

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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**RECEIVED**

**Jul 20 2022**

**S.C. SUPREME COURT**

Certiorari to Richland County

Honorable Diane Schafer Goodstein, Circuit Court Judge

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JEROID J. PRICE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2021-001013

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APPENDIX

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**VOLUME I OF III**

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## ORIGINAL

|                         |   |                  |
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| State of South Carolina | ) | In the Court of  |
|                         | ) | General Sessions |
| County of Richland      | ) |                  |

|                          |   |                    |
|--------------------------|---|--------------------|
| State of South Carolina, | ) |                    |
|                          | ) | 2003-GS-40-2295    |
| Plaintiff,               | ) |                    |
|                          | ) |                    |
| vs.                      | ) | TRIAL              |
|                          | ) |                    |
| Jeroid J. Price,         | ) | PARTIAL TRANSCRIPT |
|                          | ) |                    |
| Defendant.               | ) |                    |

---

December 15, 16, 2003  
(Partial transcript of record)  
Richland County, South Carolina

Before the Honorable Reginald I. Lloyd, Judge

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

David M. Pascoe, Jr., Esq.  
Donald N. Sorenson, Esq.  
Bryan Jeffries, Esq.  
For the State

Cameron B. Littlejohn, Jr., Esq.  
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For the Defendant

Rema K. Gantt  
Circuit Court Reporter

## I-N-D-E-X

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Deandre Eiland

|          |     |
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Chemique Eillington

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(Continuation of trial reported by Daphne Helms.)

E-X-H-I-B-I-T-S

(See attached exhibit list.)



## STATE V. JEROID PRICE

## EVIDENCE LIST

ADMITTED

- |                                          |                                                  |
|------------------------------------------|--------------------------------------------------|
| <input checked="" type="checkbox"/> AC   | 1. Diagram inside club                           |
| <input checked="" type="checkbox"/> AC   | 2. Diagram outside                               |
| <input type="checkbox"/>                 | 3. <u>Diagram outside</u>                        |
| <input checked="" type="checkbox"/> D.B. | 4. Body diagram                                  |
| <input checked="" type="checkbox"/> D.B. | 5. <u>Bullet from V's body</u>                   |
| <input checked="" type="checkbox"/> MS   | 6. Photo - Exterior front door                   |
| <input checked="" type="checkbox"/> MS   | 7. - Exterior w/patrol cars                      |
| <input checked="" type="checkbox"/> AC   | 8. - View exit → stage                           |
| <input checked="" type="checkbox"/> AC   | 9. - Interior                                    |
| <input checked="" type="checkbox"/> MS   | 10. - Back towards exit                          |
| <input checked="" type="checkbox"/> AC   | 11. - Similar to #10                             |
| <input checked="" type="checkbox"/>      | 12. - Bar - TV in corner                         |
| <input checked="" type="checkbox"/>      | 13. - Bar other angle                            |
| <input checked="" type="checkbox"/>      | 14. - Bar - Bud Light banner in center           |
| <input checked="" type="checkbox"/>      | 15. - Body - distance w/black chair              |
| <input checked="" type="checkbox"/> AC   | 16. - Body w/markers 1 → 3                       |
| <input checked="" type="checkbox"/> AC   | 17. - Body w/markers 3 → 6                       |
| <input checked="" type="checkbox"/>      | 18. - Marker 1                                   |
| <input checked="" type="checkbox"/>      | 19. - Marker 2                                   |
| <input checked="" type="checkbox"/>      | 20. - Marker 3                                   |
| <input checked="" type="checkbox"/>      | 21. - Marker 4                                   |
| <input checked="" type="checkbox"/>      | 22. - Marker 5                                   |
| <input checked="" type="checkbox"/>      | 23. - Marker 6                                   |
| <input checked="" type="checkbox"/>      | 24. - Body in corner                             |
| <input checked="" type="checkbox"/>      | 25. - Head on exit sign                          |
| <input checked="" type="checkbox"/>      | 26. - Marker 7 distant                           |
| <input checked="" type="checkbox"/>      | 27. - Marker 7 close-up                          |
| <input checked="" type="checkbox"/>      | 28. - Marker 8 distant                           |
| <input checked="" type="checkbox"/>      | 29. - Marker 8 close-up                          |
| <input checked="" type="checkbox"/>      | 30. - Carpet cut distant                         |
| <input checked="" type="checkbox"/>      | 31. - Marker 8 w/hole cut out                    |
| <input checked="" type="checkbox"/>      | 32. - Floor under marker 8                       |
| <input checked="" type="checkbox"/>      | 33. - Wall markers 1 - 4 distant                 |
| <input checked="" type="checkbox"/>      | 34. - Wall markers 1 - 4 up close                |
| <input checked="" type="checkbox"/>      | 35. Photo - Wall markers 1 - 2                   |
| <input checked="" type="checkbox"/> AC   | 36. - Wall markers 2 - 3                         |
| <input checked="" type="checkbox"/>      | 37. - Wall markers 2 & 4                         |
| <input type="checkbox"/>                 | 38. Tape - Δ's voicemails - <i>never existed</i> |

*Int Trust 12-19-03*

- ☒ SS 39. Tape - V's 911 call
- ☒ MS 40. Photo line-up of defendant
- ☒ MS 41. Photo line-up of Ryan Brooks
- ☒ AC 42. 380 shell casing - marker 3
- ☒ 43. 40 cal. Shell casing - marker 4
- ☒ 44. 40 cal. Shell casing - marker 5
- ☒ 45. Bullet on exit sign - marker 7
- ☒ 46. Bullet fragments from marker 8
- ☒ 47. Bullet fragment from marker 6
- ☒ AC 48. Bullet fragment from marker 1
- ☐ 49. Cell phone marker 2 *does not exist*
- ☒ TB 50. Photo Ryan Brooks - afro
- ☒ TB 51. Photo Ryan Brooks - braids
- ☒ TB 52. Photo Ryan Brooks - red bandana
- ☐ 53. Black 40 cal. demonstrative *does not exist*
- ☐ 54. Chrome 380 demonstrative *does not exist*
- ☐ 55. Diagram of differences between Brooks and A
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- ☒ TB 59. Brooks advice of rights
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- ☒ SS 62. Bag of red clothing/hits
- ☒ SS 63. green bullet proof vest
- ☒ SS 64. blue bullet proof vest
- ☒ SS 65. czmo Flak jacket
- ☒ SS 66. Red notebook
- ☒ SS 67. "Blood" bible
- ☒ JW 68. J. Wood 12/02 stat.
- ☒ JW 69. J. Wood 1/03 stat.
- ☒ J.A. 70. GSW left arm - V
- ☒ A.P. 71. BB pistol - A.P.
- ☒ SS 72. 32 cal. ammo
- ☐ 73. Ruger 9mm gun box
- ☒ SS 74. 40 cal. ammo box
- ☐ 75. 9 mm ammo
- ☒ 76. ~~357~~ 357 ammo
- ☒ SS 77. clip (40 cal.?)
- ☒ SS 78. 380 box
- ☐ 79. lg. clip *- ID → retained by the State*
- ☒ SS 80. cell phone box
- ☒ SS 81. paperwork for Field 380
- ☒ SS 82. 6/14/02 CZ 40 paperwork
- ☐ 83. ~~Field 380~~ - Firearms application

|                                        |    |                             |
|----------------------------------------|----|-----------------------------|
| <input type="checkbox"/>               | 84 | Polaroids from search & apt |
| <input type="checkbox"/>               | 85 | "                           |
| <input type="checkbox"/>               | 86 | "                           |
| <input type="checkbox"/>               | 87 | "                           |
| <input type="checkbox"/>               | 88 | "                           |
| <input type="checkbox"/>               | 89 | "                           |
| <input checked="" type="checkbox"/> SS | 90 | Discount Guns receipt       |
| <input checked="" type="checkbox"/> SS | 91 | 11/2/02 9 mm paperwork      |
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Court's exhibits

- 1) State's request to charge
- 2) defense " " "
- 3) jury question

1 Monday, December 15, 2003

2 THE COURT: Yes, sir, Mr. Littlejohn?

3 MR. LITTLEJOHN: Your Honor, we've been  
4 provided a witness list by the State this morning, just  
5 a few moments ago. We had been provided at least two  
6 or three other lists as we were going through the  
7 discovery process. And I had talked with Mr. Pascoe on  
8 a number of occasions about our concern that if the  
9 State had subpoenaed witnesses that they not be  
10 released until we had an opportunity to object or  
11 otherwise work it out with the State as to their being  
12 released because we may wish to call them as a witness.

13 As the Court knows, we're court-appointed,  
14 and I just didn't want to have to go through a double  
15 subpoenaing process. And as I understand from my  
16 discussions with Mr. Pascoe -- and he can correct me if  
17 I'm wrong -- the witnesses that are on the list today  
18 have either been subpoenaed or, if they're law  
19 enforcement, otherwise contacted to be here and would  
20 be available to both the State and the defense.

21 THE COURT: Mr. Pascoe, does that represent  
22 your understanding?

23 MR. PASCOE: Not necessarily, Your Honor. As  
24 I told Mr. Littlejohn last week, sometimes I put them  
25 on there because these names might come up, and I want

1 to make sure that the jurors don't know who some of  
2 these people are. Mr. Littlejohn and I went over last  
3 week some people that he wanted me to subpoena, and  
4 we've already discussed those. And I told him who was  
5 under subpoena and that I wouldn't release any certain  
6 people from subpoena unless he wanted me to.

7 THE COURT: Okay. Is there anybody in  
8 particular, Mr. Littlejohn, that you're interested in?

9 MR. LITTLEJOHN: Your Honor, yes, sir. If  
10 the Court will allow me to go down the list, I'll be  
11 glad to.

12 THE COURT: Yes, sir.

13 MR. LITTLEJOHN: There's a Tiffany Blanding.  
14 I understand she is under subpoena.

15 MR. PASCOE: Is that what I told you last  
16 week?

17 MR. LITTLEJOHN: Yes.

18 MR. PASCOE: I'll have to go back and check.  
19 Whatever I told you last week, I don't recall whether  
20 she's actually under subpoena or not. We can probably  
21 get her here, though.

22 THE COURT: Do you have a list of --

23 MR. LITTLEJOHN: To refresh Mr. Pascoe's  
24 memory, Your Honor --

25 THE COURT: Yes, sir.

1                   MR. LITTLEJOHN: -- he did tell me she was  
2 under subpoena. I just wanted to make sure she was  
3 available.

4                   THE COURT: Okay.

5                   MR. PASCOE: I'll double-check on that one,  
6 Your Honor.

7                   THE COURT: Okay. Thank you, sir.

8                   MR. LITTLEJOHN: Your Honor, the next one  
9 would be Michael Boynton, and I understand he is under  
10 the State's subpoena.

11                  MR. PASCOE: He is, Your Honor.

12                  MR. LITTLEJOHN: There was a Myron Jacobs,  
13 which I see on the list. Mr. Pascoe informed me that I  
14 would need to subpoena him. I don't know if the State  
15 has already subpoenaed him.

16                  MR. PASCOE: I'll just have to check on that  
17 one and see, Your Honor.

18                  THE COURT: Okay. Thank you, sir. I take it  
19 the defense has not subpoenaed him?

20                  MR. LITTLEJOHN: No, Your Honor. We have  
21 issued a subpoena, but we have not served it, because  
22 we didn't want to duplicate the effort.

23                  THE COURT: Got you. Thank you.

24                  MR. LITTLEJOHN: Your Honor, then there's  
25 Anthony Sherman Patrick. He is on the State's list,

1 and I understand he is under subpoena.

2 MR. PASCOE: Yes, sir.

3 MR. LITTLEJOHN: Tameka Cole, I understand  
4 she is under the State's subpoena.

5 MR. PASCOE: Yes, sir.

6 MR. LITTLEJOHN: Your Honor, there's an Andre  
7 Davis. I do not see him on the State's list, so  
8 obviously we'll be responsible for him. There's a  
9 Jermaine Evans, which I understand from Mr. Pascoe that  
10 he is under the State's subpoena.

11 MR. PASCOE: Yes, sir.

12 MR. LITTLEJOHN: Your Honor, Ronald Hamilton,  
13 Rachiem Monroe, and Derrick Watson.

14 MR. PASCOE: Yes, sir.

15 THE COURT: Okay. Thank you, Mr. Pascoe.

16 MR. LITTLEJOHN: And I guess the last would  
17 be C.J. Frye.

18 MR. PASCOE: I'll have to check on him. I  
19 don't know if he's under subpoena or not.

20 THE COURT: Okay. Thank you.

21 MR. LITTLEJOHN: Your Honor, last would be  
22 Shameka Wright.

23 MR. PASCOE: Yes, sir, she's under subpoena.

24 THE COURT: Okay. Thank you.

25 MR. LITTLEJOHN: Thank you, Mr. Pascoe.

1 MR. LITTLEJOHN: Your Honor, it's also my  
2 understanding from discussions with Mr. Pascoe that  
3 they would have a witness here to testify as to the  
4 toxicology [sic] test that was run on the victim's  
5 blood.

6 THE COURT: Mr. Pascoe, is that -- I'm sorry?

7 MR. PASCOE: We put him on the witness list.

8 THE COURT: Okay.

9 MR. PASCOE: Is he under subpoena? I think  
10 we touched base to make sure he's available, but we  
11 didn't send a subpoena.

12 THE COURT: And he was not one that you had  
13 discussed putting up? Okay.

14 MR. LITTLEJOHN: Your Honor, also there was a  
15 gunshot residue test that was done on the victim's hand  
16 that came back positive, and I just want to make sure  
17 there was an agent here from the State Law Enforcement  
18 Division that could testify to those results.

19 THE COURT: I'm not certain if he is one that  
20 you all discussed --

21 MR. PASCOE: Yes, sir.

22 THE COURT: -- under subpoena. Okay.

23 MR. PASCOE: Down here, under the names.

24 MR. LITTLEJOHN: Your Honor, one last lay  
25 witness I want to ask you about is Christopher Wright.



1 He is on the State's list.

2 THE COURT: Okay. He's one that you all  
3 talked about the State subpoenaing?

4 MR. PASCOE: I don't think he's under  
5 subpoena.

6 MR. LITTLEJOHN: I don't think we talked  
7 about him, Your Honor.

8 THE COURT: Okay.

9 MR. PASCOE: I don't think he's under  
10 subpoena, Your Honor.

11 THE COURT: Okay. Thank you, sir.

12 MR. LITTLEJOHN: Your Honor, while we're  
13 talking about witnesses, it's my understanding from  
14 talking to Mr. Pascoe that they have given us by way of  
15 discovery an open file situation. And Mr. Pascoe has  
16 assured me that they would not call any witnesses whose  
17 statements we had not received. And I just want to  
18 make sure we're still operating on that same  
19 understanding.

20 Now, I understand with some of the expert  
21 witnesses and some of the law enforcement there may not  
22 be any formal statements. But from the standpoint of  
23 just lay or fact witnesses, I just want to confirm that  
24 we are operating under that understanding.

25 MR. PASCOE: I told Mr. Littlejohn he had all

1 of the statements that I have.

2 THE COURT: Okay.

3 MR. PASCOE: And, as Your Honor knows, I  
4 think he is not even entitled to those statements, but  
5 I gave them to him as part of my open file policy.

6 THE COURT: Okay. It's my understanding the  
7 State's not taking the position that you're limited to  
8 those witnesses in terms of fact in this.

9 MR. PASCOE: Exactly.

10 THE COURT: Is your understanding different,  
11 Mr. Littlejohn?

12 MR. LITTLEJOHN: Your Honor, if he's telling  
13 me he's given me the statements beforehand, that's  
14 fine.

15 THE COURT: Okay.

16 MR. LITTLEJOHN: I just didn't want to get in  
17 a situation where under 5-82 he puts a witness up, who  
18 then gives a statement, and we have to ask for a recess  
19 or a continuance or whatever. I just wanted to make  
20 sure we were doing that in advance, which makes it a  
21 whole lot easier for the Court and everybody.

22 THE COURT: Yes, sir.

23 MR. PASCOE: Yes, sir. And we shouldn't have  
24 that problem.

25 THE COURT: Okay. Thank you, sir.

1 MR. LITTLEJOHN: Your Honor, still while  
2 we're talking about discovery, Mr. Sorenson may be able  
3 to put this on the record. There were a number of  
4 items that were seized at the crime scene that were  
5 analyzed early, taken into custody by the Sheriff's  
6 Department, later analyzed by SLED or other agencies.

7 Those items number one through 21, I believe,  
8 Your Honor, but there was missing an item 13 and an  
9 item 18. We don't have any written information about  
10 that. But it's my understanding that item 13 are some  
11 shoes that came from my client's apartment, which were  
12 analyzed and there were no tests that were relevant to  
13 this case. And I'm not sure what item number 18 is.  
14 And if we could just have the State put that on the  
15 record, I would appreciate it.

16 THE COURT: Okay, Mr. Sorenson.

17 MR. SORENSON: It's my understanding, Your  
18 Honor, item 13 is going to be blood. I'm assuming  
19 that's the victim's blood from the autopsy. I'm not  
20 100 percent sure if it's blood. Item 18 is boots.

21 THE COURT: Thank you, sir.

22 MR. LITTLEJOHN: Your Honor, it's my  
23 understanding from the reports that item 14 was the  
24 blood that came from the victim, and that was the  
25 reason for my inquiry. I couldn't determine what item

1 13 was.

2 MR. SORENSON: And I'm not sure what this has  
3 to do with pre-trial, but they've informed me that item  
4 13 is blood. It's obviously something he can take up  
5 with the witnesses when they testify.

6 THE COURT: I'm at a little bit of a loss,  
7 too. I don't know if there have been some discussions  
8 between the State and defense counsel as to those  
9 items. I take it from the State's response that  
10 there's been none regarding that particular matter.

11 MR. LITTLEJOHN: Your Honor, I guess my  
12 quandary is this. I've got a SLED report that says  
13 that item 14 is blood, and I don't have anything to  
14 identify item 13. And I'm just wondering what 13 is.  
15 If it's something exculpatory, we certainly think we're  
16 entitled to it.

17 THE COURT: Certainly.

18 MR. LITTLEJOHN: It may not be. I'd just  
19 like to know what it is.

20 THE COURT: I will trust that the State will  
21 respond --

22 MR. LITTLEJOHN: Okay.

23 THE COURT: -- that they've complied with  
24 Brady and Rule 5. And certainly, if they try to  
25 introduce something contrary to that, we'll take it up

1 at that point.

2 MR. LITTLEJOHN: Your Honor, there's mention  
3 in the discovery of a telephone call that was  
4 purportedly made by the victim in this case at 2:14 on  
5 the night in question, a 911 call. And I know there is  
6 a tape of it. The Solicitor's Office has played the  
7 tape for me.

8 I would just like to make a motion in limine  
9 at this time to resurrect the issue of admissibility of  
10 the substance of that call at such time as the State --  
11 if they seek to introduce it.

12 THE COURT: Okay. I don't know whether they  
13 intend to introduce it or not. But if you want to make  
14 a motion in limine, I'll be glad to hear that -- I  
15 don't know if you've got some other stuff -- if you  
16 want me to hear that now.

17 MR. LITTLEJOHN: Your Honor, we can take it  
18 up when they get to it. I don't think it would be a  
19 lengthy hearing. I just wanted to state from the  
20 outset so we're aware of that as an issue.

21 THE COURT: Thank you.

22 MR. LITTLEJOHN: Your Honor, two last things.  
23 There is a witness whose name was Marcus Martin, we  
24 were informed. I believe the State or Mr. Jeffries has  
25 indicated his name is actually Marcus Jones. Your

1 Honor, we would like to ask the Court for a hearing as  
2 to any issue as to identification, if the State seeks  
3 to elicit an in-court identification from this witness.  
4 It's my understanding he was unable to pick out who he  
5 thought was the shooter in a photographic lineup.

6 And if they're going to attempt to import  
7 identification, we'd like to have that issue determined  
8 by the Court prior to it going before the jury. Your  
9 Honor, I think the last thing we have, we would move  
10 under Rule 6-15 for the witnesses to be excluded -- the  
11 State's witnesses.

12 THE COURT: Okay. Does the State have any  
13 objection to sequestering?

14 MR. SORENSON: No, Your Honor, I don't think  
15 so. If I do, can I bring it back up --

16 THE COURT: Yes, sir.

17 MR. SORENSON: -- before we get into that?  
18 As of this time, I've got no problems with sequestering  
19 the witnesses.

20 THE COURT: Okay. Are there any particular  
21 law enforcement that you --

22 MR. SORENSON: Oh, I'd ask that the lead  
23 investigators, like Stan Smith and Damon Robertson, be  
24 allowed to stay in the courtroom, as well as really any  
25 law enforcement. There's no reason why they can't be

1 here, or the agents from SLED.

2 THE COURT: Okay. Any objection to that?

3 MR. LITTLEJOHN: Your Honor, I don't have any  
4 problem with him keeping his two investigators here,  
5 the two case agents, as it were. But the others, I  
6 think the rule applies across the board to them.

7 THE COURT: Is there any reason the law  
8 enforcement, you suspect that they may mimic testimony  
9 that they hear from the stand or would be influenced by  
10 other testimony?

11 MR. LITTLEJOHN: Your Honor, there's nothing  
12 I can put my finger on. But the rule is there for a  
13 purpose, and we think that's one of the purposes.

14 THE COURT: Okay -- because normally I don't  
15 sequester. But if neither side has an objection to it,  
16 I'll certainly do that. Otherwise, I would just let  
17 them all -- unless somebody can articulate a specific  
18 reason why certain witnesses may be likely to conform  
19 their testimony from hearing other testimony, I won't  
20 sequester.

21 MR. LITTLEJOHN: Your Honor, if they're going  
22 to keep the investigator, we'd like to keep Mr. Jones,  
23 who's seated behind us. He's our investigator. I  
24 don't anticipate him being a witness.

25 THE COURT: Okay. I take it the State has no

1 objection to that?

2 MR. SORENSON: Yes, sir.

3 THE COURT: All right. All investigators can  
4 stay in, and all other witnesses will be sequestered.  
5 Anything further?

6 MR. LITTLEJOHN: Your Honor, I believe that's  
7 all we have at this time.

8 THE COURT: As to the motion in limine as to  
9 the 911 call, is there any response from the State?

10 MR. PASCOE: We do intend -- I'll tell you,  
11 we intend to introduce the 911 call that the victim  
12 made to dispatch that night right before the shooting.  
13 I think it's in line with all the case law as being  
14 admissible. I don't really think it's that much of a  
15 problem.

16 THE COURT: Mr. Littlejohn?

17 MR. LITTLEJOHN: Your Honor, it's obviously  
18 hearsay. I don't see how it comes in under all the  
19 case law.

20 MR. PASCOE: Present sense impression, Your  
21 Honor, State versus Shuler at Orangeburg; State versus  
22 Garcia. There are a bunch of cases.

23 THE COURT: Your objection is just as to  
24 hearsay?

25 MR. LITTLEJOHN: Yes, Your Honor. I think



1 he's offering it for the truth as a matter of  
2 certainty. The declarant is not available.

3 THE COURT: I'll wait until they get ready to  
4 offer that, and then we'll do a full hearing on that.  
5 And I'll listen to it as well at that point. Anything  
6 further?

7 MR. LITTLEJOHN: Your Honor, one thing that  
8 was just brought to my attention, apparently the  
9 Sheriff's Department has asked my client's family to  
10 sit way up here in the gallery rather than behind us  
11 here, and I just didn't know what the purpose of that  
12 is. Apparently, the victim's family is sitting behind  
13 the Solicitor's table.

