide watch until October 30, 2019.

The defendant was prescribed a mood stabilizer, an antipsychotic, and an antidepressant on October 4, 2019; however, he did not receive the mood stabilizer or the antidepressant until October 9, 2019. On October 10, 2019, the antipsychotic medication that he was prescribed was changed to olanzapine (Zyprexa®), which he began receiving that day. On October 6, 2019, correctional officers observed Mr. Brown attempting to cut himself with a button from his uniform. He informed the officers that he was hearing voices that were telling him to harm himself at the time. He requested to be placed in a restraint chair several times over the course of the following two days to prevent him from harming himself.

On October 16, 2019, Mr. Brown reportedly ran into a different room yelling "he got [sic] a gun," and refused to exit the room. Later that same day, he was observed to be naked

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and standing on the toilet before he allegedly broke the sprinkler head. A mental health services note from that day described the defendant as uncooperative and having a circumstantial thought process. On October 19, 2019, he was observed to be shaking, mumbling to himself, had swollen hands and feet, and was ignoring his name when called. Officers expressed concern about his behavior and noted that he had not eaten or slept for six days. Mr. Brown was admitted to Newberry County Memorial Hospital with altered mental status and diagnosed with mild rhabdomyolysis (i.e. mild breakdown of muscle tissue). A urine drug screen was positive for marijuana. He received treatment with intravenous fluids and his altered mental status resolved; he was discharged on October 21, 2019. Detention center medical staff opined that the rhabdomyolysis may have been caused by Mr. Brown taking Zyprexa[®], which was subsequently listed as an allergy.

Since November 2019, the defendant has been described as stable, having a normal sleep pattern, not endorsing suicidal or homicidal ideation, and having a logical thought process. There has been no evidence of depression or mania. Aside from October 2019 when he was observed to be mumbling to himself and self-reported experiencing "voices," there have been no signs of psychosis. Mr. Brown's current medications are lithium, Risperdal[®], Remeron[®], Cogentin[®], Glucophage[®], and amlodipine (Norvasc[®], an anti-hypertensive medication).

PAST PSYCHIATRIC HISTORY: Mr. Brown reported taking methylphenidate (Ritalin[®], a stimulant used to treat Attention Deficit Hyperactivity Disorder) and seeing a therapist when he was eight years old for approximately one year. He added that he was instructed to attend mental health appointments after he was released from the Department of Juvenile Justice (DJJ); however, he did not follow up with mental health. The defendant stated that he began regularly receiving psychiatric treatment at age 18 during his incarceration in the South Carolina Department of Corrections (SCDC). Mr. Brown stated that he was hospitalized once prior to his incarceration at SCDC. He added that he was hospitalized at Palmetto Baptist Hospital in 2017 after an episode of severe self-injury following his release from SCDC. The defendant reported that during his SCDC incarceration he was admitted to Gilliam Psychiatric Hospital (GPH) multiple times for self-injurious behavior.

Mr. Brown described a long history of serious self-injury beginning when he was 11-years-old. He mentioned that he cuts himself to experience a "rush and a release, it's something that makes me feel better about myself." The defendant reported that the vast majority of his self-harm episodes require sutures or surgical repair. He stated that he participated in a "cutter's program" for five years while he was incarcerated at SCDC. He added that his most recent episode of self-injurious behavior was in October 2019 at which time he attempted to cut himself with a button. Mr. Brown indicated that he has attempted suicide several times. He stated that he attempted to hang himself once or twice and overdosed on pills once while incarcerated. He reported that his most serious and most recent suicide attempt occurred in 2005, at which time he "cut [his] intestines out" and required abdominal surgery.

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The defendant stated that he has been diagnosed with Bipolar Disorder and that he has been prescribed "all kinds of medicine." Although the defendant endorsed a history of experiencing depressed mood and chronic suicidal ideation, he denied other symptoms associated with depression (e.g. loss of interest, low energy, or loss of appetite). He reported experiencing insomnia and feelings of hopelessness when he was released from SCDC in 2016. He attributed those feelings to being turned away from job opportunities due to his criminal history. The defendant reported experiencing a trauma when he heard his brother get struck and killed by a car while he was on the phone with him. He added that he arrived at the scene and saw his brother's body. He reported having thoughts about his deceased brother on a daily basis. The defendant denied re-experiencing the event or avoidance behaviors relating to the trauma. He denied a history of experiencing symptoms of mania in the absence of substance use. Mr. Brown denied a history of experiencing auditory or visual hallucinations. The defendant denied a history of possessing special powers or unusual beliefs. He stated that his longest period of sobriety from alcohol and illicit substances was during the five year period of time that he spent in the "cutter's program" at SCDC. He added that during that period of time he did not experience symptoms of depression, mania, or psychosis.

A review of available medical records and collateral information revealed the following: He became involved in mental health treatment with South Carolina Department of Mental Health (SCDMH) in 1994 when he sought services from Beckman Center for Mental Health Services; he was diagnosed with Conduct Disorder. Due to SCDMH medical records retention policy, these records were not available.

Mr. Brown was released from SCDC in June 2016 with a diagnosis of Bipolar Disorder. He was prescribed a mood stabilizer, an antipsychotic, an antidepressant, and an anti-anxiety medication. It was noted that he had not engaged in self-injurious behavior in over four years at the time of his release. Although he was described as having anxiety regarding his pending release, his thought process was described as logical.

Mr. Brown was hospitalized overnight in the Newberry County Memorial Hospital intensive care unit for observation on January 25, 2017 following a reported overdose on ziprasidone (Geodon[®], an antipsychotic medication). The defendant had been drinking alcohol and his urine drug screen was positive for marijuana. He had initially indicated that he took an entire bottle of the medication due to stress about "the police...getting out of jail." He later informed the psychiatrist that he took fewer pills than he first reported. His vital signs remained stable throughout the visit, there were no lab abnormalities, and no EKG abnormalities. The defendant expressed feeling nervous about the police and a legal hearing that was scheduled on January 25, 2017. He vehemently denied that the overdose was a suicide attempt and he denied suicidal ideation. Mr. Brown was discharged on January 26, 2017.

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The defendant was admitted to Earle E. Morris Alcohol and Drug Addiction Treatment Center (i.e. Morris Village) from July 25, 2017 through August 15, 2017 as ordered by the probate court. Mr. Brown was diagnosed with Alcohol Use Disorder, Cannabis Use Disorder, Cocaine Use Disorder, Ecstasy Use Disorder, Bipolar Disorder, and Post Traumatic Stress Disorder. He was not taking psychiatric medications at that time and was not prescribed psychiatric medications during this hospitalization. There was no evidence of symptoms of depression, mania, or psychosis. He left the treatment facility early "due to personal conflicts with other patients."

Mr. Brown went to the Newberry County Memorial Hospital emergency room on July 16, 2018 for "agitation and brief thoughts of hurting someone." His urine drug screen was positive for cocaine and marijuana. He denied suicidal or homicidal ideation; he also denied experiencing psychotic symptoms. He was noted to be restless and tremulous. The defendant was given intravenous fluids and discharged the same day. The following day, on July 17, 2018, Mr. Brown was brought to the emergency room after cutting himself with a pair of scissors and a razor. He indicated that the self-injury was a suicide attempt after he received bad news regarding his grandmother. His urine drug screen was positive for cocaine and marijuana; he also had alcohol in his system. The defendant reported depression, anxiety, and feelings of hopelessness. His injuries required staples and he was admitted to the acute behavioral care unit at Palmetto Baptist Hospital from July 19, 2018 through August 2, 2018. He was started on a mood stabilizer medication, an antipsychotic medication, and an antidepressant/sleep aid. The defendant's mood improved and he was discharged with the diagnoses of Unspecified Depressive Disorder, Borderline Personality Disorder, and Cocaine Use Disorder.

Mr. Brown received outpatient mental health treatment at the Beckman Center for Mental Health Services following his release from SCDC in 2016. These medical records described a pattern of ongoing alcohol and illicit substance use along with variable sleep patterns and moods. The defendant reported multiple stressors related to employment and the health of his family members. He had intermittent compliance with psychiatric medications. He consistently denied suicidal or homicidal ideation. On September 16, 2019, Mr. Brown reported experiencing auditory hallucinations of "derogatory things." His thought process was consistently described as "concrete" and "logical."

The defendant was evaluated at Newberry County Memorial Hospital on October 2, 2019 following his arrest for the index offenses. At that time he reported "excessive methamphetamine and marijuana use" as well as heart palpitations. Additionally, he reported drinking "a gallon a day of beer and liquor." He denied suicidal ideation and he was described as calm and cooperative. A urine drug screen was not obtained as he was "very forthcoming." He was given intravenous fluids and discharged into police custody.

ALCOHOL AND DRUG USE HISTORY: The defendant stated that he had his first drink at age 14 or 15 and added that it became a problem "right away." A note from Morris Village in 2017 indicated that he began drinking alcohol when he was 11-years-old. Mr.

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Brown reported that he would drink beer and liquor until he "passed out." He mentioned that he did not drink alcohol while he was incarcerated in SCDC, but that he resumed drinking the week following his release. He reported that he went to inpatient rehabilitation in 2017 and resumed drinking shortly after his discharge from the facility. The defendant stated that he drank every day from the moment he awoke until he passed out at night. He estimated drinking approximately a pint of liquor and a case of beer on a daily basis. He endorsed developing a tolerance to alcohol and experiencing cravings for alcohol. Mr. Brown denied experiencing withdrawal symptoms upon stopping the use of alcohol. After reviewing available records and conducting a clinical interview, it is our opinion that he meets diagnostic criteria for Alcohol Use Disorder, *severe* with the specifier *in a controlled environment* as he does not currently have access to alcohol while incarcerated.

Mr. Brown reported that he began smoking marijuana when he was 11-years-old and stated that marijuana is his drug of choice. Morris Village records indicated that he began smoking marijuana at age 15, with problems from cannabis use beginning at that time. The defendant stated that he "smoked all day every day." He added that it helped him relax, stay calm, and sleep. Mr. Brown estimated that he smoked approximately ten "blunts" on a daily basis. Morris Village records reported that he smoked up to 15 blunts on a daily basis. He endorsed developing a tolerance to cannabis and experiencing cravings for marijuana. He denied experiencing withdrawal symptoms upon stopping the use of marijuana. The defendant indicated that he continued smoking marijuana during his incarceration at SCDC. He stated that he last smoked marijuana on the day of his arrest for the index offense; he added that this incarceration represents his longest abstinence from marijuana. After reviewing available records and conducting a clinical interview, it is our opinion that he meets diagnostic criteria for Cannabis Use Disorder, *severe* with the specifier *in a controlled environment* as he does not currently have access to marijuana while incarcerated.

The defendant reported that he started smoking and snorting methamphetamine in April 2019 because he was "hanging around the wrong people." Mr. Brown reported that using methamphetamine exacerbated his mental health symptoms and made him "jittery [and] feeling funny." He denied developing a tolerance to methamphetamine or experiencing withdrawal symptoms upon stopping use of methamphetamine. He stated that he never purchased methamphetamine and could not quantify the amount or frequency of use. The defendant mentioned that he has continued using methamphetamine during this incarceration. He stated that his last use was in March 2020. After reviewing available records and conducting a clinical interview, it is our opinion that he meets diagnostic criteria for Methamphetamine Use Disorder, *mild*. Although he has endorsed continued use of methamphetamine during this incarceration, he has limited access to methamphetamine while incarcerated. The specifier *in a controlled environment* was added to this diagnosis.

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Mr. Brown reported that he snorted one to two grams of cocaine on weekends around the age of 16. He added that he continued to occasionally snort powdered cocaine during his incarceration at SCDC. He denied developing a tolerance to cocaine or experiencing withdrawal symptoms upon stopping the use of cocaine. The defendant denied financial, interpersonal, or legal problems arising from his cocaine use. He reported that he has not used cocaine since he was released from SCDC in 2016. However, the medical screening assessment from this incarceration indicated that he was using cocaine one to two times each week. He had also tested positive for cocaine on two urine drug screens in July 2018. Based on the available information, Mr. Brown does not meet diagnostic criteria for Cocaine Use Disorder. Additional information may reveal sufficient diagnostic criteria for Cocaine Use Disorder.

Mr. Brown denied a history of using heroin, prescription opiates, sedatives, hallucinogens, ecstasy, crack, PCP, synthetic marijuana, or bath salts. Morris Village records from his admission in 2017 revealed that he used ecstasy beginning at age 38. At that time he reported using two pills of ecstasy every three to four days. Based on the available information, the defendant does not meet diagnostic criteria for Hallucinogen Use Disorder. Additional information may reveal the presence of sufficient diagnostic criteria for Hallucinogen Use Disorder.