14 THE COURT: I saw them move them from right  
15 there where the jury goes. If there are particular  
16 family members that can fit on that first bench,  
17 they're certainly welcome to sit there. I remind you  
18 all that this is not a long bench. So we'll fit as  
19 many of you on this bench right behind the defense  
20 table as you can get.

21 THE COURT: Okay. Mr. Littlejohn, I also  
22 understand you have requested voir dire?

23 MR. LITTLEJOHN: Yes, Your Honor.

24 THE COURT: Thank you, sir.

25 THE COURT: Are there any objections from the

1 State?

2 MR. PASCOE: We have no objections, Your  
3 Honor, to those, as well as your normal jury charge.

4 THE COURT: Okay. We'll ask those, too, Mr.  
5 Littlejohn.

6 MR. LITTLEJOHN: Your Honor, one additional  
7 thing, if I might, as we discussed briefly, at the  
8 bench in the other courtroom. Apparently, there was an  
9 article in *The State* newspaper this morning that went  
10 into some depth about the history of this case and some  
11 earlier judicial proceedings. The major concern is  
12 this, Your Honor. In that article -- and we'll be glad  
13 to make it a part of the record -- the reporter gave an  
14 account of pending charges against my client.

15 Those are charges that there has been no  
16 disposition of. They're fairly serious charges. I  
17 don't see how, being pending, there's any way in the  
18 world they would come out during this trial. But if  
19 the jurors have read about those charges, it certainly  
20 could influence them against the defendant. And I have  
21 a great deal of concern about that. *The State*  
22 newspaper obviously is the main newspaper in Richland  
23 County and is probably the main newspaper which the  
24 members of the jury panel would read.

25 And with that article, I'd be interested to

1 see what reaction we get. And, Your Honor, I might  
2 suggest perhaps individual voir dire by the Court might  
3 be in order.

4 THE COURT: We've certainly got enough jurors  
5 here today, I think. I don't know. The whole panel  
6 hasn't been released yet, have they, Ms. Scott?

7 MS. SCOTT: No, Your Honor.

8 THE COURT: Okay. If we run into a problem  
9 with that -- I had intended to inquire about that since  
10 the article was in the paper this morning -- we'll  
11 certainly see how many we can get from the panel we've  
12 got. We've got a lot of jurors, so I think we can  
13 certainly deal with that.

14 MR. LITTLEJOHN: Your Honor, would the Court  
15 be inclined to ask the jurors individually about if  
16 they've read the article?

17 THE COURT: I'll certainly go through and ask  
18 them if they've read the article and certainly instruct  
19 them that they, number one, if they're selected on this  
20 jury, should only consider that evidence presented in  
21 this courtroom as well as my instructions on the law.

22 But I'll be glad to at any time, if anybody  
23 has, in fact, read the newspaper article, see whether  
24 or not they've formed any opinions about the defendant  
25 based on that.

1           MR. LITTLEJOHN: I guess maybe I'm being  
2           overly cautious. I was afraid that one juror might  
3           respond and say, "Well, I read this in the paper," and  
4           the rest of the jurors are sitting there and would hear  
5           that inflammatory material.

6           THE COURT: What I would probably do is call  
7           them down and just bring them down here to the front  
8           and see how much they did read and remember about it,  
9           trying to see whether they've formed any opinions or  
10          not. Obviously, if they read it, I can't unring that  
11          bell. But they may have read it and not formed any  
12          opinion about it, or they may have read Saddam and  
13          never made it to the "Metro."

14          THE COURT: Okay, anything further? We'll  
15          bring the jury up.

16          MR. LITTLEJOHN: Nothing from the defense,  
17          Your Honor.

18          MR. PASCOE: I have two quick motions.

19          THE COURT: Yes, sir.

20          MR. PASCOE: We can do it now or later. If  
21          you want to bring the jurors up first, it's --

22          THE COURT: Let me go ahead and deal with it.

23          MR. PASCOE: The first motion was we did file  
24          a reciprocal on this case. I assume that there's going  
25          to be no alibi, because we received no notice of alibi.

1 THE COURT: Is that correct?

2 MR. LITTLEJOHN: That's correct, Your Honor.

3 THE COURT: Okay. Thank you, sir.

4 MR. PASCOE: Also, I make a motion barring  
5 any evidence of third-party guilt as being  
6 inadmissible.

7 THE COURT: Okay.

8 MR. PASCOE: If they're going to do that,  
9 they just give us a heads-up.

10 THE COURT: Okay. Mr. Littlejohn?

11 MR. LITTLEJOHN: Your Honor, from the  
12 standpoint of our saying that Joe Jones did this and  
13 not our client, no, sir, we don't have any evidence to  
14 that effect. There are some circumstances that will be  
15 developed as the facts come out that there were a lot  
16 of people there and a lot of circumstances that, quite  
17 frankly, in my opinion don't add up. But from the  
18 standpoint of pointing a finger at some third party  
19 definitively, no.

20 THE COURT: Okay. I'm not quite sure --

21 MR. LITTLEJOHN: I'm sorry, I can't be any  
22 more specific than that.

23 THE COURT: Anything further as to that  
24 point, Mr. Pascoe?

25 MR. PASCOE: We might be able to take it up

1 later.

2 THE COURT: Okay.

3 MR. PASCOE: Thank you.

4 THE COURT: Well, we'll address it again if  
5 it becomes an issue.

6 THE COURT: Any further witnesses, Mr.  
7 Littlejohn, from the defense?

8 MR. LITTLEJOHN: No, Your Honor.

9 THE COURT: For voir dire purposes, everybody  
10 that the defense may potentially call is on this list?

11 MR. LITTLEJOHN: No, Your Honor. If you'd  
12 give me just a moment --

13 THE COURT: Certainly.

14 MR. LITTLEJOHN: -- there would not be many.  
15 Your Honor, the only three we would add that we know of  
16 at this time would be Chante Boyd --

17 THE COURT: Boyd, B-O-Y-D?

18 MR. LITTLEJOHN: -- B-O-Y-D, yes, sir; Kim  
19 Miller; and Andre Davis.

20 THE COURT: Okay. Thank you, sir.

21 MR. LITTLEJOHN: Thank you.

22 THE COURT: Okay, we're ready for the jury.

23 MR. LITTLEJOHN: Your Honor --

24 THE COURT: Yes, sir.

25 MR. LITTLEJOHN: -- could we take just a

1 moment? My client didn't get to use the facilities on  
2 the way up.

3 THE COURT: All right, we'll take five  
4 minutes.

5 MR. PASCOE: Okay.

6 THE COURT: Thank you. We'll be in recess.

7 (Break in proceedings.)

8 THE COURT: Okay, counsel, are you ready for  
9 the jury?

10 MR. LITTLEJOHN: The defense is ready, Your  
11 Honor.

12 MR. PASCOE: Yes, sir.

13 THE COURT: Okay. Then we'll bring them up.

14 CLERK OF COURT: Yes, Your Honor.

15 (Jury panel in to be  
16 qualified.)

17 THE COURT: Ladies and gentlemen, we're ready  
18 to begin the case of the State of South Carolina versus  
19 Jeroid Price. I'll explain to you all the charges in  
20 this case in a little bit, but it's good to see you all  
21 again. I know we just saw each other about an hour  
22 ago, I guess it was.

23 Again, for those of you who went through --  
24 all of you did. I know you all were asked questions  
25 this morning during the qualification process, and I

26

1 have to ask you some more questions. It will not be as  
2 long as qualification, but I do need to go through  
3 these questions with you before we begin the process of  
4 selecting a jury for this particular trial.

5 I will have to ask you all to one more time  
6 stand and raise your right hands and be sworn over.  
7 Thank you. If you all would, just stand and raise your  
8 right hands. Thank you.

9 CLERK OF COURT: Ladies and gentlemen, please  
10 answer "Yes, I do," after I give you this question.

11 (The jury panel was sworn.)

12 CLERK OF COURT: Thank you.

13 THE COURT: Thank you.

14 THE COURT: All right, ladies and gentlemen,  
15 as I explained to you, this is the State of South  
16 Carolina versus Jeroid Price. I'd ask that Mr. Price  
17 will stand and face the jury panel. Mr. Price is the  
18 young man in the gray suit standing with his attorneys.  
19 And I would first ask if any member of jury panel is  
20 related by blood, marriage, or otherwise has a close  
21 personal relationship with Mr. Price. If so, please  
22 stand. Okay, thank you, sir.

23 Ladies and gentlemen, Mr. Price is  
24 represented by attorneys Cam Littlejohn and Amye  
25 Rushing, and they've stood before and they're standing



1 next to Mr. Price. And I'd ask the same question -- if  
2 any member of the jury panel is related by blood,  
3 marriage, or otherwise has a close personal  
4 relationship with Ms. Rushing or Mr. Littlejohn, or if  
5 any member of the panel has ever been represented by  
6 these attorneys. Okay, thank you.

7 Ladies and gentlemen, Mr. Price is charged in  
8 the indictment with murder. The victim alleged in the  
9 indictment is Mr. Carl Felder Smalls. And I would ask  
10 if any member of the jury panel is related by blood,  
11 marriage, or otherwise has a close personal  
12 relationship or any friendship at all with Mr. Carl  
13 Felder Smalls.

14 Ladies and gentlemen, the State is  
15 represented by Assistant Solicitors David Pascoe, Don  
16 Sorenson, and Bryan Jeffries, and they are standing in  
17 front of you. And I would ask if any member of the  
18 jury panel is related by blood, marriage, or otherwise  
19 has a close personal relationship with either Mr.  
20 Pascoe, Mr. Sorenson, or Mr. Jeffries. Thank you.

21 All right, ladies and gentlemen, I have a  
22 long list of witnesses to read off to you. These are  
23 potential witnesses in this trial. It may not mean  
24 that all of them are called, but I do need to read the  
25 entire list to you to again verify as to whether any

1 member of the panel is related to or has a friendship  
2 with any of these individuals. I will ask you all the  
3 same question at the end of this list.

4 If, in fact, you do know somebody or are  
5 related to somebody on this list, if you will just  
6 stand as I call out this list, and I'll come back to  
7 you at the very end. I would also ask if any members  
8 of this list as potential witnesses are in the  
9 courtroom if you will stand as I read off your name.  
10 The first name is Investigator Damon Robertson with the  
11 Richland County Sheriff's Department; Steve Pearce with  
12 the Richland County Sheriff's Department; Lt. Zane  
13 Padgett with the Richland County Sheriff's Department;  
14 Investigator Anna Elsey -- is that correct? --

15 MR. PASCOE: Elsey, Your Honor.

16 MS. ELSEY: Correct.

17 THE COURT: -- Elsey with the Richland County  
18 Sheriff's Department; Investigator Ray Livingston with  
19 the Richland County Sheriff's Department; Dr. Ronald  
20 Burns; Lt. Stan Smith with the Richland County  
21 Sheriff's Department; Investigator David Goff with the  
22 Richland County Sheriff's Department; Dave Lucas with  
23 the Richland County Sheriff's Department; Chief David  
24 Wilson with the Richland County Sheriff's Department;  
25 Deputy Joe Davis with the Richland County Sheriff's

1 Department; Corporal Bill Allen with the Richland  
2 County Sheriff's Department; Investigator Gene -- is it  
3 Mincey? --

4 MR. MINCEY: Yes, sir.

5 THE COURT: -- Mincey with the Richland  
6 County Sheriff's Department; Deputy David Collins of  
7 the Richland County Sheriff's Department; Michael  
8 Boynton; Kimathi Lewis; Maurice McDuffie; Lt. Joe  
9 Powell of the State Law Enforcement Division; Special  
10 Agent Cal Riley of the State Law Enforcement Division;  
11 Special Agent Kimberly Black of the State Law  
12 Enforcement Division; Ronald Hamilton; Jeffrey Lewis;  
13 Damien Martin; Marcus Jones; David Sampson; Christopher  
14 Wright; is it Rachiem? --

15 MR. PASCOE: Rachiem, I think, Your Honor.

16 THE COURT: -- Rachiem Monroe; Henry Foster  
17 Phillips; Twanna Ivery; Kyle Green; Investigator James  
18 Richardson of the Richland County Sheriff's Department;  
19 Calvin Kizer; Myron Jacobs; Deandre Eiland; Mike  
20 Hawthorne; Doron -- is it Guider?; Joe Jones; Tyron  
21 Belton; Carlos Powell; Kimberly Jenkins; Shakir Lane;  
22 Bernard Rambert; C.J. Frye. I'm going to ask you to  
23 help me again, Mr. Pascoe.

24 MR. PASCOE: Chemiqua Ellington, Your Honor.

25 THE COURT: Chemiqua Ellington; Tiffany

1 Blanding; Jermaine Evans; Crystal Frechette; Derrick  
2 Cattenhead; Jamel Bryant; Ryan Brooks; Jason Wood;  
3 Tameka Cole; Natalie Woods; Anthony Sherman Patrick;  
4 Corey Lawrence; Chavee McGill; Derrick Watson; Jeremy  
5 Coe; Lillie Smalls; Chante Boyd; Kim Miller; Andrea  
6 Davis.

7 MR. LITTLEJOHN: I believe that's Andre, I'm  
8 sorry.

9 THE COURT: I'm sorry -- Andre Davis. Thank  
10 you, sir. Any member of the jury panel related by  
11 blood, marriage, or otherwise either knows or has a  
12 close personal relationship with any of those  
13 individuals, if you'll just stand, please. Yes, sir.

14 MR. PETRUS: Brad Petrus. I worked with  
15 several of these football players and Carl Smalls when  
16 he was a freshman here.

17 THE COURT: Okay. I'll ask you, sir -- and  
18 when I ask you this question -- if you can be fair and  
19 impartial in this case -- what I mean by that is, sir,  
20 could you, despite your relationship with these  
21 individuals or knowing them in whatever capacity -- you  
22 said you worked with them?

23 MR. PETRUS: Yes, sir.

24 THE COURT: Could you fairly listen to the  
25 evidence in this trial, take the charge as I give it at

1 the end of the case on the law, apply the law to the  
2 facts fairly and impartially, and come to a fair  
3 verdict for both the defendant and the State in this  
4 case despite your relationship with those individuals?

5 MR. PETRUS: Yes, sir.

6 THE COURT: Okay. Thank you, sir.

7 COURT REPORTER: What was his number?

8 THE COURT: Do you know your number, sir?

9 MR. PETRUS: 210.

10 THE COURT: I'm sorry?

11 MR. PETRUS: 210.

12 THE COURT: Okay. Thank you, sir.

13 THE COURT: Yes, ma'am.

14 MS. LOMAN: I'm Erma Loman, Juror 114.

15 THE COURT: Yes, ma'am.

16 MS. LOMAN: It's Ron?

17 MR. SORENSON: Yes.

18 THE COURT: Yes.

19 MR. SORENSON: Yes, sir.

20 MS. LOMAN: I think he is my neighbor.

21 THE COURT: Okay. All right, ma'am, would  
22 the fact that he was your neighbor in any way prevent  
23 you -- the same question I asked the gentleman earlier  
24 -- from being unable to be fair and impartial in this  
25 case, hear the evidence, determine the evidence, and

1 take the charge on the law as I give it to you?

2 MS. LOMAN: No, sir.

3 THE COURT: Okay.

4 MS. LOMAN: And Marcus Jones, I think may --  
5 I have contacts with a Marcus Jones.

6 THE COURT: Okay. How do you know the Marcus  
7 Jones? Is he a close personal friend of yours?

8 MS. LOMAN: My ex-husband's nephew.

9 THE COURT: Okay. Would the fact, ma'am,  
10 that he was related to your ex-husband, again, in any  
11 way prevent you from being fair and impartial to both  
12 sides in this case?

13 MS. LOMAN: No.

14 THE COURT: Okay. Thank you, ma'am.

15 THE COURT: Yes, sir.

16 MR. THOMAS: My name is Terry Thomas. I go  
17 to school with a lot of those people that you named.

18 THE COURT: Okay. Are they friends with you,  
19 sir?

20 MR. THOMAS: Yes, sir.

21 THE COURT: Okay. So let me ask you, based  
22 on your relationship with any individuals on this list,  
23 would it any way prevent you from being fair and  
24 impartial, hearing the evidence as given, if you were  
25 selected on this jury, from this witness stand and

1 introduced by this Court, and from taking the charge on  
2 the law as I give it to you and being fair and  
3 impartial to both the State and the defense, sir?

4 MR. THOMAS: No, sir.

5 THE COURT: Okay. Thank you, sir.

6 THE COURT: Okay, anyone else? Is any member  
7 of the jury panel related by blood, marriage, or a  
8 friend of anyone who is employed in the Richland County  
9 Solicitor's Office, the Richland County Sheriff's  
10 Department, or the State Law Enforcement Division,  
11 commonly known as SLED? Yes, sir.

12 MR. CHAPMAN: I teach at USC, Your Honor, and  
13 I have taught some people from the State Law  
14 Enforcement Division.

15 THE COURT: Okay. And your name, sir?

16 MR. CHAPMAN: James Chapman.

17 THE COURT: And do you remember your juror  
18 number?

19 MR. CHAPMAN: 39.

20 THE COURT: Okay. Sir, would the fact that  
21 you have taught some members of your classes who are  
22 employed at SLED in any way cause you to not be able to  
23 be fair and impartial to both the State and the  
24 defendant in this case?

25 MR. CHAPMAN: No, sir.

1                   THE COURT: Okay. Thank you, sir. Anyone  
2 else?

3                   THE COURT: Okay, ladies and gentlemen, this  
4 incident that is the subject of this trial occurred  
5 back in 2002. I would ask if any member of the jury  
6 panel has either seen or heard news reports concerning  
7 a shooting incident that took place at the Voodoo  
8 Lounge on Garners Ferry Road in Richland County on  
9 December 7, 2002.

10                  The incident did result in the death of the  
11 victim in this case, Carl Felder Smalls, who at one  
12 time was a football player at the University of North  
13 Carolina, as well as a year at the University of South  
14 Carolina. Has any member of the jury panel either seen  
15 or heard news reports concerning this incident? Let me  
16 ask, if you all would, just stand. Let me first ask,  
17 has any member of the jury panel -- and I was going to  
18 discuss with the entire jury panel, there was a news  
19 article this morning in the "Metro" section of the  
20 paper.

21                  Let me find out first, did any member of the  
22 jury panel see any news reports or see any newspaper  
23 articles regarding this incident before the article  
24 today? If you would, just raise your hand -- before  
25 today.



1 UNIDENTIFIED JUROR: Today and before.

2 THE COURT: Okay.

3 UNIDENTIFIED JUROR: Did you just say just  
4 news article or TV?

5 THE COURT: Any news account at all -- okay.  
6 If you all would, form a line over here at the end of  
7 this front row, and I'll bring you down one at a time.

8 THE COURT: All right, we still need quiet.

9 THE COURT: Okay, yes, sir.

10 CLERK OF COURT: Number 23, Your Honor,  
11 Joseph Rutledge.

12 THE COURT: Mr. Rutledge, I just need you to  
13 come down here.

14 CLERK OF COURT: Number 27, Anthony Brown.

15 CLERK OF COURT: Number 182, Jason Sutton.

16 CLERK OF COURT: Number 39, James Chapman.

17 CLERK OF COURT: Number 146, Sheila

18 Pendarvis.

19 CLERK OF COURT: Number 76, Willie Graham.

20 CLERK OF COURT: Number 191, Michael Walls.

21 CLERK OF COURT: Number 114, Erma Loman.

22 CLERK OF COURT: Number 214, Richard Brown.

23 CLERK OF COURT: Number 110, Gail King.

24 CLERK OF COURT: Number 100, Wesley Jennings.

25 CLERK OF COURT: Number 59, Kenneth Elliott.

1 CLERK OF COURT: Number 179, George Stone.

2 CLERK OF COURT: Number 149, David Peters.

3 CLERK OF COURT: Number 210, James Petrus.

4 CLERK OF COURT: Number 124, Ann Milliken.

5 CLERK OF COURT: Number 11, Vanessa Bazemore.

6 CLERK OF COURT: Number 184, Terry Thomas.

7 THE COURT: Okay, thank you, ladies and  
8 gentlemen. Let me ask, has any member of the jury  
9 panel been exposed in any way to what is commonly  
10 called street gangs, such as Bloods or Crips, or has  
11 any member of the jury panel formed any opinion about  
12 street gangs such as those?

13 Is any member of the jury panel a member of  
14 any group which advocates the enforcement of criminal  
15 laws or advocates on behalf of the victims of criminal  
16 violence, such as MADD, or CAV, or CADRE, or any such  
17 groups as that? Is anybody a member or contributor to  
18 any such groups?

19 Is any member of the jury panel, whether I  
20 had asked this specific question or not, aware of any  
21 facts about this case that we've not already discussed  
22 up here at the sidebar that would relate to what  
23 happened on the incident in question, the day of the  
24 incident in question, or relate to any of the potential  
25 witnesses that may be called, or to the defendant, or

1 to the victim in any way?

2 Anybody aware of any personal facts or  
3 knowledge of this incident? Is any member of the jury  
4 panel aware of any reason whatsoever, whether I've  
5 asked you specifically in these questions or not, why  
6 they could not sit in this case and be fair and  
7 impartial to both the State and the defendant. If so,  
8 if you are aware of some reason, I'll be glad to bring  
9 you down here and discuss that with you privately.

10 But is any member of the jury panel aware of  
11 any reason whatsoever they do not believe they could  
12 serve this week on this trial and be fair to both  
13 sides? Yes, sir. Do you want to come down, sir?

14 THE COURT: Yes, sir. If you'd just state  
15 your name.

16 MR. WISE: Wendell Shane Wise.

17 THE COURT: You need to speak up.

18 MR. WISE: I'm mourning the loss of my wife  
19 right now, and I don't think I can handle to go through  
20 something like this serious. Just mentally, I don't  
21 think I can be fair or pay attention or anything like  
22 that.

23 THE COURT: Your wife just passed away when?

24 MR. WISE: In July.

25 THE COURT: I'm sorry to hear that, sir. I

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1 appreciate your honesty based on your response that you  
2 don't believe you could sit here and listen to stuff  
3 like this that is unique to this trial. Thank you,  
4 sir.

5 MR. WISE: Yes, sir.

6 THE COURT: I appreciate that.

7 THE COURT: Okay, thank you.

8 THE COURT: Counsel, anything further on voir  
9 dire for me at this time?

10 MR. LITTLEJOHN: No, Your Honor.

11 MR. PASCOE: No, Your Honor.

12 THE COURT: Okay. Thank you, counsel. Are  
13 both sides ready to do strikes? We'll do ten and five,  
14 then we'll do two alternates. Thank you, ladies and  
15 gentlemen.

16 MR. LITTLEJOHN: Ten and five, Your Honor?

17 THE COURT: Ten and five, yes, sir.

18 CLERK OF COURT: Ladies and gentlemen of the  
19 jury, if I should call out your name, please come  
20 forward to this microphone stand here to my right,  
21 state your name and occupation, and remain standing  
22 there until I give you further instructions. If you  
23 have any personal items -- books, coats, umbrellas,  
24 etc. -- bring those with you if I call out your name.  
25 59, Kenneth Elliott -- number 59.

1 MR. ELLIOTT: My name is Kenneth Elliott, and  
2 I'm a student at USC.

3 CLERK OF COURT: What says the State?

4 MR. PASCOE: Please present Mr. Elliott.

5 CLERK OF COURT: What says the defense?

6 MR. LITTLEJOHN: Please excuse Mr. Elliott  
7 from this case.

8 CLERK OF COURT: Sir, if you would, please  
9 return to the back of the courtroom there where you see  
10 that deputy.