MEDICAL HISTORY: He reported receiving a diagnosis of diabetes and high blood pressure during this incarceration. Mr. Brown reported a history of two abdominal surgeries. He mentioned that one abdominal surgery followed a self-inflicted injury and the other abdominal surgery occurred after he was stabbed in the abdomen. He added that he has required sutures and staples after nearly every episode of self-harm behavior. The defendant denied a history of head injuries or seizures. He denied allergies to medications.

A review of available medical records revealed that he received a diagnosis of Type II Diabetes and hypertension from Newberry County Memorial Hospital on July 10, 2020 during an emergency room visit. Mr. Brown was admitted to Newberry County Memorial Hospital on October 20, 2019 due to altered mental status and received a diagnosis of mild rhabdomyolysis (i.e. a mild breakdown of muscle tissue). Common causes of altered mental status were ruled out and the cause in his case was not determined. His urine drug screen was positive for marijuana. His altered mental status resolved after he received intravenous fluids. The defendant was discharged from the hospital on October 21, 2019.

Following Mr. Brown's hospitalization, his mental health provider at Newberry County Detention Center discontinued his previously prescribed olanzapine (Zyprexa[®], an antipsychotic medication) as the detention center medical staff opined a relationship between the medication and his hospitalization. Zyprexa[®] was subsequently listed as a medication allergy in his medical record. Available records do not indicate a history of head injuries or seizures.

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FAMILY HISTORY: Mr. Brown reported that his maternal uncle has been "in and out of mental health hospitals his whole life." He stated that his mother struggles with substance abuse. The defendant reported that his biological father died from suicide when he was 12-years-old.

SOCIAL HISTORY: Mr. Brown reported that he was born and raised in Newberry County, South Carolina. He indicated that he was raised by his maternal grandmother because his mother was "on drugs" throughout his life. He mentioned that his biological father was not involved in his upbringing. The defendant reported that he has a younger half-sister and younger half-brother who had different fathers and were raised by their paternal grandparents. He described having close relationships with his siblings. He expressed grief over the death of his younger brother in March 2019 when his brother was struck and killed by a car while the defendant was on the phone with him.

He denied a history of physical, sexual, or emotional abuse. A note from Palmetto Baptist Hospital on July 19, 2018 indicated that the defendant was sexually abused by a cousin as a child. Mr. Brown stated that his grandmother spoiled him throughout his childhood. He added that his grandmother passed away when he was 13-years-old. Following her death he reported that he was living on the streets and with friends doing what he could to "make it." He denied previous involvement of the Department of Social Services.

Mr. Brown reported that he was expelled from school in the 10th grade and did not get a GED. He stated that prior to age 13, he did well in school and did not get in trouble. He added that following the death of his grandmother he began failing classes and getting in trouble. He reported getting suspended and expelled from school multiple times for fighting. The defendant stated that he repeatedly skipped school and only attended school to use the gym shower when he was homeless. He denied repeating grades. Mr. Brown stated that he attended special education classes starting at age 13 for "a learning disability."

The defendant denied a history of engaging in animal cruelty or running away from home. He reported that he "burned a whole field down" with a friend that required the assistance of the fire department to put out the fire. He stated that he used to shoot guns at truck tires while the trucks were on the road; he added that his actions led to a car accident on one occasion when he was ten years old. Mr. Brown reported that he often stole items including a firearm and broke into "places." He stated that he frequently got into physical altercations. The defendant mentioned spending approximately one year in the Department of Juvenile Justice at age 14 for "receiving stolen goods and breaking into a concession stand."

Mr. Brown reported that his first job was at a lumber company when he was released from prison in 2016. He stated that he held that job for approximately six months prior to being fired following an argument with his supervisor regarding his criminal history. He stated

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that he has held multiple jobs since his release from prison; however, he added that he has gotten fired from each one after approximately three months when the employers discovered his previous conviction. Mr. Brown reported that he last worked in January 2018 with his uncle doing landscaping until he left due to conflict with his uncle. The defendant denied gang involvement. He denied serving in the military.

The defendant denied previous marriages. He indicated that he was in a relationship "on and off" with the mother of his daughter between 1991 and 1997. Mr. Brown stated that the relationship ended due to his incarceration. His daughter is 22-years-old and he mentioned having a fair relationship with his daughter. He added that he has been in his current relationship for approximately two years. The defendant stated that his current relationship is good and that they were living together prior to this incarceration.

Mr. Brown reported a criminal history beginning at age 14 when he was incarcerated in DJJ as described above. He reported that he was convicted of "murder" when he was 18-years-old and that he served 20 years in SCDC. Following his release in June 2016, he reported being on probation for two years. He mentioned that he violated probation on three occasions, once for "not reporting," once for being found with a gun in his house, and the third time for using substances. He added that his probation was completed in August or September 2018. Mr. Brown reported being arrested in April 2019 for "attempted murder, armed robbery, possession of a weapon by a felon, and possession of weapon during a violent crime." The defendant stated that he spent approximately three months incarcerated in Newberry County Detention Center before the charges were dropped in June 2019. The defendant's NCIC report revealed the following:

- a. July 16, 1996 – Arrested for Failure to Appear, no disposition listed; convicted of three counts of Burglary and one count of Petit Larceny, sentenced to one to six years "Y.O.A."; and convicted of Unlawful Carrying of Weapon and Trespassing, sentenced to 30 days or a fine
- b. November 1, 1996 – Convicted of two counts of Burglary 2nd degree, one count of Petit Larceny, and three counts of Malicious Injury/Personal Property, sentenced to one to six years
- c. September 21, 1997 – Convicted of Involuntary Manslaughter and sentenced to 20 years. Convicted of Malicious Injury to Property, sentence unknown
- d. April 4, 2019 – Arrested for Armed Robbery Armed with Deadly Weapon, Attempted Murder, Possession of a Weapon during a Violent Crime, and Possession of a Firearm by Convicted Violent Felon, charges were dismissed
- e. October 3, 2019 – Arrested for current charges, case pending

MENTAL STATUS EXAM: Mr. Brown was alert and oriented to person, place, date, and time. He had adequate hygiene and he dressed in the standard detention center uniform. He requested that the notification form be read to him as he stated that he could not read well. The defendant wore a facemask in accordance with the COVID-19 policy at the Forensic Evaluation Service. There were several visible tattoos. There was significant scarring on both of his forearms. He made good eye contact and he was cooperative

BROWN, RICKY BERNARD
SCDMH# 947-3748

with the evaluation. He did not display abnormal movements. His gait was normal. He spoke at a normal rate, tone, and volume.

The defendant was able to name the current President and one past President. He named the capital of South Carolina as well as a current news story. He was able to perform a calculation involving money. His fund of knowledge was judged to be consistent with his level of education. He was able to register three objects and he recalled two of the objects spontaneously after a period of distraction (he recalled the remaining object when provided several choices). Mr. Brown was able to recall significant past personal information and we find no evidence of clinically significant long- or short-term memory impairment. His performance on a test of concentration was good. His interpretation of similarities and proverbs were concrete. When asked what the saying, "What goes around comes around" means, he stated, "Something bad gonna [sic] happen." His judgment to a hypothetical situation was poor. If he were in a crowded theater and smelled smoke, he stated that he would "run."

He described his current mood as "been OK, I get frustrated, but it's been pretty decent." It was hard to judge his outward expression of emotions given the fact that this evaluation was conducted wearing a mask due to the COVID-19 pandemic. However, his inflection and tone of voice appeared euthymic and consistent with the topics being discussed. He laughed and joked appropriately during the evaluation. The defendant endorsed chronic suicidal ideation; however, he denied possessing a current plan or intent to commit suicide. He denied having homicidal ideation. He denied experiencing auditory or visual hallucinations. He was not observed to be responding to internal stimuli. There was no evidence of disturbed thought process. Mr. Brown expressed mild generalized paranoia, which is not uncommon in incarcerated individuals. His thinking was logical and goal directed without loosening of associations or flight of ideas.

DIAGNOSTIC FORMULATION: Mr. Brown meets diagnostic criteria for several substance use disorders as described in the Alcohol and Drug Use History section above.

The defendant has evidence of a childhood history of Conduct Disorder and he has continued to engage in activities which are grounds for his arrest as an adult. He has failed to meet normal adult role responsibilities. Mr. Brown has repeatedly acted with reckless disregard for the safety of himself and others. He rationalizes his past actions and does not acknowledge how his actions may have affected others. After reviewing available medical records and conducting a clinical interview, it is our opinion that he meets diagnostic criteria for Antisocial Personality Disorder.

Mr. Brown has been diagnosed with Bipolar I Disorder with psychotic features in the past; however, he does not have clear evidence of mania, depression, or psychosis in the absence of alcohol and illicit substance use. He reported a five-year period of time at SCDC during which he was not actively using alcohol or illicit substances. During that

BROWN, RICKY BERNARD
SCDMH# 947-3748

five-year period of abstinence, he denied experiencing depression, mania, or psychosis. For these reasons, he does not meet diagnostic criteria for Bipolar Disorder.

DEFENDANT'S PARAPHRASED ACCOUNT OF THE ALLEGED INCIDENTS:

October 2 and 3, 2019 (for the charges of five counts of Kidnapping, Discharging a Firearm in City Limits, Possession of a Weapon During Commission of a Violent Crime, Possession of a Weapon by a Person Convicted of a Violent Crime, Pointing and Presenting a Firearm, Resisting Arrest with a Deadly Weapon, and Threatening the Life of a Public Official): Mr. Brown reported that he was living with his girlfriend of two years in an apartment around the time of the alleged incident. He was not working and added that his girlfriend was paying the bills. He was involved with mental health treatment around the time of the alleged incident at the Beckman Center for Mental Health Services. The defendant was prescribed psychiatric medications; however, he stated that he was not taking them because he could not afford the prescriptions. He reported that he was spending his time watching television, drinking alcohol, smoking methamphetamine, and smoking marijuana. Mr. Brown mentioned that he was "going through some things" including the death of his younger brother in March 2019, his grandfather passing away, and his inability to find steady employment.

Mr. Brown stated that had been feeling depressed, suicidal, and homicidal for several days prior to the alleged incident. He reported that he had not been sleeping for approximately two to three days. The defendant reported drinking alcohol and using substances on a daily basis throughout his waking hours since he was last released from Newberry County Detention Center in June 2019. The morning of the alleged offense he reported that he drank approximately four beers, smoked "half a blunt" of marijuana, and had used methamphetamine.

He stated that he had obtained a gun two days prior to the alleged offense. Mr. Brown added that it was his brother-in-law's gun that he shared with him from time to time. The defendant mentioned that when he is in possession of the firearm, it stays on him "24/7." He reported that the gun was loaded and that he "wanted to use that gun on someone else." He later stated that he wanted to use the gun to commit suicide. Mr. Brown stated that he had gone to the mental health clinic the day prior to inform his providers that he was having suicidal and homicidal ideation. Earlier in the evaluation he reported that he had gone to the mental health clinic on three occasions during the three days leading up to the alleged offense. He stated that "my intention was to get help...they pushed me away...I tried everything else." He indicated that he felt that he had been "pushed into a corner" and that he "got everybody [sic] attention."

The defendant stated that when he was turned away from the mental health clinic, he went to the South Carolina Vocational Rehabilitation in Newberry to talk with his case worker (Sonya). He reportedly told Sonya that he was suicidal. Sonya told Mr. Brown that she was going to send him to Laurens Hospital for a psychiatric evaluation. He reported that he sat in the lobby and spoke with Sonya for some time. He stated, "I

BROWN, RICKY BERNARD
SCDMH# 947-3748

blacked all the way out, before I knew it, the police were outside." Mr. Brown stated that "something in my head kept telling me what I got to do." He clarified that he was not experiencing auditory hallucinations, but rather having the thought that he wanted his current situation to end. He added that he smoked "half a blunt" of marijuana during the incident.

The defendant reported that he shot the gun into the air once. He stated that nobody else was in the building during the incident and that Sonya chose to stay in the building to speak with him as he was in crisis. He denied holding anybody in the building against their will. Mr. Brown reported that when the police arrived he planned on going out and shooting towards the police with the belief that they would shoot and kill him. He added, "Miss Sonya messed the whole plan up, she didn't want to let me out [sic] the door."

Mr. Brown stated that the police got his daughter, sister, and aunt to call his cell phone to speak with him and that they also arrived to the scene in person. He added that they told him multiple times to not harm himself or anybody else. He estimated that the incident lasted approximately two hours. The defendant reported that Sonya continued to speak with him throughout the event. He reported that he shot the remaining four rounds into the room before voluntarily throwing the gun down. He denied pointing the firearm at anybody. He stated that the police entered the building and took him into custody.