11 BAILIFF: This way, please.

12 CLERK OF COURT: 208, George Huntley -- 208.

13 MS. HUNTLEY: My name is Georgia Huntley.  
14 I'm a student at USC and a server at Harper's  
15 Restaurant.

16 CLERK OF COURT: What says the State?

17 MR. PASCOE: Please present Ms. Huntley.

18 CLERK OF COURT: What says the defense?

19 MR. LITTLEJOHN: Please seat Ms. Huntley.

20 CLERK OF COURT: Please have a seat over here  
21 in the jury box, as directed by the bailiff.

22 CLERK OF COURT: 89, Valerie Hayden -- number  
23 89.

24 MS. HAYDEN: Valerie Hayden, and I'm a nurse  
25 at the Richland County Health Department.

1 CLERK OF COURT: What says the State?

2 MR. PASCOE: Please present Ms. Hayden.

3 CLERK OF COURT: What says the defense?

4 MR. LITTLEJOHN: Please seat Ms. Hayden.

5 CLERK OF COURT: Please have a seat there in  
6 the jury box, ma'am.

7 CLERK OF COURT: 27, Anthony Brown -- 27.

8 MR. BROWN: My name is Anthony Brown. I work  
9 for the Office of the Budget and Control Board.

10 CLERK OF COURT: What says the State?

11 MR. PASCOE: Please present Mr. Brown.

12 CLERK OF COURT: What says the defense?

13 MR. LITTLEJOHN: Please seat Mr. Brown.

14 CLERK OF COURT: Please have a seat in the  
15 jury box, sir.

16 CLERK OF COURT: 210, James Petrus -- 210.

17 MR. PETRUS: James Petrus, a college student  
18 at USC.

19 CLERK OF COURT: What says the State?

20 MR. PASCOE: Please present Mr. Petrus.

21 CLERK OF COURT: What says the defense?

22 MR. LITTLEJOHN: Please excuse Mr. Petrus  
23 from this trial.

24 CLERK OF COURT: Sir, you may return to the  
25 back there where you see the bailiff.

1 CLERK OF COURT: 136, Donald Nelson -- 136.

2 MR. NELSON: My name is Donald Nelson. I'm a  
3 student at Midlands Tech.

4 CLERK OF COURT: What says the State?

5 MR. PASCOE: Please present Mr. Nelson.

6 CLERK OF COURT: What says the defense?

7 MR. LITTLEJOHN: Please excuse Mr. Nelson  
8 from this trial.

9 CLERK OF COURT: Yes, sir. Please return to  
10 the back of the courtroom where you see the bailiff.

11 CLERK OF COURT: 124, Ann Milliken -- 124.

12 MS. MILLIKEN: Ann Milliken, and I'm a  
13 housewife.

14 CLERK OF COURT: What says the State?

15 MR. PASCOE: Please present Ms. Milliken.

16 CLERK OF COURT: What says the defense?

17 MR. LITTLEJOHN: Please seat Ms. Milliken.

18 CLERK OF COURT: Please have a seat here in  
19 the jury box.

20 CLERK OF COURT: 14, Tonya Bentner -- 14.

21 MS. BENTNER: My name is Tonya Bentner. I'm  
22 a nursing student at Midlands Tech.

23 CLERK OF COURT: What says the State?

24 MR. PASCOE: Please present Ms. Bentner.

25 CLERK OF COURT: What says the defense?

1 MR. LITTLEJOHN: Please seat Ms. Bentner.

2 CLERK OF COURT: Please have a seat here in  
3 the jury box.

4 CLERK OF COURT: 22, Christina Brady -- 22.

5 MS. BRADY: Christina Brady. I'm a law  
6 student at the University of South Carolina.

7 CLERK OF COURT: What says the State?

8 MR. PASCOE: Please present Ms. Brady.

9 CLERK OF COURT: What says the defense?

10 MR. LITTLEJOHN: Please seat Ms. Brady.

11 CLERK OF COURT: Please have a seat there in  
12 the jury box.

13 CLERK OF COURT: 153, Christopher Reese --  
14 153.

15 MR. REESE: My name is Christopher Reese.  
16 I'm a truck driver for Carolina Wrecker.

17 CLERK OF COURT: What says the State?

18 MR. PASCOE: Please present Mr. Reese.

19 CLERK OF COURT: What says the defense?

20 MR. LITTLEJOHN: Please seat Mr. Reese.

21 CLERK OF COURT: Please have a seat here in  
22 the jury box.

23 CLERK OF COURT: 214, Richard Brown -- 214.

24 MR. BROWN: My name is Richard Brown. I'm in  
25 sales with Hirschfield Steel Company.



1 CLERK OF COURT: What says the State?

2 MR. PASCOE: Please present Mr. Brown.

3 CLERK OF COURT: What says the defense?

4 MR. LITTLEJOHN: Please excuse Mr. Brown from  
5 this case.

6 CLERK OF COURT: Sir, you may return to the  
7 back of the courtroom where you see the bailiff.

8 BAILIFF: This way, please, sir.

9 CLERK OF COURT: 114, Erma Loman -- 114.

10 MS. LOMAN: Erma Loman, teacher, Richland  
11 District 2.

12 CLERK OF COURT: What says the State?

13 MR. PASCOE: Please present Ms. Loman.

14 CLERK OF COURT: What says the defense?

15 MR. LITTLEJOHN: Please seat Ms. Loman.

16 CLERK OF COURT: Please have a seat here in  
17 the jury box.

18 CLERK OF COURT: 110, Gail King -- 110.

19 MS. KING: I'm Gail King, deputy director for  
20 LRADAC grants through USC.

21 CLERK OF COURT: What says the State?

22 MR. PASCOE: Please present Ms. King.

23 CLERK OF COURT: What says the defense?

24 MR. LITTLEJOHN: Please seat Ms. King.

25 CLERK OF COURT: Please have a seat here in

1 the jury box, ma'am.

2 CLERK OF COURT: 88, Rachel Hawkins -- 88.

3 MS. HAWKINS: My name is Rachel Hawkins, and  
4 I'm a student at USC.

5 CLERK OF COURT: What says the State?

6 MR. PASCOE: Please present Ms. Hawkins.

7 CLERK OF COURT: What says the defense?

8 MR. LITTLEJOHN: Please excuse Ms. Hawkins  
9 from this case.

10 CLERK OF COURT: Ma'am, please return to the  
11 back of the courtroom there where you see the bailiff.

12 BAILIFF: This way, please. Thank you.

13 CLERK OF COURT: 211, Mary Wagener -- 211.

14 MS. WAGENER: My name is Mary Ann Wagener,  
15 and I work for South Carolina Community Bank.

16 CLERK OF COURT: What says the State?

17 MR. PASCOE: Please present Ms. Wagener.

18 CLERK OF COURT: What says the defense?

19 MR. LITTLEJOHN: Please excuse Ms. Wagener  
20 from this case.

21 CLERK OF COURT: Please return to the back of  
22 the courtroom, ma'am, where you see the bailiff.

23 CLERK OF COURT: 92, Peter Hill -- 92.

24 MR. HILL: My name is Peter Hill. I'm a  
25 student at Clemson University.

1 CLERK OF COURT: What says the State?

2 MR. PASCOE: Please present Mr. Hill.

3 CLERK OF COURT: What says the defense?

4 MR. LITTLEJOHN: Please seat Mr. Hill.

5 CLERK OF COURT: Please have a seat here in  
6 the jury box, sir.

7 CLERK OF COURT: 149, David Peters -- 149.

8 MR. PETERS: My name is David Peters. I'm a  
9 lab assistant at Van De Grift Animal Clinic.

10 CLERK OF COURT: What says the State?

11 MR. PASCOE: Please present Mr. Peters.

12 CLERK OF COURT: What says the defense?

13 MR. LITTLEJOHN: Please excuse Mr. Peters.

14 CLERK OF COURT: Sir, please return to the  
15 back of the courtroom there where you see the bailiff  
16 standing.

17 CLERK OF COURT: 116, Michael Manning -- 116.

18 MR. MANNING: Michael Manning. I'm a pilot  
19 in the U.S. Air Force.

20 CLERK OF COURT: What says the State?

21 MR. PASCOE: Please present Mr. Manning.

22 CLERK OF COURT: What says the defense?

23 MR. LITTLEJOHN: Please excuse Mr. Manning  
24 from this case.

25 CLERK OF COURT: Sir, please return to the

1 back of the courtroom where you see the bailiff.

2 THE COURT: The defense has two strikes left.

3 CLERK OF COURT: 100, Wesley Jennings -- 100.

4 MR. JENNINGS: Wesley Jennings, graduate  
5 teaching assistant at USC.

6 CLERK OF COURT: What says the State?

7 MR. PASCOE: Please present Mr. Jennings.

8 CLERK OF COURT: What says the defense?

9 MR. LITTLEJOHN: Please seat Mr. Jennings.

10 CLERK OF COURT: Please have a seat here in  
11 the jury box.

12 CLERK OF COURT: 26, April Brower -- 26.

13 MS. BROWER: April Brower, employed by the  
14 University of South Carolina Housing Office.

15 CLERK OF COURT: What says the State?

16 MR. PASCOE: Please present Ms. Brower.

17 CLERK OF COURT: What says the defense?

18 MR. LITTLEJOHN: Please seat Ms. Brower.

19 CLERK OF COURT: Please have a seat here in  
20 the jury box.

21 COURT REPORTER: Just the 12 and two  
22 alternates?

23 THE COURT: There'll be two alternates.

24 CLERK OF COURT: 206, Charles Woods -- 206.

25 MR. WOODS: Charles Woods, graduate student

1 at USC.

2 CLERK OF COURT: What says the State?

3 MR. PASCOE: Please present Mr. Woods.

4 CLERK OF COURT: What says the defense?

5 MR. LITTLEJOHN: Please seat Mr. Woods.

6 CLERK OF COURT: Please have a seat here in  
7 the jury box.

8 CLERK OF COURT: 118, Kimberly Massey -- 118.

9 MS. MASSEY: My name is Kimberly Massey. I'm  
10 a graphics and web developer at USC.

11 CLERK OF COURT: What says the State?

12 MR. PASCOE: Please present Ms. Massey.

13 CLERK OF COURT: What says the defense?

14 MR. LITTLEJOHN: Please excuse Ms. Massey  
15 from this case.

16 CLERK OF COURT: Please return to the back of  
17 the courtroom there where you see the bailiff.

18 CLERK OF COURT: 179, George Stone -- 179.

19 MR. STONE: My name is George Stone. I'm an  
20 engineer with South Carolina Electric and Gas Company.

21 CLERK OF COURT: What says the State?

22 MR. PASCOE: Please present Mr. Stone.

23 CLERK OF COURT: What says the defense?

24 MR. LITTLEJOHN: Please excuse Mr. Stone.

25 CLERK OF COURT: Please return to the back of

1 the courtroom there where you see the bailiff.

2 CLERK OF COURT: 1, James Adams -- number 1.

3 MR. ADAMS: My name is James Adams. I'm a  
4 student at Benedict College.

5 CLERK OF COURT: What says the State?

6 MR. PASCOE: Please excuse Mr. Adams.

7 CLERK OF COURT: Sir, please return to the  
8 back of the courtroom there where you see the bailiff.

9 CLERK OF COURT: 182, Jason Sutton -- 182.

10 MR. SUTTON: Jason Sutton. I work at Target  
11 in Lugoff.

12 CLERK OF COURT: Does the State challenge for  
13 cause?

14 MR. PASCOE: Can we approach, Your Honor?

15 THE COURT: Yes, sir.

16 THE COURT: May I see you for a moment,  
17 please? If you would, come over here, please, sir. Do  
18 you know the defendant at all?

19 MR. SUTTON: Not at all.

20 THE COURT: Did you all speak to each other  
21 about anything to each other before jury selection?

22 MR. SUTTON: No, sir. I don't know him.

23 THE COURT: Did you have any exchange of  
24 glances at each other or anything like that?

25 MR. SUTTON: I kind of looked at him when I

1       came him, but that's about it.

2               THE COURT: But you've never seen him before  
3       today?

4               MR. SUTTON: Never before.

5               THE COURT: Okay. Thank you, sir. You can  
6       step down there.

7               MR. PASCOE: Counter from the State, Your  
8       Honor.

9               THE COURT: Counsel, will you all approach?

10              MR. PASCOE: Do you want us to approach?

11              THE COURT: Yes. You all are okay?

12              MR. PASCOE: Yes, sir.

13              THE COURT: Both sides are okay? All right.  
14       I'm sorry, I missed that last part. The State's not  
15       counter?

16              MR. PASCOE: No, sir.

17              THE COURT: Okay. And defense is not  
18       counter?

19              MR. LITTLEJOHN: Seat the juror.

20              THE COURT: Okay. Thank you, sir.

21              THE COURT: You can have a seat, sir.

22              CLERK OF COURT: Please have a seat in the  
23       jury box.

24              THE COURT: Counsel, anything related to jury  
25       selection?

1 MR. PASCOE: Yes, sir. Beg the Court's  
2 indulgence.

3 THE COURT: Yes, sir.

4 MR. PASCOE: Is it okay to approach, Your  
5 Honor?

6 THE COURT: Yes, sir.

7 THE COURT: Okay, ladies and gentlemen who  
8 have been seated on the jury, I'm going to ask if you  
9 all will follow the bailiff to the jury room. Do not  
10 discuss anything about the case at all, whether it's  
11 related to the allegation that I read to you in the  
12 indictment, the witnesses, anything I've asked you  
13 today during jury selection.

14 Just, please, if you will, just bear with us  
15 shortly. Just don't talk about anything about this  
16 case or anything you've heard this morning. You all  
17 will wait in the jury room. I'll bring you back out  
18 shortly. Thank you.

19 (Jury out at 12:48 p.m.)

20 THE COURT: All right, ladies and gentlemen  
21 who were not picked on the jury, if you could, they  
22 will show you next door to the courtroom next door.  
23 I'm going to have you sit in that courtroom while I  
24 take up some matters with the attorneys outside your  
25 presence.



1                   Again, much like the folks I just sent out, I  
2                   ask that you just not talk about the case or anything  
3                   that you've heard or seen this morning. And we'll  
4                   bring you back shortly, okay? Thank you.

5                                   (Jury pool moved to a nearby  
6                   courtroom at 12:50 p.m.)

7                   THE COURT: Okay, Mr. Pascoe.

8                   MR. PASCOE: Thank you, Your Honor. We want  
9                   to challenge some of the defense's strikes, Your Honor.  
10                  We noticed he used a total of ten strikes, nine of them  
11                  on whites. In fact, he only seated one white male, and  
12                  I think that was an alternate, wasn't it?

13                  Specifically, if we just go right down the  
14                  line, if we could hear what the reasonings are for  
15                  those strikes.

16                  THE COURT: Yes, sir.

17                  MR. PASCOE: Mr. Petrus, Juror 210.

18                  MR. LITTLEJOHN: Your Honor, if you could  
19                  give us just a minute. I'm trying to put the  
20                  information together with the jurors.

21                  THE COURT: Okay.

22                  MR. LITTLEJOHN: And I'll be happy to address  
23                  those concerns.

24                  THE COURT: Yes, sir. Do you need a moment  
25                  before he reads off the list, or do you want to hear

1 the list?

2 MR. LITTLEJOHN: If you could give me just a  
3 moment --

4 THE COURT: Okay.

5 MR. LITTLEJOHN: -- I'll be ready to respond  
6 to all of them.

7 THE COURT: Yes, sir.

8 MR. PASCOE: That's fine.

9 THE COURT: Mr. Littlejohn, I don't mean to  
10 rush you, but I would assume you all had reasons for  
11 striking them at the time.

12 MR. LITTLEJOHN: We did, Your Honor. It just  
13 goes so fast, I was trying to put the faces with the  
14 names --

15 THE COURT: Okay.

16 MR. LITTLEJOHN: -- and just make sure I'm  
17 accurate before I address the Court.

18 THE COURT: Yes, sir.

19 MR. LITTLEJOHN: We're ready, Your Honor.

20 THE COURT: Okay.

21 THE COURT: Mr. Pascoe, I think we started  
22 off with --

23 MR. PASCOE: We're not challenging all the  
24 strikes, Your Honor --

25 THE COURT: Okay.

1 MR. PASCOE: -- just certain factors. Let me  
2 just call out the ones.

3 THE COURT: Okay.

4 MR. PASCOE: Specifically, I think it was  
5 Juror 136, Mr. Nelson, white male.

6 THE COURT: I think you had originally said  
7 210.

8 MR. PASCOE: Well, I can list it out -- yes,  
9 Mr. Petrus.

10 THE COURT: Okay.

11 MR. LITTLEJOHN: Your Honor, I think for  
12 purposes of the record, we need to go through all of  
13 them, if I'm not mistaken. I don't think he can just  
14 him.

15 MR. PASCOE: We can go through all of them.  
16 To speed it up, we're just making a challenge.

17 THE COURT: Yes, okay. Why don't you just  
18 state the grounds for your challenge?

19 MR. LITTLEJOHN: Your Honor, if 210 was  
20 Petrus, he said he had met the victim before, and he  
21 was acquainted with him. And that reason alone, I  
22 feel, is sufficient to strike him.

23 MR. PASCOE: And that's why we're going to  
24 concede that one. That's why I went to Mr. Nelson.

25 THE COURT: Okay, that's number 136.

1           MR. LITTLEJOHN: Quite frankly, as to Mr.  
2 Nelson, there was just something about his attitude  
3 that my client didn't like, and it had nothing to do  
4 with his race. He just didn't feel like he was going  
5 to be serious as to these proceedings.

6           MR. PASCOE: That's not a reason, Your Honor.  
7 How do you not like his attitude? That's not a reason.

8           THE COURT: Anything specific about what he  
9 didn't like?

10          MR. LITTLEJOHN: Your Honor, I think we have  
11 to look at all of them to see what the ratio is, etc.  
12 I think you just can't pull one out of all.

13          THE COURT: And Mr. Pascoe is saying which  
14 ones he is raising a challenge as to, and I'm just  
15 trying to get the reason for the strike from the  
16 defense first. And there may be some overall argument  
17 that you all have as to the whole group. I don't know.  
18 But as to 136, I'm just trying to write down what he  
19 justified the strike on.

20          MR. LITTLEJOHN: Your Honor, those were his  
21 words to me, that he just appeared flippant and to not  
22 be interested in the proceedings, and for that reason,  
23 we did not feel he would be a good juror.

24          THE COURT: Okay.

25          THE COURT: All right, Mr. Pascoe.

1                   MR. PASCOE: I'd like to know he appeared  
2                   flippant. I observed that juror as all the jurors, and  
3                   he never appeared flippant. I think they're making it  
4                   up. When he came up to the microphone, he was  
5                   professional. He said where he went to school. There  
6                   was nothing flippant about what he did. That's just  
7                   not a reason.

8                   MR. LITTLEJOHN: Your Honor, first off, I  
9                   don't make up things that I present to the Court.  
10                  That's what we observed, and that was the reason that  
11                  my client did not want him on the jury.

12                  THE COURT: Okay.

13                  MR. PASCOE: But he didn't say that he  
14                  observed it originally. He was trying to say that his  
15                  client -- I just don't think that's a very -- that's a  
16                  real reason.

17                  THE COURT: Well, let me hear the rest of  
18                  them --

19                  MR. PASCOE: Okay.

20                  THE COURT: -- and then I'll put it in the  
21                  context -- number 136. What's the next number?

22                  MR. PASCOE: 214, Your Honor, Mr. Brown.

23                  THE COURT: 214 -- your reasoning for  
24                  rejection as to that?

25                  MR. LITTLEJOHN: Your Honor, this gentleman

1       came up and recounted he had read something about the  
2       case. He was interviewed by the Court individually,  
3       and at that time, he made a statement to the effect  
4       that he thought this was just another shooting. And we  
5       didn't think that was a serious enough attitude to be  
6       involved in this particular jury.

7               THE COURT: All right, sir.

8               THE COURT: Mr. Pascoe.

9               MR. PASCOE: If you only put African-  
10       Americans on the jury, specifically an African-  
11       American, you said that she heard that the victim came  
12       from a good family, that approach that said that she  
13       had knowledge about what happened? And we were all  
14       there. What that juror was saying was that that's all  
15       he had heard, so it wouldn't affect him being a fair  
16       juror.

17              THE COURT: That's the way I took his comment  
18       at the sidebar --

19              MR. PASCOE: Yes, sir.

20              THE COURT: -- is that he was referring to "I  
21       didn't dwell on it," not that he was being flippant  
22       about the case. That's certainly the reason for the  
23       strike as to 214. What's the next juror?

24              MR. PASCOE: The one we were going to  
25       challenge, Your Honor, is Wagener, 211.

1 THE COURT: Okay, Mr. Littlejohn?

2 MR. LITTLEJOHN: Your Honor, she's a white  
3 female. She works in the banking industry. People in  
4 the banking industry tend to be very conservative, and  
5 for that reason, we felt like that was our non-gender,  
6 non-racial decision.

7 MR. PASCOE: Speaking of conservative, Your  
8 Honor, to put a black male who works at the Budget and  
9 Control Board -- someone who works at a bank is  
10 conservative, but someone who works for the State  
11 isn't, especially the Budget and Control Board? But  
12 the difference being she's a white female; he is an  
13 African-American male.

14 THE COURT: Anything further, Mr. Littlejohn,  
15 as to that juror?

16 MR. LITTLEJOHN: No, Your Honor.

17 THE COURT: The next one, Mr. Pascoe.

18 MR. PASCOE: The next one we're going to  
19 challenge, Your Honor, is 116, Mr. Manning.

20 MR. LITTLEJOHN: Your Honor, he's in the  
21 United States Air Force and is obviously employed by  
22 the government. And that would be our reason, that he  
23 works for the government.

24 MR. PASCOE: Mr. Brown is an African-American  
25 male, Your Honor --

1 THE COURT: That's just what we went through.

2 MR. PASCOE: -- who works for the government.

3 THE COURT: You just left somebody on who  
4 worked for the government. Was it just the federal  
5 government?

6 MR. LITTLEJOHN: Yes, sir. He's a pilot, and  
7 they seem to be very strait-laced.

8 THE COURT: All right, sir, the next one.

9 MR. PASCOE: Our next challenge, Your Honor,  
10 is going to be Ms. Massey. I think it's Juror 118.  
11 She was the first alternate they struck.

12 THE COURT: Okay. What's the reason for that  
13 one?

14 MR. LITTLEJOHN: Your Honor, this lady worked  
15 at USC. And certainly with the number of people that  
16 were affiliated with USC, we had to use our strikes  
17 where we thought they were appropriate. But we felt  
18 that she might be around some of these witnesses and  
19 might have some contact with the football team.

20 MR. PASCOE: Well, Your Honor, after hearing  
21 that, I will concede. I'll have to concede that he  
22 even did strike an African-American male who I think  
23 went to USC. So I'd withdraw my motion on that one.

24 THE COURT: As to 118?

25 MR. PASCOE: Yes, sir. And, finally, a Mr.



1 Stone, an alternate, Juror 179.

2 MR. LITTLEJOHN: Your Honor, that juror  
3 indicated in the individual voir dire that he lives  
4 close to the Voodoo Club and that's why it drew his  
5 interest. And we felt for that reason that might put  
6 some pressure on him. If you recall, he said the  
7 incident happened down the street from his house.

8 THE COURT: All right, Mr. Pascoe, anything  
9 else on that one?

10 MR. PASCOE: I don't have anything else on  
11 Mr. Stone.

12 THE COURT: Mr. Littlejohn, two of these in  
13 particular bother me a little bit, given the totality  
14 of the exercise of strikes, in particular Juror 136.  
15 And certainly he's got a right to exercise strikes in a  
16 constitutional manner, but I'm not hearing anything in  
17 particular about that particular juror that made it  
18 seem like he didn't take this case seriously.

19 What also bothers me is as to 116. Your  
20 initial justification was that he worked for the  
21 government, and there was another government employee  
22 allowed -- black government employee allowed -- to be  
23 seated. Can you explain those two?

24 MR. LITTLEJOHN: Your Honor, it just seems to  
25 me there's a great deal of difference between a white

1 person who works for the State at the Budget and  
2 Control Board and someone who is -- he said he was a  
3 pilot, so I'm assuming he's an officer in the United  
4 States Air Force. Being in the military, I would  
5 submit, is a lot different than being a regular person  
6 who is employed by the State.

7 Your Honor, I also think the Court has to  
8 look at the overall composition of the jury as  
9 constituted at present.

10 THE COURT: Okay. Anything further from the  
11 State?

12 MR. PASCOE: No, Your Honor.

13 THE COURT: All right. Mr. Littlejohn, I'm  
14 going to find that there is not a violation here, given  
15 the overall composition of the jury and the reasons  
16 you've offered. I think you make a point that you  
17 could exercise your strike if you thought that somebody  
18 in the Air Force was more conservative because they  
19 would be an officer in the military.

20 I understand that's your rationale for the  
21 211 who you struck, who was in banking, and you believe  
22 they tend to be more conservative. So I find that your  
23 overall exercise of strikes is not racially or gender  
24 biased. But I'll certainly note an exception if Mr.  
25 Pascoe wishes to make one.

1 MR. PASCOE: Thank you, Your Honor. I don't  
2 have anything.

3 THE COURT: Okay. Thank you, sir.

4 MR. PASCOE: And, honestly, I agree with the  
5 Court over one juror. I was going to tell you I didn't  
6 want to repick a jury if it came down to just that one  
7 juror being a problem.

8 THE COURT: Okay.

9 MR. PASCOE: So I certainly agree with the  
10 Court.

11 THE COURT: Thank you, sir. All right,  
12 counsel, I'm going to bring the jury back in first and  
13 get them situated for lunch, and then we'll break for  
14 lunch. And then we'll dismiss the rest of the panel.

15 (Jury back in at 1:08 p.m.)

16 BAILIFF: The jury is present, Your Honor.

17 THE COURT: Okay, thank you, sir.

18 THE COURT: Ladies and gentlemen of the jury,  
19 we're going to break for lunch at this point. We'll  
20 take care of lunch for you all. In just a little bit,  
21 I'll send you back to the jury room, and they'll give  
22 you some instructions regarding lunch there. I ask  
23 that while you're at lunch you not talk about the case  
24 at all, you not talk about any of the facts or  
25 questions that you've heard here this morning.

1 I think you all can talk about Christmas  
2 shopping or the upcoming bowl season or anything like  
3 that, but I ask that you not talk at all about the  
4 case. And when we come back -- we'll be back at 2:30 -  
5 - we'll swear you all in, and we'll get started on the  
6 case at that point. So, in the meantime, I just ask  
7 that you all enjoy your lunch, get to know each other,  
8 and do not talk about the case at all. Thank you.

9 And let me also reiterate to you all, because  
10 there was an article in the paper that did relate to  
11 this case, that you all not look at the paper while  
12 you're at lunch. And we'll see you all at 2:30. Thank  
13 you.

14 BAILIFF: You want them sent to the jury  
15 room?

16 THE COURT: Yes, why don't you send them back  
17 to the jury room.

18 (Jury sent to lunch at 1:15  
19 p.m. to 2:30 p.m.)

20 THE COURT: Okay, thank you, sir.

21 THE COURT: All right, counsel, rather than  
22 having you all sit here, if you all have no objection,  
23 I'll just go next door to the courtroom next door and  
24 send the rest of the panel downstairs, and they can get  
25 their further instructions. And we'll see you all at

1 2:30. Thank you, counsel.

2 (Break for lunch until 2:30  
3 p.m.)

4 THE COURT: Counsel, are we ready to go into  
5 opening arguments?

6 MR. PASCOE: Yes, sir, I'm ready, Your Honor.

7 MR. LITTLEJOHN: The defense is ready, Your  
8 Honor.

9 THE COURT: Okay, thank you. I think we're  
10 ready for the jury.

11 BAILIFF: The jury is present, Your Honor.

12 (The jury returned to the  
13 courtroom at 2:43 p.m., after which the following  
14 proceedings were had:)

15 THE COURT: Thank you, sir.

16 THE COURT: Thank you, ladies and gentlemen.  
17 I hope you all had a good lunch. We're ready to start  
18 the trial now.

19 The first thing I will ask you all to do is  
20 actually stand one more time, raise your right hands,  
21 and be sworn in as members of this jury.

22 CLERK OF COURT: Thank you, Judge. Please  
23 answer "I do," or "I will," at the end of my statement.

24 (Jury was sworn.)

25 CLERK OF COURT: Thank you. Please have a

1 seat.

2 THE COURT: Thank you, sir.

3 CLERK OF COURT: Yes, sir.

4 THE COURT: All right, ladies and gentlemen,  
5 we will open with opening statements from both the  
6 State and the defense counsel. I always remind jurors  
7 that opening statements and closing arguments are like  
8 questions actually from the attorneys. They're not  
9 evidence.

10 The only evidence that you all actually are  
11 to consider -- and I will instruct you further on this  
12 at the close of the case -- is testimony from the  
13 witness stand, and exhibits, and evidence that I  
14 actually introduce. Having told you that, however,  
15 opening statements are an opportunity for the attorneys  
16 to go over with you what they believe the evidence in  
17 this case will show, from both sides' perspective.

18 So I ask that you pay close attention to  
19 their opening statements. And after that, we'll start  
20 taking testimony.

21 THE COURT: Mr. Pascoe?

22 MR. PASCOE: May it please the Court?

23 THE COURT: Yes, sir.

24 **OPENING STATEMENT**

25 **BY MR. PASCOE FOR THE STATE**

1                   During the early morning hours of  
2                   Saturday, December 7th, of last year, 22-year-old Carl  
3                   Smalls, Jr., was hunted, gunned down, and murdered by  
4                   that man, Jeroid Price, and his friend, Ryan Brooks --  
5                   hunted and murdered by the defendant and his friend.  
6                   Specifically, as the evidence will show you, the  
7                   defendant and his friend, Ryan Brooks, approached Carl  
8                   Smalls at a club called Club Voodoo's right after the  
9                   party had ended.

10                   They pulled out guns, they shot him, and  
11                   they ran. In the case of the defendant, he ran for  
12                   months. And what did Lillie and Carl Smalls, Sr., lose  
13                   their son over? Absolutely nothing -- gang signs,  
14                   trash talk.

15                   Ladies and gentlemen, during the course  
16                   of this trial and at the end of it, you are going to  
17                   realize at least three things and get just one request  
18                   from me. First, you are going to realize that the  
19                   defendant is guilty of murder; that the defendant and  
20                   Ryan Brooks shot Carl Smalls and left him there to die  
21                   on that nightclub floor. Second, we have gangs in  
22                   Richland County. We have rival gangs in Richland  
23                   County.

24                   We have Crips and Crip want-to-be's who  
25                   wear blue and throw up signs. We have Bloods, who wear

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1 red and do their thing. Carl Smalls, unfortunately,  
2 even though he had his whole life ahead of him,  
3 affiliated himself with the Crips. Jeroid Price, we  
4 will prove, is a Blood. And the importance of that  
5 realization or the significance, the relevance of it,  
6 is that you will see just how little it takes to get  
7 killed in this world.

8 Getting in someone's face, trash talk,  
9 throwing up gang signs, wearing the wrong colors can  
10 get you killed. Is that reasonable? Absolutely not.  
11 It's absurd, but it's a fact. Third, you will see  
12 that, even though there were still hundreds of people -  
13 - at least dozens -- at Club Voodoo's the night Carl  
14 was murdered by the defendant, amazingly very few  
15 people came forward.

16 And even when the police went out and  
17 found relevant witnesses, friends of the defendant,  
18 you'll hear how they lied repeatedly. And what's even  
19 more amazing, something I've never had to tell a jury  
20 in my 11 years as a prosecutor, some of the State's  
21 witnesses that we call may still not tell the truth,  
22 whether it's because they're afraid, whether they're  
23 protecting their friend or themselves.

24 But one thing I do know is that, while  
25 you can run from the truth, you can't hide from it,



## Opening by the State

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1       which brings me to the only request I will have for you  
2       at the end of this case, which is this -- do what you  
3       just took an oath that you would do. It's not up to  
4       the State of South Carolina to render a truthful  
5       verdict, or the witnesses, or the defense, or even  
6       Judge Lloyd. That rests solely upon you.

7                       And I ask that you assess the  
8       credibility of every single witness who gets on that  
9       witness stand. You deal with people every single day.  
10      You know when somebody's lying, and you know why  
11      they're lying. You know when somebody's telling the  
12      truth. And I ask at the end of this case that you tell  
13      the world what the truth is, that the truth matters, by  
14      holding the defendant, Jeroid Price, responsible for  
15      this cold-blooded murder.

16                     Ladies and gentlemen, my name is David  
17      Pascoe, and I, along with Don Sorenson and Bryan  
18      Jeffries, will be prosecuting this case on behalf of  
19      the State of South Carolina. Also seated at the  
20      State's table is Lt. Stan Smith. He's the lead  
21      investigator on this case from the Richland County  
22      Sheriff's Department.

23                     And seated behind the State's table are  
24      Carl Smalls, Sr., his wife Lillie, and other family  
25      members of Carl, Jr. On behalf of both the Smalls

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1 family and the State of South Carolina, I want to thank  
2 each and every one of you for being here today. I know  
3 you didn't volunteer for jury service. But the fact of  
4 the matter is that jury duty -- other than what our men  
5 and women are doing for us overseas right now, jury  
6 duty is the most important service you can perform for  
7 your country, and I certainly concur with that.

8 Before I go further into what some more  
9 of the facts are going to be in this case, I want to  
10 very briefly talk to you a little bit about the law  
11 with regards to murder. And I promise to be brief,  
12 because you're going to have a number of opportunities  
13 to hear about the law, the most important time coming  
14 when Judge Lloyd will charge you on the law before you  
15 are asked to render your verdict.

16 Murder has probably the shortest and  
17 simplest definition of any crime on our books. Murder  
18 is defined as the unlawful killing of another with  
19 malice aforethought, either express or implied. That's  
20 it -- the unlawful killing of another with malice  
21 aforethought.

22 Thus, to prove murder, all you have to  
23 establish is malice. And malice has a number of  
24 definitions. It's a person void of social  
25 responsibility, reckless disregard for the welfare of

1 another. It's an intentional act of violence. Malice  
2 has no time limit. It can happen in the blink of an  
3 eye and the snap of a finger. And as I said, malice  
4 can either be express or implied.

5           An example of express malice would be  
6 saying you're going to hurt someone, or motioning that  
7 you're going to hurt someone, and then doing it, lying  
8 in wait for the victim or seeking the victim. These  
9 are all examples of express malice. And while I submit  
10 we will prove examples of express malice in this case,  
11 the law recognizes you usually don't have express  
12 malice. So malice can also be implied.

13           And just one example of implied malice  
14 would be the mere use of a deadly weapon, such as a  
15 gun. Shooting the victim one time is malice; two  
16 times, more malice; three times, even more malice.  
17 That's murder -- the unlawful killing of another with  
18 malice aforethought, either express or implied.

19           And the standard of proof with which the  
20 State must prove the defendant's guilt is proof beyond  
21 a reasonable doubt. This phrase means exactly the  
22 same. It's not proof beyond any doubt. It's not proof  
23 beyond any possible doubt. It's proof beyond a  
24 reasonable doubt. The simple matter of the fact is we  
25 have doubts about everything in this world. Some may

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1       doubt whether the earth revolves around the sun.

2                       But you have to ask yourself, is it  
3       reasonable? And, in essence, what proof beyond a  
4       reasonable doubt means is after you've looked at all  
5       the evidence -- not just one piece of it, but after  
6       you've looked at all the evidence -- if you are firmly  
7       convinced, just firmly convinced, of the defendant's  
8       guilt, you must find him guilty. And I submit the  
9       evidence will leave you much, much more than firmly  
10      convinced.

11                     The evidence will be that 22-year-old  
12      Carl Smalls was a student at the University of North  
13      Carolina. He played football there. He was on the  
14      defensive line. He came down here on December 6th,  
15      that Friday of last year, to visit his girlfriend of  
16      some four or five years, Joy Ellington. He also wanted  
17      to visit some of the South Carolina football players,  
18      because he actually played his freshman year here at  
19      South Carolina.

20                     Carl learned later that day that a USC  
21      fraternity was throwing a party. I think it was the  
22      Alpha fraternity at USC. They were going to throw a  
23      party at Club Voodoo's off of Garners Ferry Road. Carl  
24      and Joy both went together to the party that night.  
25      You're going to hear that the place was packed and that

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1 security was an absolute joke.

2 Carl and Joy at one point in the night  
3 got into a little argument over nothing, boyfriend-  
4 girlfriend stuff. They made up, but Joy wanted to  
5 leave with a girlfriend. She didn't want to go there  
6 to begin with. But before leaving, she asked Carl if  
7 he was going to be okay, and he said he would, that  
8 he'd catch a ride with a Carolina football player.

9 Unfortunately, for Carl Smalls -- and as  
10 you're going to hear and see from the evidence -- even  
11 though this was a college fraternity, the defendant and  
12 his friends showed up -- because another thing you're  
13 going to see is that there are gang want-to-be's and  
14 then there are real gang members.

15 You have want-to-be's who maybe know the  
16 colors, know the signs, know the walk. And you have  
17 the real thing, the gang members that tote guns, the  
18 Jeroid Prices of the world. The evidence will be that  
19 about 2:00 that morning, or right before 2:00 that  
20 morning, the defendant and his group of people got into  
21 a verbal confrontation with Carl Smalls and some of  
22 Carl's friends.

23 They got in each other's faces. They  
24 threw signs at one another. It was finally broken up,  
25 but not before Carl was actually told that night that

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1 he was going to fall. Right at 2:00 in the morning,  
2 the party ended. People were supposed to exit the  
3 building at 2:00 in the morning. Carl briefly exited,  
4 but for some reason -- which we will prove why Carl  
5 came back into that building -- he came back in, I  
6 submit because he knew he was in trouble, and he waited  
7 by that door.

8                   You're going to hear from a number of  
9 witnesses who had different vantage points to this  
10 murder, some from the outside and some from the inside.  
11 And the facts will be -- the truth will be -- that Ryan  
12 Brooks and the defendant, Jeroid Price, approached Carl  
13 Smalls and that Carl Smalls struggled for his life.  
14 Ryan Brooks pulled out a .380 semi-automatic pistol.

15                   The defendant pulled out a larger .40-  
16 caliber pistol. And they pointed it at Carl as he  
17 struggled, and they shot him three times, the last  
18 shots being fired while the defendant was standing over  
19 him. He was shot in the hip, the waist, and right  
20 through the chest. Carl Smalls died on that floor, and  
21 the defendants ran. Ryan Brooks finally turned himself  
22 in in January of this year. The defendant finally  
23 turned himself in in late March, three and a half  
24 months after this incident.

25                   Now, this is just some -- and I'll

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1 stress "some" -- of the evidence that you're going to  
2 hear in this case, because you're also going to hear  
3 about how Carl actually had gunshot residue all over  
4 his left hand from struggling with those defendants  
5 over those guns and from being shot at close range by  
6 those defendants.

7 A bullet actually grazed his arm.  
8 You're going to hear that less than a week after this  
9 murder, when the police searched the defendant's  
10 apartment, of course, the defendant isn't there, but  
11 they find gang material, and they find a gun box for a  
12 .40-caliber pistol, the same type of gun that was used  
13 to kill Carl Smalls. And they found much, much more.

14 You're also going to hear, ladies and  
15 gentlemen, I submit, a voice from the grave. You are  
16 going to hear a call that Carl Smalls made minutes,  
17 maybe seconds, before he was gunned down, a call to  
18 911, a call for help. This is just some -- and I want  
19 to stress "some" -- of the evidence that you're going  
20 to hear about in this case.

21 You're also going to hear about how the  
22 defendant, while he was on the run, had communication  
23 with the police. He would call them from a cell phone  
24 and make inconsistent statements. At first, he would  
25 tell them, "Well, I wasn't even there. I've got an

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1       alibi." And then when the police found that that  
2       wasn't true, he would allude to self-defense and,  
3       again, much, much more.

4                       In closing, I want to thank you again  
5       for your service. And I want to throw one last thing  
6       out at you, which is that, while there are no classes  
7       on how to be a good juror, I submit each and every one  
8       of you has been training for this job your whole life.  
9       Some of you have been training as teachers, as parents,  
10      as students, and it's this diversity of experience  
11      you're asked to bring together, use your common sense,  
12      and render a verdict.

13                     "Verdict" is a Latin word. It means  
14      "veredicto." Literally -- and this is going to  
15      surprise you -- it means to speak the truth. All I'm  
16      asking you is that you tell us what the truth is about  
17      December the 7th of last year. And I submit if you do  
18      that, the only truthful verdict you can render is that  
19      the defendant is guilty. Thank you.

20                     THE COURT: Thank you, Mr. Pascoe.

21                     THE COURT: Mr. Littlejohn?

22                     MR. LITTLEJOHN: May it please the Court?

23                     THE COURT: Yes, sir.

24                     **OPENING STATEMENT BY MR. LITTLEJOHN**

25                               **FOR THE DEFENSE**



## Opening by the Defense

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1                   Good afternoon, ladies and gentlemen.  
2       I'm going to use some notes here. I'm not as young Mr.  
3       Pascoe, and my memory is not quite as good. I can't  
4       remember all this stuff, and this is too important a  
5       case for me to forget something. I want to thank you  
6       for being here.

7                   As the Judge said, and as Mr. Pascoe  
8       said, this is a very important duty which you are about  
9       to undertake, the duty of being a jury member. Winston  
10      Churchill once said that other than serving your  
11      country during wartime, being on the jury is the most  
12      important service that you can render to your country.  
13      So I want to thank you for being here.

14                  I want to thank you for having set aside  
15      your jobs, and your family, and your Christmas  
16      shopping, and everything that goes on at this time of  
17      year to be the jury in this case.

18                  Ladies and gentlemen, again, my name is  
19      Cam Littlejohn. I'm a sole practitioner here in  
20      Columbia, and I, along with Amye Rushing, represent the  
21      defendant, Jeroid Price. Jeroid, would you stand up  
22      for a second? This is Jeroid Price. This is the man  
23      who is charged in the indictment. Thank you. I wanted  
24      you to see Jeroid, and see how tall he is and how big  
25      he is, because that's going to become important in this

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1 case.

2 Now, I think you'll find that your  
3 service here will be very interesting. I noted during  
4 the qualification earlier today that there weren't too  
5 many people that had ever served on a jury before. And  
6 I'm assuming that many of you have never been on a jury  
7 before, and I think you will find it interesting, and I  
8 think you will find it enlightening to learn how our  
9 system of jurisprudence, how our criminal justice  
10 system, works in this country.

11 And there are a number of rules that we  
12 go by and a number of principles that are very  
13 important to the way we handle criminal cases in this  
14 country. And I'll discuss that in a minute.

15 But, first off, let me tell about the  
16 two things that are for sure in this case. And Mr.  
17 Pascoe mentioned several things he thought were for  
18 sure. Number one, unfortunately, there is a man who is  
19 dead. Secondly, there is a man over here at this table  
20 that is on trial for his life. And this is a very  
21 important case, as I mentioned. It's important to  
22 Jeroid Price for obvious reasons. But how did we get  
23 here? Well, let me tell you how we got here.

24 As Mr. Pascoe said, there was a shooting  
25 at the Voodoo Lounge, which is out on Garners Ferry

1 Road, on December 7, 2002. The Richland County  
2 Sheriff's Department went out there and investigated,  
3 and you're going to hear from various witnesses with  
4 the Sheriff's Department how they investigated, and  
5 what they found, and who they interviewed, who they  
6 didn't interview. So you'll be privy to that. You'll  
7 have the benefit of all that.

8 But after the police investigated, they  
9 went to the Magistrate and they got a warrant. They  
10 got a warrant charging Jeroid Price with murder. When  
11 they made application for that warrant, Jeroid Price  
12 wasn't there. I wasn't there. Nobody was there  
13 representing Jeroid Price. They got a warrant for him.  
14 Later, after Jeroid turned himself in, they went to the  
15 Grand Jury, and the Grand Jury heard the Solicitor's  
16 side of the case -- the State's side -- and they  
17 returned a true bill, an indictment. You'll hear that  
18 term as we go along.

19 An indictment is a formal charge. So we  
20 have to have an indictment in order to proceed. But  
21 the indictment is not evidence, and the fact that the  
22 Magistrate issued a warrant is not evidence, and the  
23 fact that the Grand Jury took some action is not  
24 evidence.

25 The defendant in this case, like in any

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1 other case, is presumed to be not guilty as he sits  
2 here right now. And His Honor is going to explain that  
3 to you at the conclusion of this case. He has a  
4 presumption of innocence that follows him the entire  
5 way through this case -- not after one witness, not  
6 after two, not after three, but through the entire  
7 case. And so I ask you to bear that in mind, to keep  
8 your mind open, to listen to all the testimony before  
9 you decide anything in this case. And His Honor will  
10 tell you, that's what you have to do as jurors.

11 And that's the beauty of our system,  
12 ladies and gentlemen. A man or a woman is presumed to  
13 be innocent. They have the right to a trial. We don't  
14 allow people in this country to be punished because  
15 some dictator or some secret police says, "Hey, I think  
16 he did something bad. We're going to throw him in  
17 jail." It doesn't work like that. Our system of law  
18 and justice requires that the government prove somebody  
19 -- prove that they're guilty beyond a reasonable doubt  
20 by a jury of that person's peers, such as you, before  
21 they can be found guilty.

22 That applies to everybody that's  
23 excused. It applies to you, and me, and everybody in  
24 this city, everybody in this state, everybody in this  
25 country -- and Jeroid Price.

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1                   Mr. Pascoe told you -- and His Honor is  
2 going to instruct you -- that the State has to prove  
3 this case beyond a reasonable doubt. They have to  
4 prove that there was an unlawful killing of a person  
5 with malice aforethought. Those are individual  
6 elements, individual words. They have to prove that it  
7 was unlawful, there was a killing, and that it was done  
8 with malice aforethought.

9                   Each one of those elements have to be  
10 proven by the State. Now, His Honor will instruct you  
11 as to all these elements at the conclusion, and you'll  
12 have the benefit of that information. But I want to  
13 emphasize that they must prove all these things.  
14 They've got to prove that it was an intentional  
15 killing. They've got to prove that it wasn't a case of  
16 mistaken identity. They've got to prove it wasn't an  
17 accident.

18                   They've got to prove it wasn't self-  
19 defense. They have the burden, because that's the way  
20 our system works. The burden of proof is squarely on  
21 them, because we don't allow dictators and secret  
22 police to dictate who's convicted of crimes. If you  
23 aren't convinced, when all the evidence is in, of what  
24 happened on December 7th, if you're not convinced that  
25 they've proven those elements, you have to render a

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1 verdict of not guilty. That's your duty. That's how  
2 the system works.