Mr. Brown reported that the following day (October 3, 2019) during his bond hearing he "just snapped." He reported being angry that they had "news people in the damn bond hearing." He added that he was also upset that he was denied bond due to his previous involuntary manslaughter conviction. The defendant expressed his irritation with the court "bringing up something that happened 20 years ago."

October 16, 2019 (for the two charges of Malicious Injury to the jail): Mr. Brown stated that he does not recall the time period surrounding this incident. He reported that the only information he knows is what he was told by the officers who had been present. He stated that he had been observed throwing his food, talking to himself, and "running around butt naked." He denied personally recalling this information.

February 11, 2020 (for the charge of Possession of Methamphetamine): He stated that another inmate brought the methamphetamine into the detention center and gave it to him. The defendant added that he has used methamphetamine during this incarceration. He reported that another inmate informed the officers that he was in possession of methamphetamine and that he was "busted with it." Mr. Brown later stated that he was both using and selling methamphetamine. He denied experiencing symptoms of depression, mania, or psychosis at that time.

CONCLUSION REGARDING CRIMINAL RESPONSIBILITY:

October 2 and 3, 2019: It is our opinion that Mr. Brown was not suffering from symptoms of a mental illness that would have specifically impaired his ability to distinguish legal or

BROWN, RICKY BERNARD
SCDMH# 947-3748

moral right from legal or moral wrong or to recognize the particular act charged as legally or morally wrong. The defendant provided a self-protective version of the alleged incidents. He voluntarily used methamphetamine, marijuana, and alcohol throughout the days leading up to as well as the morning of the alleged incident.

If the defendant is proven to have committed the alleged acts that resulted in the charges against him, there are behaviors that he displayed that are consistent with knowledge of wrongfulness such as:

- He expressed non-psychotic motives for his actions including anger, getting attention, and using the police to commit suicide
- He provided a self-protective version of events, claimed to have forgotten certain elements of the crime, and provided several versions of the event to various individuals
- He kept the gun concealed in his pocket for some time, knowing that he was not supposed to have possession of a firearm due to his prior conviction
- During the incident he was observed dropping to the ground out of sight of law enforcement, indicating that he did not want to be seen or shot by police

Therefore it is our opinion that he would have been criminally responsible on or around October 2 and 3, 2019 pursuant to S.C. Code Ann. § 17-24-10 (1976).

October 16, 2019: It is our opinion that Mr. Brown was not suffering from symptoms of a mental illness that would have specifically impaired his ability to distinguish legal or moral right from legal or moral wrong or to recognize the particular act charged as legally or morally wrong. The defendant claims to have no memory of the alleged incidents. The defendant was hospitalized at Newberry County Memorial Hospital on October 20, 2019 and treated for altered mental status and mild rhabdomyolysis (i.e. abnormal muscle breakdown). Following a medical workup that included head imaging and laboratory studies, no medical cause of the rhabdomyolysis was identified.

He has admitted to using methamphetamine during this incarceration in addition to the days leading up to his arrest. When he was hospitalized on October 20, 2019, four days following the alleged incident, his urine was positive for marijuana. Substance abuse is the most common acquired cause of rhabdomyolysis (34% of cases).ⁱ It is not uncommon for marijuana to be detected in urine up to one month following the last use in individuals who chronically abuse marijuana. In contrast, methamphetamine is typically detectable in urine up to 72 hours after use. Methamphetamine can cause rhabdomyolysis.^{ii,iii} Since Mr. Brown has admitted to using methamphetamine during this incarceration, the most likely cause of his rhabdomyolysis and altered mental status was methamphetamine intoxication, especially considering the quick resolution of his altered mental status with minimum medical intervention. Due to presumed methamphetamine use around the time of the alleged incident, is our opinion that he would have been criminally responsible on or around October 16, 2019 pursuant to S.C. Code Ann. § 17-24-10 (1976).

BROWN, RICKY BERNARD
SCDMH# 947-3748

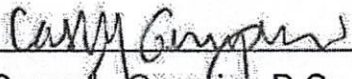
February 11, 2020: It is our opinion that Mr. Brown was not suffering from symptoms of a mental illness that would have specifically impaired his ability to distinguish legal or moral right from legal or moral wrong or to recognize the particular act charged as legally or morally wrong. He admitted to using methamphetamine during this incarceration and around the time of the alleged incident.

If the defendant is proven to have committed the alleged acts that resulted in the charge against him, there are behaviors that he displayed that are consistent with knowledge of wrongfulness such as:

- He hid the methamphetamine in his sock (an effort to avoid detection)
- He initially told officers that he was holding the substance for another inmate, minimizing his involvement in the alleged act

Therefore it is our opinion that he would have been criminally responsible on or around February 11, 2020 pursuant to S.C. Code Ann. § 17-24-10 (1976).

CONCLUSION REGARDING CAPACITY TO CONFORM: We find no evidence that Mr. Brown was suffering symptoms of a mental illness which would have substantially impaired his ability to conform his conduct to the requirements of the law on or about October 2, 3, and 16, 2019 or February 11, 2020.



 Casey L. Gregoire, D.O.
 Fellow in Forensic Psychiatry
 University of South Carolina School of Medicine

ⁱ Zutt RZ, van der Kooi AJ, Linthorst GE, Wanders RJA, de Visser M. Rhabdomyolysis: Review of the literature. *Neuromuscular Disorders*. 2014;24:651-659

ⁱⁱ Richards JR, Johnson EB, Stark RW, Derlet RW. Methamphetamine Abuse and Rhabdomyolysis in the ED: A 5-Year Study. *American Journal of Emergency Medicine*. 1999;17(7):681-685

ⁱⁱⁱ O'Connor AD, Padilla-Jones, Gerkin RD, Levine M. Prevalence of Rhabdomyolysis in Sympathomimetic Toxicity: a Comparison of Stimulants. *Journal of Medical Toxicology*. 2015;11(2):195-200

BROWN, RICKY BERNARD
 SCDMH# 947-3748

WITNESSES

Richard Mercer
Newberry Police Department

WARRANT NUMBER

2019A3620200181

TRUE BILL

Wade Danks

Foreman of the Grand Jury

Date: 12/13/19

VERDICT

Not Guilty

JHNY 11/19/20
Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

COURT OF GENERAL SESSIONS

December Term, 2019

Indictment # 2019-GS-36-00712

THE STATE

vs.

RICKY BERNARD BROWN

INDICTMENT FOR

Kidnapping

SC Code: § 16-03-0910

CDR: 0095

I hereby waive presentment to the Grand Jury.

Defendant

Witness:

THE STATE OF SOUTH CAROLINA

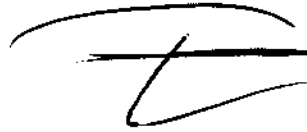
COUNTY OF NEWBERRY

INDICTMENT FOR**Kidnapping
§16-03-0910**

At a Court of General Sessions, convened on the 13th day of December, 2019, the Grand Jurors of Newberry County present upon their oath:

That Ricky Bernard Brown did in Newberry County, South Carolina, on or about the on or about October 2, 2019, unlawfully seize, confine, inveigle, decoy, kidnap, abduct, or carry away Sonya Byrd, by any means whatsoever, without the authority of law. All in violation of 16-03-0910 Code of Laws of South Carolina (1976, as amended).

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



Taylor Daniel
Assistant Solicitor

WITNESSES

Richard Mercer
Newberry Police Department

WARRANT NUMBER

2019A3620200179

TRUE BILL

Wade Dukes

Foreman of the Grand Jury

Date: 12/13/19

VERDICT

Guilty

Jimmy 11/19/20
Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

COURT OF GENERAL SESSIONS

December Term, 2019

Indictment # 2019-GS-36-00710

THE STATE

vs.

RICKY BERNARD BROWN

INDICTMENT FOR

Kidnapping

SC Code: § 16-03-0910

CDR: 0095

I hereby waive presentment to the Grand Jury.

Defendant

Witness:

THE STATE OF SOUTH CAROLINA

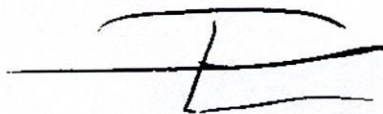
COUNTY OF NEWBERRY

INDICTMENT FOR**Kidnapping
§16-03-0910**

At a Court of General Sessions, convened on the 13th day of December, 2019, the Grand Jurors of Newberry County present upon their oath:

That Ricky Bernard Brown did in Newberry County, South Carolina, on or about the on or about October 2, 2019, unlawfully seize, confine, inveigle, decoy, kidnap, abduct, or carry away Cheri H Braswell, by any means whatsoever, without the authority of law. All in violation of 16-03-0910 Code of Laws of South Carolina (1976, as amended).

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



Taylor Daniel
Assistant Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF NEWBERRY

STATE VS.

RICKY BERNARD BROWN

AKA: _____
Race: Black Sex: M Age: 42
DOB: ____/1977 SS#: ____-2754
Address: ____ Copeland Street, _____
City, State, Zip: Newberry, SC 29108
DL# _____ SID# SC01074586

INDICTMENT/CASE#: 2019GS36-00710
A/W: 2019A3620200179
Date of Offense: 10/02/2019
S.C. Code §: 16-03-0910
CDR Code #: 0095

SENTENCE SHEET

"LWOP"

*CDL Yes No CMV Yes No Hazmat Yes No

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

TO: Kidnapping

In violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

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

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

ATTEST:

Taylor Daniel, Assistant Solicitor 100588 SC Bar # _____ Defendant Attorney for Defendant 10033 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 Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
Total: \$ _____ plus 20% fee: _____ \$ _____ days/hours Public Service Employment
Payment Terms: _____ Obtain GED

Set by SCDPPPS _____

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 (Public Def/Prob)	\$500	\$ _____
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>2500</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$ _____
§50-21-114 (BUI Breath Test Fee)	\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ _____
3% to County (if paid in installments)	\$	\$ <u>3.75</u>
TOTAL		\$ <u>128.75</u>

Attend Voc. Rehab. Or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling
Random Drug/Alcohol Testing
Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____
\$ _____ Paid to Public Defender Fund
Other: 1998 CONVICTION FOR VOLUNTARY MARIJUANA
 Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: Beverly J. Behner
Court Reporter: Sharon Hardison

Presiding Judge: _____
Judge Code: 2167
Sentence Date: 11/19/20

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

COURT OF GENERAL SESSIONS

November Term, 2020

Indictment # 2020-GS-36-00733

THE STATE

vs.

RICKY BERNARD BROWN

INDICTMENT FOR

Pointing/Presenting a Firearm

SC Code: § 16-23-0410

CDR: 0122

I hereby waive presentment to the Grand Jury.

Defendant

Witness:

WITNESSES

RC Mercer
Newberry Police Department

WARRANT NUMBER

Direct Indictment

TRUE BILL

John
Foreman of the Grand Jury

Date: 13 Nov 2020

VERDICT

Guilty
J. N. J. 11/19/20
Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

INDICTMENT FOR

**Pointing/Presenting a Firearm
§16-23-0410**

At a Court of General Sessions, convened on the 13th day of November, 2020, the Grand Jurors of Newberry County present upon their oath:

The defendant, Ricky Bernard Brown, did on or about October 2, 2019, in Newberry County, South Carolina, point and/or present a firearm at the victim, Sonya Byrd. All in violation of Section 16-23-410, Code of Laws of South Carolina (1976, as amended).

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



Taylor Daniel
Assistant Solicitor

434

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

STATE VS.

RICKY BERNARD BROWN

AKA:

Race: Black Sex: M Age: 42

DOB: /1977 SS#: 2754

Address: Copeland Street, #

City, State, Zip: Newberry, SC 29108

DL# SID# SC01074586

*CDL Yes No CMV Yes No Hazmat Yes No

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

CONVICTED OF or PLEADS

TO: Pointing/Presenting a Firearm

In violation of § 16-23-0410 of the S.C. Code of Laws, bearing CDR Code # 0122

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

(CSC w/minor 1st or CSC w/minor 3rd)

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

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

ATTEST:

TD

Taylor Daniel, Assistant Solicitor SC Bar # 100588 Defendant Attorney for Defendant SC Bar # 10033

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

CONCURRENT or CONSECUTIVE to sentence on: 2019-05-36-00710

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

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

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

SPECIAL CONDITIONS:

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

Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$ _____

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

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

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

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

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

Proviso (Public Def/Prob) \$500 \$ _____

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

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

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

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

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

TOTAL \$ 125.75

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

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

Presiding Judge: *[Signature]*

Judge Code: 2167

Sentence Date: 11/19/20

SCANNED
0-5 yrs

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

COURT OF GENERAL SESSIONS

November Term, 2020

Indictment # 2020-GS-36-00734

THE STATE

vs.