3 Now, what happened that night of  
4 December 7, 2002? I don't know. I wasn't there. Mr.  
5 Pascoe wasn't there. He doesn't know what happened.  
6 Judge Lloyd wasn't there. He doesn't know what  
7 happened. You weren't there. You don't know what  
8 happened. And the way we determine these things is  
9 through testimony, through physical evidence that may  
10 be introduced, there may be some expert testimony.

11 But after all that information is  
12 processed and given to you, then you go back and apply  
13 your common sense to what you've heard, and you  
14 determine what the truth is. You determine whether  
15 that burden of proof has been met. But I submit to  
16 you, ladies and gentlemen, that after you hear all the  
17 evidence in this case, you still aren't going to know  
18 what happened on December 7, 2002, at the Voodoo  
19 Lounge.

20 And if you aren't convinced, you can't  
21 find Jeroid Price guilty. You're going to hear  
22 conflicting statements, as Mr. Pascoe indicated.  
23 You're going to hear witnesses that testimony doesn't  
24 mesh, testimony that's at conflict with each other,  
25 testimony that's at conflict with the physical

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1 evidence. That's going to happen. That's one thing I  
2 think you can be sure of.

3 There's going to be physical evidence  
4 presented that won't add up, that won't mesh, that  
5 won't be convincing. And if it doesn't add up, if it  
6 doesn't convince you, then you have to say not guilty.  
7 That's how the system works.

8 Now, ladies and gentlemen, I could get  
9 up here and go on and tell you what I think is going to  
10 happen during the presentation of evidence in this  
11 case, but I don't know. So rather than me get up and  
12 say, "Well, you're going to hear this, and you're going  
13 to hear that," I'd rather just sit down and let the  
14 witnesses start presenting their case, and we'll go  
15 forward and get going with this trial.

16 So I'm going to ask you to do three  
17 things. I'm going to ask you three things that I know  
18 you'll do. And the first one is listen to the evidence  
19 very closely. The second one is listen to the law or  
20 the legal instructions that Judge Lloyd gives you at  
21 the end of the case. And the third thing is I ask you  
22 to keep your minds open and wait till you hear  
23 everything before you try and make any kind of decision  
24 in this case.

25 And after you've heard all that, I think

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1       you'll agree with me. You still won't know what  
2       happened at the Voodoo Lounge on December 7th. Thank  
3       you.

4               THE COURT: Thank you, sir.

5               THE COURT: Mr. Pascoe, are you ready to call  
6       the first witness?

7               MR. PASCOE: The State calls Ryan Brooks.

8               CLERK OF COURT: Place your left hand on the  
9       Bible and raise your right as best you can.

10                       (The witness was sworn.)

11               CLERK OF COURT: Please have a seat up there,  
12       speak into the microphone, and state your full name for  
13       the record.

14               THE COURT: State your full name for the  
15       record.

16               MR. BROOKS: Ryan Christopher Brooks.

17               THE COURT: Mr. Pascoe.

18                       RYAN CHRISTOPHER BROOKS,  
19       having first been duly sworn, testified as follows:

20                               **DIRECT EXAMINATION**

21       BY MR. PASCOE:

22               Q     Good afternoon, Mr. Brooks.

23               A     Good afternoon.

24               Q     Sir, you're charged for the death of Carl  
25       Smalls, is that correct, sir? Are you charged with



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1 murder?

2 A Yes.

3 Q You're charged along with a co-defendant, Mr.  
4 Price?

5 A Yes.

6 Q Are you currently in the Richland County  
7 Detention Center?

8 A Yes.

9 Q Do you have an attorney?

10 A Yes.

11 Q Josh Kendrick, who was in the courtroom  
12 earlier -- you do have an attorney, sir?

13 A Yes.

14 Q Are you friends with the defendant, Jeroid  
15 Price?

16 A Yes, sir.

17 Q How close of friends were you with the  
18 defendant back in December of last year?

19 A We was friends.

20 Q How long had you known the defendant? Speak  
21 up, okay?

22 A About four years.

23 Q Four years?

24 A Yes.

25 Q How often would you go out with the defendant

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1 back in December or November of last year?

2 A Occasionally.

3 Q Had you ever been to his apartment on St.  
4 Andrews Road?

5 A Yes.

6 Q How often had you been there?

7 A Whenever I would stop by. I can't recall how  
8 many times.

9 Q Let me ask you this, Mr. Brooks. Are you a  
10 Blood?

11 A No, sir.

12 Q Were you ever a Blood?

13 A No.

14 Q Were you a Blood in December of last year?

15 A No.

16 Q Do you know if the defendant, Jeroid Price,  
17 is a Blood?

18 A No, I do not.

19 Q You do not know? Sir, did you shoot the  
20 victim, Carl Smalls, in the early morning hours of  
21 December 7th?

22 A Yes.

23 Q Okay. And how many times did you shoot Mr.  
24 Smalls?

25 A Once.

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1 Q What type of weapon did you use when you shot  
2 Carl Smalls?

3 A A pistol.

4 Q Do you know what kind of pistol it was?

5 A A .380.

6 Q A .380 semi-automatic? What color was that  
7 gun, do you know? Do you remember?

8 A It was silverish, chrome.

9 Q Where did you get that gun from?

10 A I bought it off the streets.

11 Q Did you turn yourself in on January the 9th  
12 of this year --

13 A Yes.

14 Q -- with an attorney?

15 A Yes.

16 Q You knew that the police had been looking for  
17 you? Did you give a statement to the police on January  
18 the 9th?

19 A Yes.

20 Q A seven-page statement?

21 A Yes.

22 Q Did you tell them about the shooting?

23 A Yes, I did.

24 Q And before they took your statement, did the  
25 police read anything to you? Did they read you your

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1 rights?

2 A Oh, yes.

3 Q Let me show you what I've marked as State's  
4 Exhibit 59 -- Madam Reporter, not for evidence, just  
5 for ID for now. Do you recognize that?

6 A Yes.

7 Q Is that the advice of rights that the police  
8 read to you on January 9th?

9 A Yes.

10 Q The same condition it was in back then on  
11 January the 9th?

12 A Uh-huh.

13 Q I'd ask that State's Exhibit 59 be admitted  
14 into evidence, Your Honor.

15 THE COURT: Any objection, Mr.  
16 Littlejohn?

17 MR. LITTLEJOHN: No, Your Honor.

18 THE COURT: Okay. Without objection,  
19 it's admitted. Is that 59?

20 MR. PASCOE: It's 59, Your Honor.

21 THE COURT: Thank you.

22 (State's Exhibit 59 was  
23 received in evidence.)

24 Q I'll let you go ahead and keep that, okay?  
25 And, very briefly, it told you you had the right to

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1 remain silent?

2 A Yes.

3 Q And you, with your attorney, still gave the  
4 police a statement?

5 A Yes.

6 MR. LITTLEJOHN: Your Honor, I object to  
7 the leading question.

8 MR. PASCOE: I ask a little leeway in  
9 some preliminary matters, Your Honor.

10 THE COURT: I'll let you go into this  
11 preliminary matter.

12 MR. PASCOE: Thank you, Your Honor.

13 Q And you testified you gave a seven-page  
14 statement. Just for the purpose of ID, do you  
15 recognize State's Exhibit 60?

16 A Yes.

17 Q What do you recognize that to be?

18 A Statement.

19 Q Okay. Is that the statement you gave to the  
20 police?

21 A Yes.

22 Q I want you to use that if you need to refer  
23 to it, okay? Now, let me back up just a minute. Where  
24 did you go to school, Mr. Brooks?

25 A Columbia High.

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- 1 Q How long did you go there?
- 2 A Three years, on and off.
- 3 Q So you weren't going to college, Benedict or
- 4 Carolina, back in December of last year?
- 5 A No.
- 6 Q Okay. And back in December of last year,
- 7 where were you living?
- 8 A Crossroads Apartments --
- 9 Q Did you ever --
- 10 A -- no, Camden Station.
- 11 Q I'm sorry, say that again?
- 12 A Camden Station.
- 13 Q Okay. Where is that?
- 14 A It's on Zimalcrest Drive.
- 15 Q Did you have a roommate?
- 16 A Yes.
- 17 Q And who was that?
- 18 A Jamel Bryant.
- 19 Q Okay. Now I want to take you to December the
- 20 6th of last year. Where did you end up going that
- 21 night?
- 22 A To a club.
- 23 Q Which club is that?
- 24 A Voodoo's.
- 25 Q Okay. Now, who did you go to Club Voodoo's

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1 with?

2 A Me, Jason, and Anthony.

3 Q Okay. Who is Jason?

4 A That's my friend.

5 Q What's his last name?

6 A Woods.

7 Q And what is Anthony's last name?

8 A Patrick.

9 Q So Jason Woods and Anthony Patrick?

10 A Yes.

11 Q Whose vehicle did you drive to Club Voodoo's

12 then?

13 A I rode in Anthony's truck.

14 Q Okay. What color is Anthony's truck?

15 A Green.

16 Q Do you remember what type it is?

17 A It was a Rodeo.

18 Q And before I forget, how tall are you?

19 A About 6'1".

20 Q Are you taller or shorter than the defendant,

21 Jeroid Price?

22 A I believe taller.

23 Q Okay. What was your hairstyle like back on

24 the night of December the 6th?

25 A I had braids to the back.

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1 Q Okay. What about the defendant's hairstyle?

2 A I believe it was.

3 Q Okay. How much did you weigh back in  
4 December last year?

5 A 200, 220 -- something like that.

6 Q Were you a lot heavier than the defendant?

7 A Yes, and about the same size I am now.

8 Q Okay. What time did you get to the party  
9 that night with Anthony Patrick and Jason Woods?

10 A I don't remember.

11 Q Approximately.

12 A I'd say maybe 1:00, 12:00.

13 Q Was it pretty late in the evening or early  
14 morning?

15 A Yes.

16 Q And did you have a cell phone back then?

17 A Yes.

18 Q What was your cell phone number?

19 A [REDACTED] 5071.

20 Q 5071?

21 A Yes.

22 Q Okay. Were you supposed to meet the  
23 defendant that night at the party?

24 A Yes.

25 Q And, in fact, had you had conversations with



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1. the defendant on his cell phone that night after  
2 midnight?

3 A I talked to him before I got there.

4 Q Before getting to the party --

5 A Yes.

6 Q -- on the cell phone?

7 A Yes.

8 Q Did you end up meeting with the defendant  
9 that night at the party?

10 A Inside.

11 Q Okay. And what did you and the defendant end  
12 up doing when you met inside the party?

13 A We was just there on the dance floor.

14 Q Did y'all just hang out together?

15 A Yes.

16 Q Did the defendant go to Benedict or USC, to  
17 your knowledge?

18 A Not to my knowledge. I don't know.

19 Q Did you and the defendant ever have a  
20 confrontation with the victim, Carl Smalls, that night?

21 A Yes.

22 Q Okay. Why did you have a confrontation with  
23 Mr. Smalls that night, the victim?

24 A He was acting like he wanted to fight --  
25 loud.

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1 Q Was anybody throwing up gang signs?

2 A I recall he was, and some other guys he was  
3 with.

4 Q Were you throwing up gang signs?

5 A No.

6 Q Was Mr. Price throwing up gang signs?

7 A I don't recall.

8 Q You don't recall?

9 A Yes.

10 Q Would you even know how to throw a gang sign  
11 up, since you're not a Blood?

12 A No.

13 Q Did you have a gun on you when you were  
14 inside that club, sir?

15 A No.

16 Q Did the defendant have one on him when he was  
17 in the club?

18 A Not to my knowledge.

19 Q Did you know anyone working security that  
20 night?

21 A No.

22 Q Do you know anybody by the name of JayLu?

23 A I know of him, but I don't know him  
24 personally.

25 Q Okay. Describe JayLu for the jury. What

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1 does he look like?

2 A He's a big guy, tall.

3 Q And how did you know JayLu -- through who?

4 A Jeroid.

5 Q The defendant, Jeroid Price?

6 A Yes.

7 Q Let me ask you, is JayLu a Blood?

8 A I believe so.

9 Q Do you know what sect he would be involved  
10 in, by any chance?

11 A No.

12 Q So tell the jury about this confrontation  
13 that you and Mr. Price had with the victim, Carl  
14 Smalls. What happened?

15 A He was talking loud, and he was throwing up  
16 gang signs, and the guys he was with. And I guess they  
17 wanted to fight and what not.

18 Q And what did you and Mr. Price do --  
19 specifically, you and Mr. Price?

20 A I did nothing. They had words, but no action  
21 was taken [sic].

22 Q Who is "they" had words? Who is "they"?

23 A Jeroid and the victim.

24 Q When you say "Jeroid," of course, you mean  
25 the defendant, Mr. Price?

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1 A Yes.

2 Q Do you remember what kind of words they had?

3 A No, I wasn't right there on top of them.

4 Q And the victim, Carl Smalls, was a lot bigger  
5 than Mr. Price, correct?

6 A Yes, he was bigger than me.

7 Q Bigger than you. And when the party ended at  
8 2:00 in the morning, let me ask this, what did you do  
9 then?

10 A I went to the car, to go get my firearm.

11 Q Okay. Tell the jury why you went to the car  
12 to get your firearm at 2:00 in the morning.

13 A So I wouldn't get robbed in the parking lot,  
14 because I had money in my pocket.

15 Q Where did you end up going?

16 A Back inside the club.

17 Q Why did you go back inside the club?

18 A I went to go check on Jeroid.

19 Q Okay. And tell the jury what you claim  
20 happened when you went inside the club to check on  
21 Jeroid Price.

22 A I seen them talking again, closer.

23 Q And who is "them"?

24 A The victim and Jeroid.

25 Q Okay. And what happened?

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1           A     And as they was talking, the words was  
2     getting heated up or whatever. And then I seen Jeroid  
3     do something with his waist, and I seen the victim rush  
4     him. That's when I noticed that they were struggling  
5     for a pistol. The pistol was pointed in my direction.

6           Q     Who was the only person that you saw that had  
7     a pistol?

8           A     Both of them at the time. They both had  
9     hands on it.

10          Q     Whose pistol was it?

11          A     I'm not sure.

12          Q     Whose waist did it come from?

13          A     I believe it was Jeroid.

14          Q     Did the victim have a gun in his waist?

15          A     No, not that I know of.

16          Q     And tell the jury what you claim happened  
17     after you saw them struggling over the gun.

18          A     After they was tussling with the gun, and  
19     that's when the firearm came up towards my direction.  
20     That's when I fired mine.

21          Q     So why did you feel the need to fire your  
22     weapon?

23          A     Because I thought the other weapon was going  
24     to get fired at me.

25          Q     So it was self-defense, right?

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1 A Yes.

2 Q Let me show you what's been marked State's  
3 Exhibit 6. I just want to warn the jury. Do you  
4 recognize that photo?

5 A Yes.

6 Q What do you recognize that to be?

7 A The outside of the club.

8 Q That adequately represents the outside of  
9 Club Voodoo's?

10 A Yes.

11 Q And let me show you what's been marked as  
12 State's Exhibit 17. Do you recognize that area?

13 A Yes.

14 Q What do you recognize that area to be?

15 A It's the hallway into the place.

16 Q Okay. Do you also recognize the person in  
17 the photo?

18 A Yes.

19 Q Is that the victim, Carl Smalls?

20 A Yes.

21 Q I ask that State's Exhibits 6 and 17 be  
22 admitted into evidence.

23 THE COURT: Any objection, Mr.  
24 Littlejohn?

25 MR. LITTLEJOHN: May I see them, Your

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1 Honor?

2 THE COURT: Yes, sir.

3 MR. LITTLEJOHN: I have no objection.

4 THE COURT: Okay. Without objection,  
5 they're both admitted.

6 (State's Exhibits 6 and 17  
7 were received in evidence.)

8 Q The little numbers on here -- three, four,  
9 five, six -- those were there obviously during the  
10 murder, correct? Those were put there by the Sheriff's  
11 Department later, to your knowledge?

12 A Yes.

13 Q Okay. State's Exhibit 6, that shows the  
14 front entrance of Voodoo's, right?

15 A Yes.

16 Q And then there was an exit door. Point where  
17 the exit door is, because that's the entrance. So  
18 where's the exit door?

19 A Right beside it.

20 Q Up against that wall. And what door did you  
21 go through when you followed Jeroid Price into Club  
22 Voodoo's?

23 A The exit door.

24 Q Okay. And when you went in there, who were  
25 the only people in this area in State's Exhibit 17 at

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1 the time?

2 A Them two, to my eyesight.

3 Q So it was just Jeroid Price, the defendant,  
4 and then eventually yourself, of course, as you walked  
5 through that exit door?

6 A Yes.

7 Q Okay. And what did you say Jeroid was doing  
8 with his waist?

9 A He reached.

10 Q And what do you claim the victim did at that  
11 time?

12 A That's when he rushed --

13 Q Okay.

14 A -- started tussling, wrestling.

15 Q And what got pulled out?

16 A A pistol.

17 Q And you claim that you had to shoot in self-  
18 defense?

19 A Yes.

20 Q And nobody else was in that area other than  
21 the three of you?

22 A Not to my knowledge.

23 Q After you fired the gun, what did you do  
24 then?

25 A I ran.



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1 Q Okay. Where did you run to?

2 A I ran to the Rodeo outside, the truck.

3 Q What, if anything, did you hear or see as you  
4 were running to the Rodeo, to the truck?

5 A I heard gunshots when I was getting in the  
6 truck.

7 Q So how long after your first shot do you  
8 think you heard more shots?

9 A I'd say about 25 or 30 seconds. I'm not  
10 sure.

11 Q How long did it take you to run to the car?

12 A I'm not sure.

13 Q Do you remember what the gun looked like that  
14 appeared to come from the defendant's waist that they  
15 struggled over?

16 A I just know it was black -- I don't know. I  
17 couldn't describe it to you in detail.

18 Q It was black. And how did you leave the  
19 scene? Who did you leave with?

20 A Anthony Patrick.

21 Q Anybody else in the vehicle?

22 A Jason Woods.

23 Q And, again, that was in Mr. Patrick's green  
24 Rodeo?

25 A Yes.

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1 Q And did you tell anyone in the vehicle that  
2 night -- that morning -- what had happened?

3 A No.

4 Q So you had just shot someone, and you didn't  
5 tell anybody what happened?

6 A No.

7 Q Okay. Did you talk to the defendant on his  
8 cell phone immediately after the shooting?

9 A No.

10 Q Sir, did you not receive a telephone call at  
11 2:18 in the morning, right after the shooting?

12 A My battery's dead for my cell phone.

13 Q Yours were, but your friend's, Mr. Patrick's,  
14 weren't.

15 MR. LITTLEJOHN: Your Honor, I object to  
16 the leading questions.

17 MR. PASCOE: Well, now I'm asking to --

18 THE COURT: I understand. I'll grant  
19 you some leeway about that.

20 MR. PASCOE: Thank you, Your Honor.

21 Q Didn't you and Anthony Patrick receive a call  
22 at 2:18 and 41 seconds?

23 A Anthony Patrick could have received a call.  
24 I didn't receive a call.

25 Q And you didn't talk to the defendant on Mr.

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1 Patrick's phone?

2 A No.

3 Q Did you talk to him at 2:27 and 56 seconds?

4 A Two who?

5 Q 2:27 in the morning and 56 seconds.

6 A No.

7 Q So it's your testimony you did not talk to  
8 the defendant immediately after the shooting. When was  
9 the next time you talked to the defendant?

10 A I remember talking early in the morning the  
11 next day.

12 Q Okay. And what, if anything, did y'all talk  
13 about with regards to the shooting?

14 A We didn't.

15 Q So you just shot somebody, know that he was  
16 supposedly allegedly struggling over a gun with him,  
17 and you heard more shots, and y'all didn't talk about  
18 the shooting?

19 A No.

20 Q What was your home phone number back then,  
21 before I forget it?

22 A [REDACTED] 0800, I believe.

23 Q Now, where did Mr. Patrick and Mr. Woods take  
24 you after the shooting, after you left Voodoo's?

25 A To where I was staying at, Camden Station.

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- 1 Q Okay. What did you do with the gun?
- 2 A I left it in the truck.
- 3 Q Okay. You testified earlier that you had a
- 4 roommate, Jamel Bryant. Did you tell him what
- 5 happened?
- 6 A No, I did not.
- 7 Q Have you ever told him what happened?
- 8 A No.
- 9 Q Have you ever talked to the defendant, Jeroid
- 10 Price, about the shooting?
- 11 A No.
- 12 Q Sir, you took off and left the state of South
- 13 Carolina --
- 14 A Yes.
- 15 Q -- because of the charges of murder that were
- 16 being brought?
- 17 A Yes.
- 18 Q Where did you go?
- 19 A I went to New Jersey, where my grandmother
- 20 stays.
- 21 Q Do you know where the defendant went?
- 22 A I believe Virginia or --
- 23 MR. LITTLEJOHN: Your Honor, I'm object
- 24 to anything he believes if he doesn't know of his own
- 25 personal knowledge.

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1 THE COURT: Okay. Well, find out from  
2 him --

3 Q And do you know where the defendant is from?

4 A He was born in New York.

5 Q Did you have any contact with the defendant  
6 while you were on the run, sir?

7 A No.

8 Q Now, Mr. Brooks, you are charged with the  
9 murder of Carl Smalls, correct?

10 A Yes.

11 Q You know you're looking at 30 years to life,  
12 right?

13 A Yes.

14 Q Have I given you any deals for your  
15 testimony?

16 A No.

17 Q Okay. In fact, even before we ever met, you  
18 gave a statement to the police, correct?

19 A Yes.

20 Q Okay. Now, let me ask you some questions  
21 about your statement. I asked you earlier if Jeroid  
22 Price was a Blood, and you said you don't know. You  
23 remember that?

24 A Yes.

25 Q I want you to take a look at page two of your

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1 statement. And I'll point it out for you, sir.  
2 Remember when the police asked you why the victim would  
3 confront Jeroid, and your answer was what?

4 A It says right here because he was a Blood,  
5 but I don't recall saying that.

6 Q You don't recall telling the police that?

7 A No.

8 Q But State's Exhibit 60 is your sworn  
9 statement that you signed, that's your signature,  
10 correct?

11 A Yes.

12 Q And you even had a lawyer there when you gave  
13 this statement, didn't you?

14 A Yes, I did.

15 Q Okay. And also again on page six, do you  
16 remember the police asking you -- I don't mean to put  
17 my arm in your face -- "What can you tell me about  
18 Jeroid's gang affiliation?" Do you remember what your  
19 answer was? Did you tell the police, sir, "I know he's  
20 a Blood, and he is probably GKB"? You don't remember  
21 that?

22 A No.

23 Q And do you remember when they asked you about  
24 JayLu, what sect of Blood he was in? Do you remember  
25 what your response was?

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1           A     Yes.

2           Q     "I know that JayLu is a Nine Tre, which is a  
3 Blood sect" -- do you remember that?

4           A     Yes.

5           Q     So you do remember saying that, but you don't  
6 remember saying Jeroid Price is a Blood, right?

7           A     No.

8           Q     So, basically, when Carl Smalls was throwing  
9 up these signs, you guys -- you and Jeroid Price --  
10 really didn't know what the heck he was doing. Neither  
11 one of you are Bloods, right --

12          A     Yes.

13          Q     -- or you don't know that he's one, correct?  
14 You're definitely not one, isn't that right?

15          A     Yes.

16          Q     And you were with Jeroid Price that night  
17 during all of this stuff with Carl Smalls before the  
18 shooting, correct?