RICKY BERNARD BROWN

INDICTMENT FOR

Pointing/Presenting a Firearm

SC Code: § 16-23-0410

CDR: 0122

I hereby waive presentment to the Grand Jury.

Defendant

Witness:

WITNESSES

RC Mercer

Newberry Police Department

WARRANT NUMBER

Direct Indictment

TRUE BILL

[Signature]

Foreman of the Grand Jury

Date: 13/11/2020

VERDICT

Guilty

[Signature] 11/19/20

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

INDICTMENT FOR**Pointing/Presenting a Firearm
§16-23-410**

At a Court of General Sessions, convened on the 13th day of November, 2020, the Grand Jurors of Newberry County present upon their oath:

The defendant, Ricky Bernard Brown, did on or about October 2, 2019, in Newberry County, South Carolina, point and/or present a firearm at the victim, Cheri H Braswell. All in violation of Section 16-23-410, Code of Laws of South Carolina (1976, as amended).

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



Taylor Daniel
Assistant Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF NEWBERRY

STATE VS.

RICKY BERNARD BROWN

AKA:

Race: Black Sex: M Age: 42

DOB: 10/19/77 SS#: ██████-2754

Address: ██████ Copeland Street, #██████

City, State, Zip: Newberry, SC 29108

DL# ██████ SID# SC01074586

*CDL Yes No CMV Yes No Hazmat Yes No

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

CONVICTED OF or PLEADS

TO: Pointing/Presenting a Firearm

In violation of § 16-23-0410 of the S.C. Code of Laws, bearing CDR Code # 0122

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

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

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

ATTEST:

[Signature]

Taylor Daniel, Assistant Solicitor SC Bar # 100588 Defendant Attorney for Defendant SC Bar # 10033

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

CONCURRENT or CONSECUTIVE to sentence on: 2019-65-36-00710

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

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED

Set by SCDPPPS _____ Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____ May serve W/E beginning _____

*Fine: _____ Substance Abuse Counseling

§14-1-206 (Assessments 107.5%) _____ Random Drug/Alcohol Testing

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

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

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

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

Proviso (Public Def/Prob) \$500 \$ _____

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

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

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

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

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

TOTAL \$ 128.75

Clerk of Court/Deputy Clerk: Beverly J. Bohner
Court Reporter: Sharon Hardean

Presiding Judge: [Signature]

Judge Code: 2161

Sentence Date: 11/19/20

I hereby waive presentment to the Grand Jury.

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

COURT OF GENERAL SESSIONS

November Term, 2020

Indictment # 2020-GS-36-00736

Defendant

THE STATE

vs.

RICKY BERNARD BROWN

Witness:

INDICTMENT FOR

Possession Of A Firearm By A Person Convicted of A

Violent Crime

SC Code: § 16-23-0500(A)

CDR: 3434

WITNESSES

RC Meyer

Newberry Police Department

WARRANT NUMBER

Direct Indictment

TRUE BILL

[Signature]

Foreman of the Grand Jury

Date: 3 Nov 2020

VERDICT

Guilty

[Signature] 11/19/20

Foreman

THE STATE OF SOUTH CAROLINA**INDICTMENT FOR**

COUNTY OF NEWBERRY

**Possession Of A Firearm By A Person Convicted of
A Violent Crime
§16-23-0500(A)**

At a Court of General Sessions, convened on the 13th day of November, 2020, the Grand Jurors of Newberry County present upon their oath:

The defendant, Ricky Bernard Brown, did on or about October 2, 2019, in Newberry County, South Carolina, unlawfully have in his possession a firearm and/or ammunition after having previously been convicted of the violent crime of "Voluntary Manslaughter." "Voluntary Manslaughter" is a violent crime, as defined by Section 16-1-60, and is classified as a felony offense. All in violation of 16-23-0500(A), Code of Laws of South Carolina, (1976, as amended).

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



Taylor Daniel
Assistant Solicitor

COUNTY OF NEWBERRY

STATE VS.

RICKY BERNARD BROWN

AKA:

Race: Black Sex: M Age: 42

DOB: 1977 SS#: 2754

Address: Copeland Street

City, State, Zip: Newberry, SC 29108

DL# SC01074586 SID# SC01074586

INDICTMENT/CASE#: 2020GS36-00736
A/W: DIRECT INDICTMENT
Date of Offense: 10/02/2019
S.C. Code §: 16-23-0500(A)
CDR Code #: 3434

SENTENCE SHEET

0-5 yrs

*CDL Yes No CMV Yes No Hazmat Yes No

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

CONVICTED OF or PLEADS

TO: Possession Of A Firearm By A Person Convicted of A Violent Crime

In violation of § 16-23-0500(A) of the S.C. Code of Laws, bearing CDR Code # 3434

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

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

ATTEST:

Taylor Daniel, Assistant Solicitor 100588 SC Bar # Defendant Attorney for Defendant 10033 SC Bar #

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

CONCURRENT or CONSECUTIVE to sentence on: 2019-65-36-00710

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

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

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

SPECIAL CONDITIONS:

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

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 (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	\$
3% to County (if paid in installments)	\$	\$ <u>3.75</u>
TOTAL		\$ <u>128.75</u>

Attend Voc. Rehab. Or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling
Random Drug/Alcohol Testing
Fine may be pd. in equal consecutive weekly/monthly
pmts. of \$ _____ Beginning _____
\$ _____ Paid to Public Defender Fund

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

Clerk of Court/Deputy Clerk: Deputy J. Bohner
Court Reporter: Shirley Harrison

Presiding Judge: _____
Judge Code: 2167
Sentence Date: 11/19/20

ARREST WARRANT
2019A3620200179

STATE OF SOUTH CAROLINA
 County/ Municipality of
NEWBERRY

THE STATE
against

RICKY BERNARD BROWN
Address: COPELAND ST
NEWBERRY SC 29108
Phone: SSN:
Sex: M Race: B Height: 6-0 Weight: 220
DL State: SC DL#:
DOB: /1977 Agency ORI#: SC0360100
Prosecuting Agency: CITY OF NEWBERRY
Prosecuting Officer: ANY LAWFUL OFFICER
Offense: KIDNAPPING Offense Code: 0095
Code/Ordinance Sec. 16-03-0910