19          A     Yes.

20          Q     You were there when Carl and Jeroid were in  
21 each other's face?

22          A     Yes.

23          Q     You had to be thinking, "What in the heck is  
24 this guy doing? We're not Bloods," isn't that right?

25          A     Yes.

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1 Q And before I forget, the person that you know  
2 as Jeroid Price, do you see him in the courtroom today?

3 A Yes.

4 Q If you could, point him out for the jury.

5 A Right there.

6 Q The defendant, with his attorneys?

7 A Yes.

8 Q Is he the person that was struggling  
9 allegedly over a gun with Carl Smalls?

10 A Yes.

11 Q Okay. Of course, by not being a Blood,  
12 neither one of you have a motive for killing Carl  
13 Smalls, isn't that true? You don't have a motive.

14 MR. LITTLEJOHN: Your Honor, I object to  
15 the leading question.

16 MR. PASCOE: I ask for some leeway, Your  
17 Honor, please.

18 THE COURT: Okay. Let me get you all to  
19 approach.

20 BAILIFF: Quiet, please.

21 Q Let me show you what's been marked as State's  
22 Exhibit 12. You and Jeroid Price did not have a motive  
23 to kill Carl Smalls, did you?

24 A I didn't kill Carl Smalls.

25 Q Well, you shot him. Neither one of you had a



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1 motive to shoot Carl Smalls, correct?

2 A Yes.

3 Q Because you're not Bloods, right? All right,  
4 before I forget, let me show you what's been marked as  
5 State's Exhibit 41. Do you recognize the person in the  
6 top picture?

7 A That's me.

8 Q That's you, correct?

9 A Right.

10 Q Just for ID. Now, how was your hair back in  
11 December of last year and prior to that?

12 A What do you mean, prior?

13 Q Did Jeroid Price and you ever have hair that  
14 looked alike?

15 A No.

16 Q Do you ever look anything like Jeroid Price?

17 A No.

18 Q Just to point that out, let me show you  
19 State's Exhibits 50 and 51. Do you recognize those  
20 photos?

21 A Yes.

22 Q Who are they?

23 A Me.

24 Q Do they accurately depict the way you looked  
25 prior to December of last year, that you had a lot more

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1 hair than Jeroid Price?

2 A Yes.

3 Q I'd ask that State's Exhibits 50 and 51 be  
4 admitted into evidence.

5 THE COURT: Okay. Any objection?

6 MR. LITTLEJOHN: No objection.

7 THE COURT: Okay. Without objection,  
8 they're both admitted.

9 (State's Exhibits 50 and 51  
10 were received in evidence.)

11 Q But you'd agree with me you're not a Blood,  
12 but you do like the color red, don't you?

13 A I had a shirt on. That doesn't mean I like  
14 the color red. I just wear clothes.

15 Q I'll ask you one more time, are you a Blood?

16 A No.

17 Q Let me show you what's been marked as State's  
18 Exhibit 52. Did you know I had that?

19 A No.

20 Q Who is in that picture?

21 A Me.

22 Q Does that accurately depict you in that  
23 picture? It's you. I'd ask that State's Exhibit 52 be  
24 admitted into evidence.

25 THE COURT: Any objection? Yes, sir.

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1 MR. LITTLEJOHN: Your Honor, technically  
2 I don't know if he's laid a proper foundation, not  
3 technically --

4 MR. PASCOE: He just said it's him.

5 THE COURT: He identified both of them.

6 MR. PASCOE: Thank you. I'd ask that  
7 State's Exhibit 52 be admitted into evidence.

8 THE COURT: It's admitted.

9 (State's Exhibit 52 was  
10 received in evidence.)

11 Q Do you know where I got that, Mr. Brooks?

12 A No, I don't.

13 Q Would you be surprised if it came from your  
14 buddy's apartment? Would that shock you?

15 A I don't know.

16 Q Tell the jury what you're doing with your  
17 left hand. That's not a "B," is it?

18 A No, it's not.

19 Q No. Tell the jury what you're doing with  
20 your right hand. That's not a red handkerchief, is it?

21 A Yes, it is.

22 Q You're not a Blood, are you, Mr. Brooks?

23 A No.

24 THE COURT: You can pass that around.

25 Q You didn't know I had that, did you?

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1 A No.

2 Q You did have a motive to kill Carl Smalls,  
3 didn't you?

4 A No.

5 Q Beg the Court's indulgence.

6 THE COURT: Yes, sir.

7 Q And, once again, absolutely no deals for your  
8 testimony, isn't that true, sir?

9 A Yes.

10 Q That's all I have, Your Honor.

11 THE COURT: Thank you, Mr. Pascoe.

12 THE COURT: Mr. Littlejohn.

13 MR. LITTLEJOHN: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. LITTLEJOHN:

16 Q Mr. Brooks, my name is Cam Littlejohn. I  
17 represent Jeroid Price. You turned yourself in in  
18 January --

19 A Yes.

20 Q -- is that right?

21 A Yes.

22 Q You came in with Mr. Roberts, who was your  
23 attorney at that time?

24 A Yes.

25 Q And at that time, you agreed to give a

Ryan Brooks - Cross

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1 statement --

2 A Yes.

3 Q -- is that correct?

4 A Yes.

5 Q Okay. Now, I believe you indicated when Mr.  
6 Pascoe was asking you questions that, between December  
7 7th when the shooting incident took place and when you  
8 turned yourself in, you hadn't talked with Jeroid Price  
9 about what happened that night --

10 A No.

11 Q -- is that right?

12 A Yes.

13 Q You talked to him one time on the morning of  
14 December 7th --

15 A Yes.

16 Q -- is that correct?

17 A Yes.

18 Q And that's the only time you talked to him  
19 between the day of the shooting -- or the night of the  
20 shooting -- and when you gave your statement?

21 A Yes.

22 Q Okay. Now, Mr. Brooks, let's go into a  
23 little detail about what happened on that particular  
24 night. You said you had gone to the club and gotten

Ryan Brooks - Cross

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1       there, I believe you indicated, it was about midnight  
2       or 1:00 --

3           A     Yes.

4           Q     -- very late?

5           A     Yes.

6           Q     And you went there with Jason Woods and  
7       Anthony Patrick?

8           A     Yes.

9           Q     Okay. When you got there, was Jeroid already  
10       there?

11          A     Yes.

12          Q     Okay. Did you talk to Jeroid?

13          A     I don't recall.

14          Q     You don't recall?

15          A     You can't talk in a club, because the music's  
16       loud.

17          Q     Too loud, okay. Now, how long had you been  
18       in the club when you saw Carl Smalls?

19          A     How long was I in there?

20          Q     Yes, sir.

21          A     I guess 30 minutes. That's guessing.

22          Q     Thirty minutes?

23          A     Yes.

24          Q     Maybe 40 minutes? I think that's what you

1       said in your statement.

2           A     Around that time.

3           Q     Okay. Now, when you first saw Mr. Smalls,  
4       what happened? What did he do?

5           A     He was talking loud and moving.

6           Q     Did he come up and say anything to you and  
7       Jeroid?

8           A     He said something, but I couldn't hear him  
9       because of the music being loud.

10          Q     Okay. Did he say something about knowing  
11       your "punk ass"?

12          A     Yes, I think he did.

13          Q     Do you remember him making that statement?

14          A     Yes, I think he did say something like that.

15          Q     What did he say, as best you can recall?

16          A     "I know your bitch ass" -- something like  
17       that. It was something slick.

18          Q     Okay. Who did Mr. Smalls say that to?

19          A     That's what I don't know. He was over by me,  
20       but I don't know if he was directing it to me, or  
21       everybody that was around me, or whatever.

22          Q     Okay. Now, did you recognize him at that  
23       time?

24          A     What do you mean, recognize?

Ryan Brooks - Cross

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1 Q Had you seen him before, Carl Smalls?

2 A I had seen him before in a club.

3 Q Okay. Did you know him?

4 A No.

5 Q Okay. Do you know why he would come up and  
6 speak to you or people that you were with like that?

7 A No.

8 Q Now, after he made this statement about "punk  
9 ass," or "bitch ass," or whatever, did he make any  
10 other statements at that time to you or Jeroid?

11 A I don't recall at that time, no.

12 Q Okay. Now, as the night went on after that,  
13 what did you observe Carl Smalls doing?

14 A He was throwing up signs and doing some kind  
15 of dance that they do.

16 Q He was doing some kind of dance that they do.  
17 Who is "they"?

18 A I believe gang members.

19 Q What kind of gang members?

20 A Excuse me?

21 Q What kind of gang members?

22 A Crips.

23 Q Crips?

24 A Yes.



Ryan Brooks - Cross

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1 Q Is there something called a Crip walk? Are  
2 you familiar with that?

3 A I believe so.

4 Q Was that what he was doing?

5 A I believe so.

6 Q You say he was throwing up signs. Explain  
7 that a little better.

8 A I couldn't explain the signs. It was just  
9 hand motions.

10 Q Okay. Now, you indicated there was a guy  
11 named JayLu there.

12 A Yes.

13 Q Do you know JayLu's full name?

14 A No, I don't.

15 Q After that, did Carl Smalls come up and  
16 confront you again?

17 A Huh-huh.

18 Q Did he ever call you another name?

19 A No.

20 Q Do you recall him calling you a slob?

21 A No.

22 Q You don't remember that?

23 A No.

24 Q Do you remember putting that in your

Ryan Brooks - Cross

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1 statement on January 9th?

2 A No.

3 Q Let me show you this document, and you see if  
4 this refreshes your memory. Does that appear to be a  
5 page of your statement? And I think you've got a copy  
6 right in front of you.

7 A Uh-huh.

8 Q Do you see page two? Have you got page two?

9 A Yes.

10 Q Flip to page two there. Look at that last  
11 full paragraph, about halfway down. Do you recall now  
12 whether he called you a slob or not?

13 A I still don't recall him calling me that.

14 Q Okay. Do you remember putting that in your  
15 statement?

16 A It's here.

17 Q Okay. Do you remember trying to talk to Mr.  
18 Smalls and explain to him that --

19 A Yes.

20 Q -- maybe you weren't such a bad guy after  
21 all?

22 A Yes.

23 Q Did that do any good?

24 A No.

1           Q     How did he appear to you to be? Did he  
2 appear to be under the influence of anything?

3           A     I believe so, maybe drunk.

4           Q     Okay. That's the way you observed him  
5 acting?

6           A     Yes.

7           Q     Okay. Now, Mr. Brooks, do you remember what  
8 time the party let out -- what time it was over with?

9           A     I don't remember.

10          Q     Okay. Could it have been around 2:00? Does  
11 that sound about right?

12          A     Yes.

13          Q     What stopped the party? What ended the  
14 party?

15          A     I think it was just time to go home --

16          Q     Okay.

17          A     -- time to close.

18          Q     Did the DJ say it's over with, or did the  
19 security people say something, or do you know?

20          A     The DJ's the one that says it's over with,  
21 but I don't recall him saying it.

22          Q     Okay. Now, I believe you indicated to Mr.  
23 Pascoe that you went outside --

24          A     Yes.

Ryan Brooks - Cross

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1 Q -- when the party was over with or supposedly  
2 over with, is that right?

3 A Yes.

4 Q You went out to the Rodeo that you were in?

5 A Uh-huh.

6 Q And I believe you said you got your gun at  
7 that time?

8 A Yes.

9 Q Okay. And you indicated that the reason you  
10 got your gun was you were afraid you might get robbed?

11 A Yes.

12 Q What were you afraid of?

13 A Getting robbed.

14 Q Okay. By whom?

15 A Robbers.

16 Q By robbers?

17 A Yes.

18 Q Okay. You were concerned about that?

19 A Yes.

20 Q Had you had previous experience with  
21 something like that?

22 A No, I just heard of it.

23 Q Okay. Now, Mr. Brooks, after you got your  
24 gun out of your car, did you go back toward the club?

Ryan Brooks - Cross

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1 A Yes.

2 Q Okay. And I believe you indicated to Mr.

3 Pascoe you went toward this exit door that's shown in

4 State's Exhibit 6, is that right?

5 A Yes.

6 Q Okay. Now, were there people out here, out  
7 in this area in front of the door?

8 A And on the street.

9 Q They were on the street?

10 A Yes, cars.

11 Q Okay. And that was in front of, I guess,  
12 both the entrance and the exit door, is that right?

13 A I believe so, yes.

14 Q Okay. And for clarification, this picture  
15 actually just shows the entrance door, isn't that  
16 right?

17 A Yes.

18 Q Okay. And there is an exit door that I  
19 believe as you're looking at the picture would be on  
20 the left over here --

21 A Yes.

22 Q -- opposite the trash can, is that right?

23 A Yes.

24 Q Okay. Now, you told Mr. Pascoe after you got

Ryan Brooks - Cross

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1 your gun, you went to the back to the club, you went to  
2 the exit door, is that right?

3 A Yes.

4 Q Okay. Was the exit door open or closed?

5 A I believe open.

6 Q You think it was open?

7 A Yes, I remember open.

8 Q Could it have been cracked open? Do you  
9 remember?

10 A I think it was wide open.

11 Q You think it was wide open?

12 A Yes.

13 Q Do you remember whether it was cracked open  
14 or wide open?

15 A I can't remember. I know I didn't open it,  
16 so it had to be either one.

17 Q So you're sure it wasn't closed?

18 A Yes.

19 Q Okay. Now, you indicated to Mr. Pascoe when  
20 you got into that area, you saw Jeroid Price and Carl  
21 Smalls, is that right?

22 A Yes.

23 Q Okay. Now, Mr. Brooks, at the time, were  
24 there words being exchanged between Jeroid Price and

1 Carl Smalls?

2 A I believe so.

3 Q Okay. Do you remember hearing Carl Smalls  
4 use the "F" word?

5 A I think so.

6 Q What did he say?

7 A "Fuck" something -- "fuck this," or "fuck  
8 that." I can't remember.

9 Q And who was he directing these words to?

10 A I believe Jeroid. He wasn't talking to me.

11 Q Okay. Then did you hear Jeroid reply to  
12 that?

13 A Not really.

14 Q Did you hear Jeroid say, "Man?"

15 A He might have.

16 Q Okay. Let me get you to refer to your  
17 statement again, on page three, that first full  
18 paragraph, the sixth line down. Do you recall putting  
19 in your statement that Jeroid said, "Man. It was a  
20 wrong ass, man," like "leave me alone?"

21 A Yes.

22 Q Do you remember saying that? Isn't that what  
23 happened?

24 A I didn't say it. I remember hearing it.

Ryan Brooks - Cross

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1 Q Okay. But isn't that what happened?

2 A Yes.

3 Q Okay. Now, isn't it true, Mr. Brooks, at  
4 that point you saw Carl Smalls rush Jeroid Price?

5 A Yes.

6 Q Isn't that right -- he went after Jeroid  
7 Price, and Jeroid's back was to the wall?

8 A Yes.

9 Q And as you're looking in that exit door,  
10 Jeroid's to your left with his back to the wall, isn't  
11 that right?

12 A Yes.

13 Q And Carl Smalls was coming from your right to  
14 your left, isn't that right?

15 A Say that again?

16 Q I say as you're leaving through that exit  
17 door, Carl Smalls was coming from your right to the  
18 left going toward Jeroid Price.

19 A Yes.

20 Q Isn't that how it happened?

21 A Yes.

22 Q Okay. And when Carl Smalls rushed Jeroid  
23 Price, he grabbed him and pushed him up against the  
24 wall, isn't that right?



1 A Yes.

2 Q And, again, how big do you recall Carl Smalls  
3 being?

4 A Taller than me.

5 Q Taller than you. And you're what?

6 A About 6'1" or 6'2".

7 Q Was he taller than me?

8 A I don't know -- might have been. How tall  
9 are you?

10 Q I have to ask the questions, okay?

11 A I don't know -- might be. He was taller than  
12 me.

13 Q Okay. And he was taller than you?

14 A Yes.

15 Q Heavier than you?

16 A Yes.

17 Q You'd say a lot heavier than you?

18 A I wouldn't say a lot, but he was bigger than  
19 me.

20 Q He was a real big man, wasn't he?

21 A Yes.

22 Q Played defensive tackle.

23 A I don't know about all that.

24 Q Do you think he could have weighed 280

Ryan Brooks - Cross

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1 pounds, probably --

2 A Might could have weighed more.

3 Q -- or might have weighed more?

4 A Yes.

5 Q Okay. So he rushed Jeroid Price and had him  
6 pinned up against a wall, right?

7 A Yes.

8 Q Okay. And then, Mr. Brooks, he got into a  
9 tussle with Jeroid Price over a gun, isn't that right?

10 A Yes.

11 Q You saw that tussle. You saw Carl Smalls  
12 going for the gun that Jeroid Price had, isn't that  
13 right?

14 A Yes.

15 Q I need you to answer up, sir.

16 A Yes.

17 Q Okay. They both had hands on that gun, isn't  
18 that right?

19 A Yes.

20 Q And while they're going for that gun, Carl  
21 Smalls, all 280 pounds of him, has got Jeroid Price up  
22 against a wall, isn't that right?

23 A Yes.

24 Q Okay. And you got scared because you thought

1 Carl Smalls was going to get that gun and turn around  
2 and shoot you?

3 A Yes.

4 Q And what you've told us is so that that  
5 didn't happen, to defend yourself you fired a shot at  
6 Carl Smalls?

7 A Yes.

8 Q And you fired it toward his hip, is that  
9 right?

10 A Yes.

11 Q And after you fired that shot, you turned  
12 around and left?

13 A Yes.

14 Q Okay. So whatever happened after you turned  
15 around and left, you're not sure of, you don't know?

16 A No.

17 Q But you do know that when you fired that shot  
18 at Carl Smalls, he had Jeroid up against a wall and you  
19 were afraid he was going to shoot you?

20 A Yes.

21 Q And he could have shot Jeroid, isn't that  
22 right?

23 A Possibly.

24 Q Now, Mr. Brooks, you didn't see anybody else

Ryan Brooks - Cross

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1 right in that immediate area in that little hallway  
2 other than Jeroid and Carl Smalls, isn't that right?

3 A Yes.

4 Q Let me ask you this. Do you remember what  
5 you were wearing that night?

6 A Khakis and a black shirt.

7 Q Khakis and a black shirt. And you had your  
8 hair in braids, I believe you said?

9 A Yes.

10 Q Okay. Did you have gold teeth?

11 A No.

12 Q You never had gold teeth?

13 A No.

14 Q Jeroid Price never had gold teeth, has he?

15 A No.

16 Q If you'd indulge me just a moment, Your  
17 Honor.

18 THE COURT: Yes, sir.

19 Q So, Mr. Brooks, what you're telling us is the  
20 reason you shot Carl Smalls in the hip was because you  
21 were afraid he was going to get that gun and shoot you?

22 A Yes.

23 Q And he could have shot Jeroid Price?

24 A Yes.

1                   MR. LITTLEJOHN: Your Honor, I believe  
2                   that's all I have. If you would indulge me just a  
3                   moment --

4                   THE COURT: Yes, sir.

5                   MR. LITTLEJOHN: -- I'll probably be  
6                   through. That's all I have at this time, Your Honor.

7                   THE COURT: Thank you, Mr. Littlejohn.

8                   THE COURT: Anything further?

9                   MR. PASCOE: Very briefly, Your Honor.

10                  THE COURT: Yes, sir.

11                   **REDIRECT EXAMINATION**

12                  BY MR. PASCOE:

13                  Q     Mr. Brooks, do you and Mr. Price usually  
14                  carry guns around?

15                  A     No.

16                  Q     You usually don't carry weapons in your  
17                  waistband -- concealed weapons?

18                  A     No.

19                  Q     You just happened to be that night, the night  
20                  that Carl Smalls was killed?

21                  A     Yes.

22                  Q     You and Mr. Price didn't threaten Mr. Smalls  
23                  earlier with guns, did you?

24                  A     No.

Ryan Brooks - Redirect

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1 Q You didn't show him that you had guns, to  
2 scare him?

3 A No.

4 Q Of course, not. You just happened to have  
5 them when you walked into the club and shot Mr. Smalls,  
6 correct?

7 A Yes.

8 Q He asked you about what y'all were wearing.  
9 Do you recall what Mr. Price was wearing that night?  
10 Do you need to refresh your memory with the statement?

11 A A hat and a jersey. I don't remember no  
12 pants or whatever.

13 Q A hat and a jersey?

14 A Uh-huh.

15 Q Okay. And Mr. Littlejohn also asked you, do  
16 you remember on page two of your statement telling the  
17 police that the victim had called you a slob.

18 A I don't recall.

19 Q Of course, if you're a Blood, being called a  
20 slob is a whole lot worse than being called a punk or  
21 anything else, you know that?

22 A No.

23 Q But you wouldn't know that because you're not  
24 a Blood?

25 A Right.

Ryan Brooks - Redirect

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1           Q     He also asked you a lot of other questions  
2     out of your statement. The fact of the matter is you  
3     did everything to protect yourself when you gave this  
4     statement, didn't you?

5           A     Yes.

6           Q     You did everything to protect your friend,  
7     Jeroid Price?

8           A     What do you mean?

9           Q     You and Jeroid are very close, aren't you?

10          A     We're friends.

11          Q     You're the godfather of his child, aren't  
12     you?

13          A     Yes.

14          Q     So you're very close, and you tried to  
15     protect Jeroid Price in your statement, didn't you?

16          A     I just told what I did.

17          Q     When I asked you in direct examination, you  
18     were trying to quibble and be hesitant about who had a  
19     gun that night, remember that?

20                     MR. LITTLEJOHN: Your Honor, I object to  
21     his characterization. I don't think that's proper.

22                     MR. PASCOE: Yes, he was doing that.

23                     THE COURT: Well, I'll let you rephrase  
24     it.

25                     MR. PASCOE: Thank you, Your Honor.

Ryan Brooks - Redirect

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1 Q You didn't want to come out and say that  
2 Jeroid had a gun, did you?

3 A I don't understand the question.

4 Q Did Jeroid Price have a gun in his waistband  
5 that night?

6 A I believe so.

7 Q And Carl Smalls did not have a gun, did he?

8 A Not that I know of.

9 Q Not that you saw, correct?

10 A Yes.

11 Q Okay. That's all I have, Your Honor.

12 THE COURT: Thank you.

13 THE COURT: Anything further, Mr.

14 Littlejohn?

15 MR. LITTLEJOHN: Just one final thing.

16 RE-CROSS EXAMINATION

17 BY MR. LITTLEJOHN:

18 Q Mr. Brooks, you haven't talked to Jeroid  
19 Price since this thing happened, have you, about what  
20 happened?

21 A No.

22 Q Okay.

23 THE COURT: Sir, you may step down off  
24 the witness stand. Mr. Brooks, you can go down.  
25 Follow the officer.



1 THE COURT: Okay, ladies and gentlemen,  
2 I'm going to ask that you all return to the jury room.  
3 We're going to take a little short ten-minute break.  
4 I'd ask that you not discuss any of the testimony  
5 you've heard thus far or any of the evidence you've  
6 seen. Don't talk about anything that's been discussed  
7 here in the courtroom today. We'll see you all in  
8 about ten minutes.

9 BAILIFF: Please be seated till the jury  
10 leaves.

11 THE COURT: Have a seat till the jury  
12 leaves.

13 (Jury out at 3:55 p.m. for  
14 break.)

15 THE COURT: Thank you, sir. All right,  
16 we'll take a ten-minute recess.

17 Gentlemen, I'm glad to have you all in  
18 my courtroom. But let me tell you all sitting on that  
19 front row, the next person that leans on my railing up  
20 there or that lays down, does not sit up straight,  
21 belongs to me. I don't have that in my courtroom. You  
22 understand? All right. We'll be in recess for ten  
23 minutes. Thank you.

24 MR. PASCOE: Thank you, Your Honor.

25 (Court in recess for ten-

1 minute break.)

2 THE COURT: That crowd that was sitting  
3 up here, they're to stay out of my courtroom.

4 BAILIFF: Stay out, all right.

5 THE COURT: Thank you, sir.

6 THE COURT: Okay. Is counsel ready to  
7 call their next witness?

8 MR. PASCOE: Yes, sir.

9 THE COURT: Okay, we're ready for the  
10 jury.

11 (The jury returned to the  
12 courtroom at 4:19 p.m., after which the following  
13 proceedings were had:)

14 BAILIFF: The jury is present, Your  
15 Honor.

16 THE COURT: Thank you, sir.

17 THE COURT: Thank you, ladies and  
18 gentlemen. I had to take care of some matters outside  
19 your presence, and I appreciate your patience. We're  
20 ready to continue.

21 THE COURT: Mr. Pascoe.

22 MR. PASCOE: Thank you, Your Honor.  
23 Marcus Jones.

24 BAILIFF: Place your left hand on the  
25 Bible, raise your right hand, and face the clerk.

1 (The witness was sworn.)

2 CLERK OF COURT: Please have a seat up  
3 there, sir, and state your full name for the record.

4 MR. LITTLEJOHN: May we approach the  
5 bench first, Your Honor?

6 THE COURT: Yes, sir.

7 THE COURT: Mr. Pascoe.

8 MR. PASCOE: Thank you, Your Honor.

9 MARCUS JONES, having first  
10 been duly sworn, testified as follows:

11 **DIRECT EXAMINATION**

12 BY MR. PASCOE:

13 Q Good afternoon, Marcus.

14 A Good afternoon.

15 Q You doing okay?

16 A Yes, sir.

17 Q How old are you, Marcus?

18 A Twenty-one.

19 Q Do you go to college?

20 A Yes, sir.

21 Q What's your major?

22 A Sports communication.

23 Q Do you know anybody by the name of Henry  
24 Foster Phillips or DJ Frosty?

25 A Yes, sir.

Marcus Jones - Direct

134

- 1 Q Okay. How do you know him?
- 2 A I work for him.
- 3 Q Okay. Just to make a couple of extra bucks
- 4 while you're in college?
- 5 A Yes, sir.
- 6 Q What sort of work do you do for DJ Frosty?
- 7 A Pretty much I pick up speaker wires, lay out
- 8 the speakers, lay them out in the formation that he
- 9 wants to lay them out, and that's pretty much it.
- 10 Q Helping him prepare for parties --
- 11 A Yes.
- 12 Q -- and finishing up after parties?
- 13 A That's it.
- 14 Q You need to speak up, because the acoustics
- 15 are real bad in here, okay?
- 16 A Okay.
- 17 Q Thanks. Does anybody else help you out --
- 18 any friends or family members that help you and DJ
- 19 Frosty out?
- 20 A Yes, we have a guy named Reginald Holliday,
- 21 Mike Hawthorne, and Damien Martin.
- 22 Q Damien Martin, is he like your best friend?
- 23 A Yes, sir.
- 24 Q Really, y'all are practically brothers?
- 25 A Yes, sir.

Marcus Jones - Direct

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1           Q     Do you remember the night of Friday, December  
2     6th of last year?

3           A     Yes, sir, very vaguely -- but, yes, sir.

4           Q     Where did you go that night?

5           A     We went to Club Voodoo.

6           Q     And who did you go with?

7           A     I went with DJ Frosty.

8           Q     Anybody else go with you?

9           A     Yes, Damien Martin, and Mike Hawthorne, and  
10    Reginald Holliday.

11          Q     Okay. And why did y'all go to Club Voodoo's  
12    together that night?

13          A     We all had to work that night, set up  
14    speakers.

15          Q     There was going to be a party that night at  
16    Club Voodoo's?

17          A     Yes, sir.

18          Q     Do you remember approximately what time y'all  
19    got there?

20          A     No, sir.

21          Q     Okay. Was it late at night?

22          A     Yes, sir.

23          Q     All right. How long before the party would  
24    start would y'all need to get there usually?

25          A     Should be about an hour, maybe an hour and 30

Marcus Jones - Direct

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1 minutes earlier.

2 Q All right. So, when you got there, y'all  
3 started setting things up?

4 A Yes, sir.

5 Q Do you know who sponsored the party that  
6 night?

7 A No, sir.

8 Q Do you know what time the party really got  
9 going -- not necessarily what time it started, but when  
10 it really got going and a lot of people were there?

11 A An hour maybe later. I'm not really sure  
12 about that.

13 Q Okay. Let me show you State's Exhibit 7.  
14 It's one of the pictures of the outside. Do you  
15 recognize that, right there?

16 A Yes, sir.

17 Q Do you recognize what that club is?

18 A Yes, sir.

19 Q Is that the Club Voodoo's that y'all went and  
20 did the party for that night?

21 A Yes, sir.

22 Q I'd ask that State's Exhibit 7 be admitted  
23 into evidence, Your Honor.

24 THE COURT: Any objection?

25 MR. LITTLEJOHN: No, Your Honor.

Marcus Jones - Direct

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1 THE COURT: Without objection, it's  
2 admitted.

3 (State's Exhibit 7 was  
4 received in evidence.)

5 Q Does this picture show both the entrance and  
6 exit door to Club Voodoo's?

7 A Yes, sir.

8 Q Which one is the exit door? Point to that.

9 A Right there.

10 Q Okay. On the side?

11 A Yes, on the side.

12 Q Okay. And, of course, obviously, the other  
13 door in the front is the entrance door?

14 A Yes, sir.

15 Q Okay. How many people do you think came to  
16 that party that night, if you had to estimate?

17 A Estimate?

18 Q Just a wild guess -- hundreds?

19 A I don't know. It was like a hundred and  
20 some, yes, something like that.

21 Q Okay. What time did the party finish that  
22 night, approximately?

23 A Two, two-thirty.

24 Q Okay. And how did the party end? Tell the  
25 jury, how would you let people know the party's over?

Marcus Jones - Direct

138

1           A     You know, shut the music off.

2           Q     Turn the lights on?

3           A     Yes, sir.

4           Q     Okay. When the party ended, what were people  
5 inside supposed to do? If they weren't part of the  
6 cleanup, what were they supposed to do?

7           A     Start to exit.

8           Q     And is that what people did after the party  
9 ended?

10          A     Yes, sir.

11          Q     What did you have to do?

12          A     Start taking different speakers and started  
13 to wind up speaker wires and put them in the boxes, get  
14 them packed up, pack up the records, get them all ready  
15 to go.

16          Q     Did you see or hear anything unusual while  
17 you were putting up the wires?

18          A     Gunshot.

19          Q     Okay. Well, let me ask you, what happened?  
20 You're putting up the wires, and tell the jury what  
21 happened.

22          A     Well, I was putting up the wires, me and my  
23 brother Damien. In other words, we were putting up the  
24 wires, talking and stuff, talking about the party.  
25 Daniel heard a shot, and we looked up. That's when we



Marcus Jones - Direct

139

1 see two more shots. Then, as --

2 MR. LITTLEJOHN: Your Honor, I'm going  
3 to object. He can testify as to what he did. I don't  
4 think he can testify as to what he and his brother did.

5 THE COURT: Right. I'll let you  
6 testify, sir. I'll sustain that objection and let you  
7 testify just from what you perceived yourself, sir.

8 MR. JONES: Okay.

9 Q Go ahead, Marcus. What did you see? You  
10 said you heard a shot?

11 A Yes, sir. Then there was a pause, then we  
12 heard two more shots. Then after that, pretty much I  
13 started picking up everything quicker and packing  
14 everything up and leave.

15 Q And got out?

16 A Yes, sir.

17 Q Let me ask you this. You testified you heard  
18 the shot?

19 A Yes, sir.

20 Q Exactly what did you do after you heard the  
21 shot?

22 A Pretty much got the wires, put them in the  
23 bag, took them outside, and then go.

24 Q After you heard the first shot, what did you  
25 do?

Marcus Jones - Direct

140

1 A Pretty much look up.

2 Q Okay. Which direction did you look in?

3 A Towards the door.

4 Q Got you. How many shots did you hear before  
5 you looked at the door?

6 A Before, one.

7 Q Just one. Now tell the jury what you saw as  
8 you looked at the door.

9 A After I heard the first shot, it was very  
10 foggy. But after that, I saw two more shots. I saw  
11 the gunfire from the gun.

12 Q You actually saw the shots?

13 A The gunfire.

14 Q And you saw the gunman?

15 A Vaguely, from the smoke and stuff. I could  
16 see his feet, put it like that.

17 Q Did you see the victim?

18 A I could see his feet. I really couldn't see  
19 the victim very good. But I knew somebody was being  
20 shot, though.

21 Q Okay, let me ask you this. What was the  
22 lighting like inside the club at the time of the  
23 shooting?

24 A The lights were on, but from it being so hot  
25 in the club, like when you opened the door and from it

Marcus Jones - Direct

141

1 being cool outside, it's a lot of fog and smoke coming  
2 into the club from in the front and from the back. So  
3 at that time, it was kind of foggy inside the club.

4 Q Let me ask you this, Marcus. Are you scared  
5 today?

6 A Yes.

7 Q You don't want to be here, do you?

8 A No.

9 Q In fact, the only reason you're here is  
10 because of a subpoena --

11 A Yes, sir.

12 Q -- is that right?

13 A Yes, sir.

14 Q I appreciate you coming, okay?

15 A Yes, sir.

16 Q I know you're scared. Did you give a  
17 statement to the police back in February about what you  
18 saw?

19 A Yes, sir.

20 Q Can I just give you a copy of it, and maybe  
21 it'll refresh your memory later? Is that okay?

22 A Yes, sir.

23 Q All right. Is that your statement right  
24 there? Is that the right one?

25 A Yes, sir.

Marcus Jones - Direct

142

1 Q Okay. And they put Marcus Martin at the top,  
2 but your name is Marcus Jones --

3 A Yes, sir.

4 Q -- because you're so close to Damien that you  
5 refer to each other as brothers?

6 A Yes, sir.

7 Q Okay. So that's your statement, all right.  
8 Did you see what the gunman was wearing?

9 A Yes, he had on a red, black, and white  
10 pinwheel hat, as I would call it -- a baseball hat --  
11 and a black and red shooting shirt.

12 Q And did you see what his skin complexion was?

13 A Brown -- brown-skinned.

14 Q Okay. Do you remember when the police asked  
15 you what his skin complexion was?

16 A Do I remember?

17 Q Uh-huh.

18 A I suspect I said brown skin.

19 Q Look at page three of your statement, okay?  
20 And I'll point it out to you so you don't have to read  
21 it. Do you remember saying he had dark skin?

22 A Yes, sir.

23 Q Okay. That's what you told the police in  
24 February, right?

25 A Yes, sir.

Marcus Jones - Direct

143

1           Q     And, of course, in February, three months  
2     after this incident, it was a lot fresher in your mind  
3     than it is today, right?

4           A     Yes, sir.

5           Q     Okay. How tall was the person you saw  
6     shooting?

7           A     About 5'5" -- pretty much about that tall. I  
8     do know he was shorter than me.

9           Q     Okay. How tall are you?

10          A     6'1".

11          Q     So he's definitely not 6'1"?

12          A     No, sir.

13          Q     Is he short?

14          A     Yes, sir.

15          Q     Okay. Was he real heavy, do you know, or  
16     medium, or light?

17          A     No, not really.

18          Q     Now, you testified that you heard the first  
19     shot, and then there was a pause and you looked and saw  
20     the second and third gunshots. How long of a pause do  
21     you think there was between that first shot that you  
22     heard and when you saw the other shots?

23          A     A couple of seconds, maybe about five  
24     seconds.

25          Q     So about a couple of seconds?

Marcus Jones - Direct

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1           A     Yes, sir.

2           Q     When you looked up and saw the second and  
3     third shots, other than the victim on the floor and the  
4     gunman, was anybody else in that area?

5           A     No, sir.

6           Q     I want you to do me a big favor, with the  
7     Court's permission. May I have him step down for just  
8     a minute?

9                     THE COURT: Yes, sir.

10          Q     I'm going to let you stand right there, and  
11     I'm going to show you State's Exhibit 1. I want you to  
12     stand on this over here, okay, Marcus, facing me? Give  
13     the jury just an idea, looking at State's Exhibit 1 --

14                   MR. LITTLEJOHN: Your Honor, excuse me.

15                   THE COURT: Yes, sir.

16                   MR. LITTLEJOHN: I don't think that's  
17     been introduced as an exhibit.

18                   THE COURT: Just for demonstrative  
19     purposes.

20                   THE COURT: Okay. But has Mr.  
21     Littlejohn seen it?

22                   MR. PASCOE: Yes. I told him last week  
23     he could come see it.

24                   THE COURT: Okay.

25                   MR. LITTLEJOHN: Your Honor, if it

Marcus Jones - Direct

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1 hasn't been introduced into evidence, then I object him  
2 showing it to the jury. I don't have any objection to  
3 it, but I think he's got to introduce it.

4 MR. PASCOE: For demonstrative purposes,  
5 Your Honor.

6 THE COURT: I'll let him use it.

7 MR. PASCOE: Thank you, Your Honor.

8 Q Let me show you what's been marked as State's  
9 Exhibit 1, okay? Does this kind of depict the inside  
10 of the Club Voodoo's that night?

11 A Yes, sir.

12 Q It's not to scale, obviously.

13 A Yes, sir.

14 Q All right. Show the jury where you were when  
15 you heard and saw the shots.

16 A Right here, on this side.

17 COURT REPORTER: I can't hear him.

18 Q The left side?

19 A It was in front.

20 Q Left side of the stage in the front. Now,  
21 you've got to speak up like that, okay? Now, where did  
22 you see the two people, one being the victim on the  
23 floor and the other being the gunman? Where did you  
24 see that?

25 A In the front exit close -- kind of not in the

Marcus Jones - Direct

146

1 corner, but I want to say right up the door.

2 Q I've got you. Let me show you what's been  
3 marked as State's Exhibit 10, okay? Do you recognize  
4 that photograph?

5 A Yes, sir.

6 Q What do you recognize that to be?

7 A Inside the club, from the stage.

8 Q From the stage. And does it show the door --

9 A Yes, sir.

10 Q -- that you looked and saw the gunman?

11 A Yes, sir.

12 Q Okay, it actually depicts that area that  
13 night. I'd ask that State's Exhibit 10 be admitted  
14 into evidence, Your Honor.

15 THE COURT: Mr. Littlejohn?

16 MR. LITTLEJOHN: No objection.

17 THE COURT: Admitted without objection.

18 (State's Exhibit 10 was  
19 received in evidence.)

20 Q So, Marcus, where are you standing on the  
21 stage?

22 A On the right-hand corner.

23 Q Okay. And so you're over here in this  
24 corner?

25 A Yes, sir.



Marcus Jones - Direct

147

1 Q Which door -- point to the door that you're  
2 talking about where the shooting took place.

3 A In the red corner, where I want to say it's a  
4 guy standing right there.

5 Q Where there's a person standing?

6 A Yes, sir.

7 Q Okay. So that's the vantage point you would  
8 have had that night, correct -- is that right?

9 A Yes, sir.

10 Q Before I forget, what type of jersey did the  
11 person have on that's the gunman?

12 A The insignia said Trailblazers.

13 Q Okay. Are you sure about that?

14 A No, sir.

15 Q All right. Using me -- if I'm the victim,  
16 okay -- not when you heard the shot but when you saw  
17 the two shots, tell me how the victim was, and I'll get  
18 down like the victim.

19 Q The victim was on the ground.

20 Q Okay. Was he on his front side, back side?

21 A Back. And when you look into the bar, pretty  
22 much when I looked up, all I saw was a guy pretty much  
23 like this, with the gun to his side, just hopping away  
24 and just taking off. And that's pretty much what I  
25 saw.

Marcus Jones - Direct

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1           Q     Tell the jury about the two shots you said  
2     you saw.

3           A     From the two shots, I could see the gun even  
4     pretty much through the fog. Using myself and just my  
5     common sense, pretty much the gunfire was about aiming  
6     coming straight down. It popped from the gun like  
7     this, coming out this way and going straight into his  
8     body. So me, myself, using common sense, like I said,  
9     I know somebody was getting shot. So when I looked --  
10    when I'm looking -- then when the fog clears, all I see  
11    is a guy putting a gun like to his side, and jumping,  
12    and taking off, going out the door.

13          Q     You can sit back down. You actually saw the  
14    fire come from the gun, Marcus?

15          A     Yes, sir, you could see the gunfire.

16          Q     Did it appear that the victim had a gun?

17          A     No, sir.

18          Q     The gunman, was his life in danger that you  
19    could see as he was firing that gun?

20          A     No, sir.

21          Q     What did the gunman do right after you saw  
22    him fire from the gun two shots? What did he do?

23          A     Left the scene of the crime.

24          Q     Okay. Right out the door?

25          A     Yes, sir.

Marcus Jones - Direct

149

1           Q     Not to belabor the point, you didn't hear the  
2     first shot. But if somebody was standing right in the  
3     exit door, okay, when that first shot was fired, do you  
4     think you could even have seen that from the stage?

5           A     No, sir.

6           Q     Could you see that actual exit door from the  
7     stage?

8           A     No, sir.

9           Q     Okay. All right, Marcus. Now I just want to  
10    back up just a little bit, okay? Had you observed the  
11    victim, Carl Smalls, the big football player -- did you  
12    see him earlier that night -- the victim?

13          A     Yes.

14          Q     Okay. Let me ask you this. Prior to  
15    December the 7th, did you know Carl Smalls?

16          A     No.

17          Q     Okay. Did you know the defendant, Jeroid  
18    Price?

19          A     No.

20          Q     When was the first time you ever noticed the  
21    victim, Carl Smalls, that night?

22          A     He came to DJ Frosty and asked him to play a  
23    certain song.

24          Q     Okay. And that's the first time you ever  
25    noticed him?

Marcus Jones - Direct

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1           A     Yes, sir.

2           Q     Did he appear to you to be violent?

3           A     No.

4           Q     Was he hitting anybody?

5           A     No.

6           Q     Did you observe anything else later that  
7 night that made you feel uncomfortable even working  
8 there?

9           A     Observing?

10          Q     Did you see anything that made you feel  
11 uncomfortable that night before the shooting?

12          A     There was a confrontation in the middle of  
13 the floor with the victim.

14          Q     Okay. Could you tell whether they were gang  
15 related or not?

16          A     They were throwing up signs with their hands  
17 and stuff, and me knowing myself, watching TV, I kind  
18 of knew what was going on.

19          Q     Okay. Tell the jury what happened. What did  
20 you see? How long did it last, and what were they  
21 doing?

22          A     I was up on stage, and it just so happened I  
23 just looked up. And, I mean, you saw a little crowd of  
24 guys. And the victim and the other guy with the red  
25 and black pinwheel hat on, they were just fussing back

Marcus Jones - Direct

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1 to each other and throwing up signs at each other. And  
2 they did this for -- it wasn't long. It was like for a  
3 couple of seconds or so, I want to say. It wasn't that  
4 long.

5 Q Okay. And just give the jury an idea sitting  
6 there, where did the confrontation take place?

7 A Right here.

8 Q Right on the dance floor?

9 A Yes, sir.

10 Q Okay. And did it eventually get broken up  
11 somehow?

12 A Yes.

13 Q Now, you said the person with the pinwheel  
14 hat. Did you actually notice that person earlier in  
15 the night?

16 A Yes. Usually, when we go up to a club, DJ  
17 Frosty asks us to walk around to see if anybody's  
18 really dancing, to see how the club atmosphere is. And  
19 if nobody's not, we'll go back and tell him to put on a  
20 certain type of music. But me and Damien -- well,  
21 Damien and I, we want down to walk around, and I  
22 noticed the guy with the little pinwheel hat because  
23 I'm such like a clothes fanatic.

24 I told my brother about it, and I just kept  
25 on telling him, because that's my first time of ever

Marcus Jones - Direct

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1       seeing that kind of clothing before. And we just  
2       walked on around, went back up on the stage, and talked  
3       to Frosty a little bit more.

4           Q       So that was the first time you had an  
5       opportunity to see the person in that hat, correct?

6           A       Yes.

7           Q       Then you saw him again in the confrontation  
8       with Carl Smalls?

9           A       Yes.

10          Q       And then you saw the shooting, correct?

11          A       Yes.

12          Q       So you had a number of opportunities that  
13       night to see that person in that hat?

14          A       Yes.

15          Q       And after the shooting, he didn't stay long,  
16       did he?

17          A       No, he left.

18          Q       You didn't talk to the police?

19          A       No.

20          Q       You were scared?

21          A       Yes.

22          Q       When you left the party, where did you go?

23          A       Went to Waffle House.

24          Q       Okay. And who did you go with?

25          A       Well, it was DJ Frosty, and Mike Hawthorne,

Marcus Jones - Direct

153

1 Damien Martin, Reginald Holliday, and I.

2 Q And just "yes" or "no," did you confide in  
3 anybody that morning that you had seen the shooting?

4 A Yes, I talked to Damien.

5 Q Your brother Damien --

6 A Yes.

7 Q -- or best friend, Damien? And you told him  
8 you saw the shooting?

9 A Yes.

10 Q That morning, you told him?

11 A No, it was that night.

12 Q That night?

13 A Yes.

14 Q Did the police find you, however, in February  
15 this year -- February 3rd?

16 A Yes.

17 Q And did you cooperate after they found you?

18 A Yes.

19 Q Did you give them an honest statement?

20 A They had the one that I had the first time.

21 I mean, we went back over it again.

22 Q Okay. And did you tell them the truth?

23 A Yes.

24 Q Just like you've told this jury today?

25 MR. LITTLEJOHN: Your Honor, I'm going

Marcus Jones - Direct

154

1 to object. I don't think this is proper examination.  
2 I think this is a matter in the province of the jury.

3 MR. PASCOE: Did he tell the police the  
4 truth in February, is what I asked.

5 THE COURT: I'll overrule that, and you  
6 can continue.

7 Q Did you tell the police the truth in  
8 February?

9 A Yes.

10 Q Okay. And did they show you some photographs  
11 that day?

12 A Yes.

13 Q And did you agree to look at those  
14 photographs?

15 A Yes.

16 Q Let me show you what's been marked as State's  
17 Exhibit 41, okay, Marcus?

18 A Yes.

19 Q Do you recognize that?

20 A Yes, I recognize it.

21 Q What do you recognize that to be?

22 A The photos that they showed me back two  
23 months after the shooting happened.

24 Q Okay. What did they ask you to do with this  
25 lineup?



Marcus Jones - Direct

155

1           A     Asked me to take a good look at it and see if  
2     I can remember anybody from the club looking as the  
3     guys on the lineup, and I told them no, I couldn't.