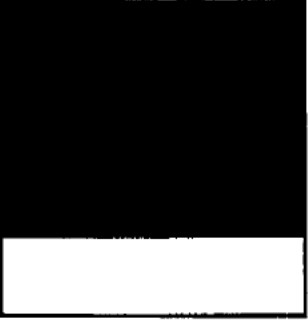
This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of
The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)
Date: _____
Time: _____

RETURN
A copy of this arrest warrant was delivered to
defendant RICKY BERNARD BROWN
on 10-4-19 @ 1719h
CPL. Shae, Dustin
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
NEWBERRY MUNICIPAL COURT
1507 NANCE STREET
NEWBERRY, SC 29108
(803) 321-1010

In Custody



STATE OF SOUTH CAROLINA
 County/ Municipality of
NEWBERRY

AFFIDAVIT
Personally appeared before me the affiant INV. RICHARD MERCER who
being duly sworn deposes and says that defendant RICKY BERNARD BROWN
did within this county and state on 10/02/2019 violate the criminal laws of the
State of South Carolina (or ordinance of County/ Municipality of NEWBERRY)
in the following particulars:
DESCRIPTION OF OFFENSE: 16-03-0910 / KIDNAPPING

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:
THAT ON OR ABOUT OCTOBER 2, 2019, THE DEFENDANT, RICKY BERNARD BROWN, DID COMMIT THE OFFENSE OF KIDNAPPING IN THAT
RICKY BERNARD BROWN DID UNLAWFULLY SEIZE, AND CONFINE THE VICTIM, CHERI BRASWELL, BY USE OF FORCE AND INTIMIDATION WITH
THE INTENT OF KEEPING THE VICTIM FROM LEAVING THE SCENE. THIS INCIDENT TOOK PLACE AT THE VOCATIONAL REHABILITATION CLINIC,
LOCATED AT 2601 EVANS STREET, WHICH IS WITHIN THE CITY LIMITS OF NEWBERRY, SC 29108. THE VICTIM WAS HELD AGAINST HER WILL.
RICKY BERNARD BROWN HAS BEEN POSITIVELY IDENTIFIED BY LAW ENFORCEMENT AS THE CULPRIT WHO COMMITTED THIS CRIME. THIS
OFFENSE OCCURRED AT 2601 EVANS STREET IN THE CITY OF NEWBERRY. THIS BEING IN VIOLATION OF THE SC CODE OF LAWS 1976, AS
AMENDED.

Signature of Affiant
STATE OF SOUTH CAROLINA
 County/ Municipality of
NEWBERRY

Affiant's Address 1507 NANCE STREET
NEWBERRY SC 29108
Affiant's Telephone 803-321-1010

ARREST WARRANT
TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OR COUNTY
It appearing from the above affidavit that there are reasonable grounds to believe that
on 10/02/2019 defendant RICKY BERNARD BROWN
did violate the criminal laws of the State of South Carolina (or ordinance of
 County/ Municipality of NEWBERRY) as set forth below:
DESCRIPTION OF OFFENSE: KIDNAPPING / KIDNAPPING

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered
to the defendant at the time of its execution, or as soon thereafter as is practicable.
Sworn to and subscribed before me)
on 10/04/2019)
Date Time)

(L.S.)

Judge's Address 1507 NANCE STREET
NEWBERRY SC 29108
Judge's Telephone 803-321-3720
Issuing Court: Magistrate Municipal Circuit
Judge Code: 6364

Case: 2019-08669

ORIGINAL

Elizabeth Fork
ELIZABETH FORK
CLERK OF COURT
2019 OCT 14 PM 3:32
FILED
COUNTY

ARREST WARRANT

2019A3620200181

STATE OF SOUTH CAROLINA

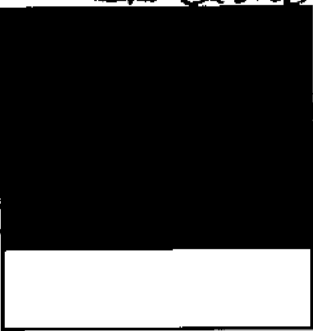
County/ Municipality of

NEWBERRY

THE STATE

against

In Custody



STATE OF SOUTH CAROLINA

County/ Municipality of

NEWBERRY

AFFIDAVIT

Form Approved by S.C. Attorney General April 21, 2003 SCCA 618

442

Personally appeared before me the affiant INV. RICHARD MERCER

being duly sworn deposes and says that defendant RICKY BERNARD BROWN

did within this county and state on 10/02/2019 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of NEWBERRY)

in the following particulars:

DESCRIPTION OF OFFENSE: 16-03-0910 / KIDNAPPING

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

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RICKY BERNARD BROWN

Address: COPELAND ST

NEWBERRY SC 29108

Phone: SSN:

Sex: M Race: B Height: 6-0 Weight: 220

DL: SC DL#:

DOB: 1977 Agency OR#: SC0360100

Prosecuting Agency: CITY OF NEWBERRY

Prosecuting Officer: ANY LAWFUL OFFICER

Offense: KIDNAPPING

Offense Code: 0095

Code/Ordinance Sec. 16-03-0910

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

The accused is to be arrested and brought before me to be dealt with according to law.

Signature of Judge

(L.S.)

Date:

Date Time

RETURN

A copy of this arrest warrant was delivered to defendant RICKY BERNARD BROWN

on 10-4-19 @ 1719 hrs

CPL Shaver, Dustin

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

NEWBERRY MUNICIPAL COURT

1507 NANCE STREET

NEWBERRY, SC 29108

(803) 321-1010

Signature of Affiant

Richard Mercer

STATE OF SOUTH CAROLINA

County/ Municipality of

NEWBERRY

Affiant's Address 1507 NANCE STREET

NEWBERRY SC 29108

Affiant's Telephone 803-321-1010

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE

It appearing from the above affidavit that there are reasonable grounds to believe that on 10/02/2019 defendant RICKY BERNARD BROWN

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Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 10/04/2019

Date Time

BARRY S. KOON

(L.S.)

Judge's Address 1507 NANCE STREET

NEWBERRY SC 29108

Judge's Telephone 803-321-3720

Issuing Court: Magistrate Municipal Circuit

Judge Code: 6364

ORIGINAL

Case: 2019-08669

FILED
CLERK OF COURT
2019 OCT 14 PM 3:12
NEWBERRY COUNTY

CERTIFICATE OF COUNSEL FOR APPELLANT

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

RECEIVED
Feb 17 2022
SC Court of Appeals

Respectfully Submitted,



Adam Sinclair Ruffin
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 17th day of February, 2022