4           Q     Okay. Did they tell you that a gunman was  
5     definitely in this lineup?

6           A     I don't remember.

7           Q     Okay. Did they tell you who to pick out?

8           A     No.

9           Q     And, in fact, you did not pick anybody out of  
10    State's Exhibit 41, did you?

11          A     No, I didn't.

12          Q     Okay. Now let me show you what's been marked  
13    as State's Exhibit 40. Do you recognize that?

14          A     Yes.

15          Q     What do you recognize that to be?

16          A     That's the second lineup they showed me.

17          Q     And it's the same lineup they showed you on  
18    February the 3rd?

19          A     Yes.

20          Q     The same condition as it was in back on  
21    February the 3rd?

22          A     Yes.

23          Q     Okay. I'd ask that State's Exhibit 40 be  
24    admitted into evidence, Your Honor.

25                   THE COURT: Mr. Littlejohn, any

Marcus Jones - Direct

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1 objection?

2 MR. LITTLEJOHN: Your Honor, could we  
3 approach the bench a moment?

4 THE COURT: Yes, sir.

5 MR. LITTLEJOHN: We had this discussion  
6 before.

7 MR. PASCOE: I'd ask that State's  
8 Exhibit 40 be admitted into evidence, Your Honor.

9 THE COURT: Any objection, Mr.  
10 Littlejohn?

11 MR. LITTLEJOHN: No, Your Honor.

12 THE COURT: Without objection, it's  
13 admitted.

14 (State's Exhibit 40 was  
15 received in evidence.)

16 Q And did they ask you to look at State's  
17 Exhibit 40?

18 A Yes.

19 Q Okay. And, again, back in February, this was  
20 a lot fresher in your mind, correct?

21 A Yes.

22 Q And did they tell you that the gunman was in  
23 that lineup?

24 A No.

25 Q Did they hint to you who to pick out?

Marcus Jones - Direct

157

1 A No.

2 Q Did they even suggest to you who to pick out?

3 A No.

4 Q Did you pick one out as someone who looked  
5 like the gunman to you back in February?

6 A Yes, I said number one. I suspected it  
7 looked like him.

8 Q Okay. That one right there, number one?

9 A Yes.

10 Q And nobody told you to pick number one, is  
11 that right, sir?

12 A Yes.

13 MR. PASCOE: Beg the Court's indulgence.

14 THE COURT: Yes, sir.

15 MR. PASCOE: The only other thing I  
16 would do, Your Honor, is ask that State's Exhibit 41 be  
17 admitted into evidence.

18 MR. LITTLEJOHN: No objection.

19 THE COURT: Without objection, it's  
20 admitted.

21 (State's Exhibit 41 was  
22 received in evidence.)

23 Q And in that one, you didn't pick anybody out,  
24 correct?

25 A No, I did not.

Marcus Jones - Direct

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1 Q That's all I have. Marcus, answer any  
2 questions that the defense has for you, okay?

3 A Yes, sir.

4 THE COURT: Thank you, sir.

5 THE COURT: Mr. Littlejohn.

6 CROSS-EXAMINATION

7 BY MR. LITTLEJOHN:

8 Q Is this Mr. Jones?

9 A Yes.

10 Q Mr. Jones, my name is Cam Littlejohn. I  
11 represent Jeroid Price.

12 A How are you doing?

13 Q Your statement says Marcus Martin.

14 A Yes.

15 Q Is there a reason for that?

16 A That's what they put down because I'm related  
17 to -- pretty much I'm related to Damien Martin. Me and  
18 him, I relate to him as my brother.

19 Q Okay. And so somebody wrote it down by  
20 mistake?

21 A Yes.

22 Q Okay. Mr. Jones, after the events you've  
23 talked about, you left the club?

24 A Yes.

25 Q Okay. You and DJ Frosty --

Marcus Jones - Cross

159

1 A Yes.

2 Q -- or Mr. Phillips?

3 A Yes.

4 Q Okay. Did you talk to any police officers  
5 that night?

6 A No.

7 Q Is there a reason for that?

8 A Because I was scared. I was ready to leave.

9 Q You were ready to leave?

10 A Yes, sir.

11 Q Did the police officers tell you to leave?

12 A No, we didn't see no police officers. The  
13 police officers did not even get there yet.

14 Q You just left?

15 A Yes, I just left.

16 Q Okay. Now, Mr. Jones, referring you to  
17 what's previously been marked State's Exhibit #1, just  
18 so I understand here, Mr. Pascoe showed you this  
19 earlier?

20 A Yes.

21 Q You said that you were on the stage up  
22 here --

23 A Yes.

24 Q -- when you heard the first pop?

25 A Yes.

Marcus Jones - Cross

160

1 Q Where on the stage were you?

2 A The right-hand front part of the stage.

3 Q Okay. So you were on this end of the stage?

4 A Yes, on the left-hand side.

5 Q Okay. That would be the left-hand side as  
6 you're looking off the stage --

7 A Yes.

8 Q -- into the rest of the club?

9 A Yes.

10 Q You indicated there was some haze and fog and  
11 that sort of thing?

12 A Yes.

13 Q Cigarette smoke?

14 A No, it was from the club being so hot on the  
15 inside and so much sweat, we opened the back door. And  
16 when the front door was open, there was some fog that  
17 came in, and it filled up the club.

18 Q All right. So that would make it a little  
19 more difficult to see, do you agree?

20 A Yes, it did.

21 Q Okay. You indicated you were packing up the  
22 wiring for the DJ --

23 A Yes.

24 Q -- when you heard the one shot, is that  
25 right?

Marcus Jones - Cross

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1 A Yes, sir.

2 Q After that, you looked up and looked in the  
3 area toward the exit door?

4 A Yes.

5 Q Okay. Now let me show you what's been marked  
6 State's Exhibit #10. You identified this as being a  
7 photo taken from the stage?

8 A Yes.

9 Q All right. And did you tell us, where is  
10 this exit door?

11 A Right there where the guy is standing.

12 Q Where the guy is standing?

13 A Yes.

14 Q Okay.

15 A It would be to his right.

16 Q Can you recognize the guy?

17 A No.

18 Q If you knew him, could you recognize him --

19 A No.

20 Q -- the individual shown in this picture?

21 A No.

22 Q Okay. Because it's backlit?

23 A Yes.

24 Q And even with the lights on, it's dark --

25 A Yes.

Marcus Jones - Cross

162

1 Q -- in that exit door?

2 A You're right.

3 Q Okay. You said you looked up and you saw the  
4 person who got shot laying on the ground?

5 A Yes.

6 Q Okay. And you indicated you could see his  
7 feet?

8 A Yes, from the haze. That's all I could see,  
9 was feet.

10 Q Okay.

11 A I also could see the gunshot, the firing --  
12 the fire from the gun.

13 Q All right. And where did you say this gunman  
14 was?

15 A All I could see -- from me, I mean, just  
16 using common sense, I could see over the top of the  
17 victim, put it like that.

18 Q Facing towards you?

19 A No, facing towards the victim.

20 Q Facing toward the victim?

21 A Yes.

22 Q Okay. And so the individual had their back  
23 to you?

24 A Individual that was --

25 Q That was standing up.



Marcus Jones - Cross

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1           A     The gunman?

2           Q     Yes.

3           A     Did he have his back to me? No, pretty much  
4 he's standing sideways, facing the wall.

5           Q     Sideways?

6           A     Yes.

7           Q     Okay. So the head of the person laying on  
8 the ground was towards you?

9           A     No.

10          Q     The other way?

11          A     Yes. Pretty much where if I'm standing  
12 straight right here, the victim is in front of me,  
13 pretty much laying down like back, with his back  
14 towards the wall.

15          Q     Okay. And the person was laying down on the  
16 ground --

17          A     Yes.

18          Q     -- when you heard shots two and three?

19          A     When I first heard the first shot, then I  
20 looked up, and then I heard a second shot. All I could  
21 see was feet. So, I mean, like I said, I knew somebody  
22 was being shot. So all I could see is pretty much the  
23 firing of the gun aiming towards somebody down on the  
24 ground.

25          Q     Okay.

Marcus Jones - Cross

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1           A     And when the haze cleared, that's when I saw  
2     the gunman leaving the scene.

3           Q     And this person, you didn't get a look at  
4     that person, did you?

5           A     No, all I could tell -- the only reason I  
6     knew it was the guy from earlier was because of the  
7     clothing.

8           Q     Because of clothes?

9           A     Yes, sir.

10          Q     Because of the hat?

11          A     Yes.

12          Q     A lot of people had hats on that night,  
13     didn't they?

14          A     Yes, but not that certain kind of hat,  
15     though.

16          Q     Not that certain kind of hat, and that's a  
17     hat that you say you saw all the way across this hazy  
18     room?

19          A     But, see, I saw him closer earlier that  
20     night, though.

21          Q     Right. But, I mean, when you said these  
22     shots were fired, the view you had was all the way  
23     across this hazy room, isn't that right?

24          A     Yes, you're right.

25          Q     You said earlier that evening you saw a

1 confrontation between the guy that got shot and this  
2 guy in the pinwheel hat?

3 A Yes.

4 Q Okay. And there were words exchanged?

5 A I don't know about -- no, I do not know if  
6 there were words exchanged, because I was on the stage.

7 Q You were on the stage?

8 A Yes, and music was being played. So I do not  
9 know if there was words exchanged.

10 Q But you saw this?

11 A Yes, I could see it on the stage.

12 Q And the man who got shot was a lot bigger  
13 than the fellow in the pinwheel hat --

14 A Yes.

15 Q -- a lot bigger, wasn't he?

16 A Yes.

17 Q Okay. Now, Mr. Jones, you said you heard one  
18 shot, and then a few seconds later you heard shots two  
19 and three?

20 A Yes.

21 Q And up until that time, you don't know what  
22 had occurred?

23 A I knew somebody was being shot.

24 Q Huh?

25 A I knew somebody was being shot.

Marcus Jones - Cross

166

1           Q     Do you what precipitated the party being over  
2     with?

3           A     The party being --

4           Q     Yes.

5           A     -- that it was time to go?

6           Q     Was there a witching hour?

7           A     I don't know.

8           Q     Was it 2:00 or 2:30?

9           A     No, sir, I don't know.

10          Q     You don't know?

11          A     I just know DJ Frosty told us to go ahead and  
12     get ready to start packing up the stuff, to pack up the  
13     wires and stuff when he shut off the music.

14          Q     Was it because of any difficulty caused by  
15     the man that got shot -- do you know that?

16          A     That didn't happen till afterwards.

17          Q     Till afterwards?

18          A     Yes.

19          Q     Did you see him in disagreement with other  
20     people during the course of the evening?

21          A     The victim?

22          Q     Yes, sir.

23          A     I don't really remember.

24          Q     Do you remember --

25          A     Other than him being in contact with the guy

Marcus Jones - Cross

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1 with the pinwheel hat on.

2 Q Okay. Other than what you told us --

3 A Yes.

4 Q -- about the argument earlier?

5 A Uh-huh.

6 Q Did you see him doing the Crip dance?

7 A Huh-uh.

8 Q You didn't see the victim doing that? Did  
9 you see him throwing Crip signs?

10 A Towards? I mean, I don't even know what Crip  
11 signs is. So, I mean, if he planned to do that, I  
12 wouldn't know the difference. I wouldn't know he'd be  
13 doing it.

14 Q Did you see him throwing signs --

15 A Yes.

16 Q -- making signs? Okay. If you'd indulge me  
17 just a moment, Judge.

18 THE COURT: Yes, sir.

19 Q Mr. Jones, just a couple of final things.

20 Did you see the man that got shot in an argument with a  
21 girl that night?

22 A I don't remember.

23 Q You don't remember seeing that?

24 A No.

25 Q Okay. Do you remember what song he asked for

Marcus Jones - Cross

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1 -- or did he come up and ask for a song?

2 A Yes, he did, but I don't really remember. I  
3 don't remember that either.

4 Q You don't remember which song?

5 A No.

6 Q Okay. So, Mr. Jones, you don't recall a  
7 disturbance between the man that got shot and a girl  
8 that night?

9 A I really don't remember.

10 Q Okay. Do you recall giving a statement on  
11 February 3rd?

12 A Yes.

13 Q Okay. Let me show you page four of that  
14 statement and ask you, that first answer there, just  
15 look that over and tell me if that refreshes your  
16 memory about this disturbance.

17 A Yes.

18 Q Do you remember now?

19 A I remember, by me seeing this said right  
20 here. But me thinking and rethinking in my head, I  
21 really don't remember that happening. I mean, I  
22 remember him like dancing in front. From me saying  
23 that, it just is hard. I'm saying I don't really  
24 remember too much about that.

25 I remember him asking for the song and

Marcus Jones - Cross

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1 stuff and then him going about his business. Then  
2 after that, I remember him getting in a confrontation  
3 with the guy with the pinwheel hat on.

4 Q Okay.

5 A But me saying something about a girl, I'm  
6 trying to remember, but it just is not there.

7 Q Do you remember making that statement on  
8 February 3rd now?

9 A Yes, I mean, from what they wrote.

10 Q Okay. But you agreed to it at the time,  
11 didn't you?

12 A Yes --

13 Q You believed that was what happened?

14 A -- at that time when they was asking me that.  
15 From way back then to now, I mean, it's two different  
16 things.

17 Q It's hard to remember?

18 A It is.

19 Q Okay. That's all I have at this time.

20 THE COURT: Thank you, Mr. Littlejohn.

21 THE COURT: Anything further, Mr.

22 Pascoe?

23 MR. PASCOE: Very briefly, Your Honor.

24 I'm almost done.

25 REDIRECT EXAMINATION

Marcus Jones - Redirect

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1 BY MR. PASCOE:

2 Q You were asked about the size differences  
3 between the gunman and Carl Smalls under cross?

4 A Yes.

5 Q Just to refresh your memory, I'm going to let  
6 you read something. And then I'm going to ask you some  
7 questions, okay?

8 A Uh-huh.

9 Q Just read it to yourself, your answer to that  
10 question from there to there, okay? Marcus, who is the  
11 main person that was arguing with Carl Smalls during  
12 that confrontation that night?

13 A The guy with the pinwheel hat on.

14 Q And, in fact, did that strike you as odd that  
15 night?

16 A Yes, because he was so much smaller than him.  
17 Pretty much like I told my brother that I wouldn't be  
18 arguing with him.

19 Q In fact, you actually told your brother that  
20 night that if were the guy in the red pinwheel hat, you  
21 wouldn't be messing with Carl Smalls?

22 A No, not at all.

23 Q And that was during the confrontation on the  
24 dance floor?



Marcus Jones - Redirect

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1           A     Yes.

2           Q     But did that person in the red pinwheel hat  
3     seem to have any concern about arguing with Carl Smalls  
4     that you saw?

5           A     Huh-huh. It was going back and forth.

6           Q     In fact, that struck you as odd that night,  
7     didn't it?

8           A     Yes.

9           Q     That's all I have, Your Honor.

10           THE COURT: Thank you, sir.

11           THE COURT: Anything further, Mr.

12     Littlejohn?

13           MR. LITTLEJOHN: No, Your Honor.

14           THE COURT: Okay. Thank you, sir.

15           THE COURT: Mr. Jones, you may step  
16     down, sir.

17           THE COURT: The State may call their  
18     next witness.

19           MR. PASCOE: Damien Martin, Your Honor.

20                     (The witness was sworn.)

21           CLERK OF COURT: Please have a seat  
22     there, sir, and state your full name for the record.

23           MR. MARTIN: My name is Damien Martin.

24                     DAMIEN MARTIN, having first

Marcus Jones - Redirect

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1       been duly sworn, testified as follows:

2                               **DIRECT EXAMINATION**

3       BY MR. PASCOE:

4               Q       Good afternoon, Damien. How old are you?

5               A       I'm 19 years old.

6               Q       And is Marcus your brother or best friend?

7               A       Yes, sir.

8               Q       Do you also go to college?

9               A       Yes, sir.

10              Q       What year are you in?

11              A       I'm a sophomore.

12              Q       Tell the jury what your major is in college.

13              A       Electrical engineering.

14              Q       Damien, were you working at Club Voodoo's the  
15       night Carl Smalls was killed?

16              A       Yes, sir, I was.

17              Q       And were you working with your brother,  
18       Marcus, and DJ Frosty?

19              A       Yes, sir.

20              Q       And did you ever see anybody that night with  
21       a red pinwheel hat?

22              A       Yes, sir. During the night, my brother  
23       pointed out that he had liked the hat. And, actually,  
24       I took notice of the hat, because he usually points out

Damien Martin - Direct

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1 things like that. So I did notice somebody with that  
2 hat.

3 Q Is it unusual for your brother to do stuff  
4 like that?

5 A No, sir, it's not.

6 Q Why not?

7 A He's just a fashion fanatic for different  
8 things, and that was different at the time.

9 Q Did you pay attention to the person wearing  
10 the hat that night?

11 A No, sir. I just noticed that it was a dark-  
12 skinned person, but feature-wise, no.

13 Q Okay. Just had dark skin?

14 A Yes, sir.

15 Q How long do you think you were at the party  
16 that night, Damien?

17 A I was there till long after the party was  
18 over till it closed.

19 Q Okay. Did the party end around 2:00 in the  
20 morning?

21 A Yes, it ended approximately around 2:00.

22 Q Let me ask you this. Did you see anything  
23 uncomfortable that night on the dance floor before the  
24 party ended?

25 A I saw a gang-related kind of altercation

Damien Martin - Direct

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1 between a group of guys.

2 Q Okay. And, in fact, did you see what colors  
3 were involved?

4 A It was group of guys, some wearing red and  
5 black, and others in a darker color, a blue color.

6 Q And tell this jury what you ended up having  
7 to do that night because of what you observed.

8 A I removed my red shirt because I didn't want  
9 to get confused in what was going on, because I did  
10 have on a red shirt at the time.

11 Q And this was Kyle's party, wasn't it?

12 A Yes, sir.

13 Q What did you end up having to wear?

14 A Just a plain wife-beater that was under my  
15 shirt.

16 Q Now, Damien, did you see the shooting?

17 A No, sir, I didn't.

18 Q Where were you?

19 A I was out towards the stage area, which is in  
20 the back. I don't know if you've seen the diagrams or  
21 the pictures, but that's in the back, away from the  
22 door of the club.

23 Q Okay. Let me ask, were you even looking  
24 towards the door during the shooting?

25 A No, sir. Actually, my back was towards the

Damien Martin - Direct

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1 door.

2 Q Okay. Tell the jury about what you heard and  
3 what you did, okay?

4 A Well, first, I heard, of course, the first  
5 shot that went off. My first reaction was to get down.  
6 There was maybe a pause in between, and I heard two  
7 more shots. And that was pretty much it. By the time  
8 I looked up, all I could actually see was smoke and,  
9 you know, fog -- smoke from the gun and fog from coming  
10 in the door.

11 Q How long of a pause do you think there was  
12 between that first and any other shots that you heard,  
13 just if you had to guess?

14 A Maybe a second or two.

15 Q Okay. How long did you stay at the club  
16 after the shots were fired?

17 A We continued packing up and left like 15  
18 minutes after the shooting.

19 Q Okay. Did you talk to the police that night?

20 A No, sir. We left before they arrived.

21 Q Did you eventually talk to the police,  
22 though?

23 A Yes, they came and got me.

24 Q On February 3rd of this year?

25 A Yes, sir.

Damien Martin - Direct

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1 Q And did you provide Lt. Smith with a three-  
2 page statement about what you heard and saw that night?

3 A Yes, sir, I did.

4 Q And did you tell Lt. Smith the truth?

5 A Yes, sir.

6 Q And you cooperated once the police found you  
7 in February?

8 A Yes, sir.

9 Q Okay. Let me ask you this. You can't tell  
10 us what was said. But after the shooting -- after  
11 y'all left -- did you have a conversation with Marcus  
12 about the shooting?

13 A Yes, once we got to DJ Frosty's house, he had  
14 told me that he thinks that the guy that did was the  
15 same guy he pointed out wearing the pinwheel hat.

16 Q So you actually found out that your brother  
17 saw who may have done the shooting that morning?

18 A Yes, sir.

19 Q Beg the Court's indulgence.

20 THE COURT: Yes, sir.

21 Q Thank you, Damien. I want you to answer any  
22 questions that defense counsel has for you.

23 THE COURT: Thank you, Mr. Pascoe.

24 THE COURT: Mr. Littlejohn.

25 MR. LITTLEJOHN: Thank you, Your Honor.

## 1 CROSS-EXAMINATION

2 BY MR. LITTLEJOHN:

3 Q Mr. Martin, my name is Cam Littlejohn. I  
4 represent Jeroid Price. I just have a few questions  
5 for you. You said you heard the first shot?

6 A Yes, sir.

7 Q And then you ducked down, and you didn't see  
8 what happened after that?

9 A No, sir.

10 Q Is that right?

11 A No, sir.

12 Q Okay. You said that there was a very short  
13 pause of like one second between the first shot and  
14 when you heard the second and third shots?

15 A Yes, sir. I vaguely remember the actual time  
16 distance in between the shots, but it was a time  
17 distance of maybe a second or two, yes, sir.

18 Q Maybe a second or two, okay. You described  
19 for Mr. Pascoe an altercation or some difficulties that  
20 you saw prior to the shooting?

21 A Yes, sir.

22 Q And that was on the dance floor?

23 A Yes, sir.

24 Q And I believe you told the detectives that  
25 the man who got shot was arguing with the girl that

Damien Martin - Cross

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1 night? --

2 A Oh, actually, I seen the guy in an  
3 altercation with a girl earlier that night.

4 Q Right.

5 A Yes, sir.

6 Q That was the man that got shot was in the  
7 argument, right?

8 A That's who I'm assuming, I'm guessing. I'm  
9 not sure.

10 Q Okay.

11 A I vaguely remember.

12 Q So you're not sure who got in the argument  
13 with the girl?

14 A I mean, I'm guessing that it was him, but I'm  
15 not sure. I didn't go down and look at him personally  
16 to see who was who. I just know he favored the guy.

17 Q Okay. Do you remember being asked by the  
18 detectives, "Did you see the victim involved in an  
19 altercation earlier in the night?" and you said, "Yes,  
20 sir"? Do you remember that?

21 A Yes, sir, I remember seeing the victim in an  
22 altercation with the gang members, but I'm not sure if  
23 that's the same person that was in the altercation with  
24 the girl. But it might have been.

25 Q Okay. Do you recall, after saying, "Yes,



Damien Martin - Cross

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1        sir," "I saw him arguing with the girl first"?

2            A        Yes.

3            Q        Do you remember saying that?

4            A        Yes, sir.

5            Q        Is that what you remembered when you gave  
6        this statement?

7            A        Yes, sir.

8            Q        Okay. Now there's no doubt that you recall  
9        that the man who got shot was in an argument with a  
10       number of other people --

11           A        Yes, sir.

12           Q        -- during the evening, isn't that right?

13           A        Yes, sir.

14           Q        Okay. And that's what prompted you to take  
15       off your shirt, is that right?

16           A        Yes, sir.

17           Q        Okay. So, Damien, after you heard that first  
18       shot, you didn't see what happened at the exit door?

19           A        No, sir.

20           Q        Okay.

21           A        My reaction was to get down.

22           Q        You got down, and then you left?

23           A        Yes, sir.

24           Q        That's all I have, Your Honor.

25                    THE COURT: Thank you, sir.

Damien Martin - Cross

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1 THE COURT: Mr. Pascoe.

2 MR. PASCOE: Nothing, Your Honor. Thank  
3 you, Damien.

4 THE COURT: Sir, you may step down.  
5 Thank you.

6 THE COURT: Is the State prepared to  
7 call their next witness?

8 MR. JEFFRIES: The State calls Deputy  
9 Lucas.

10 MR. PASCOE: They had to go get him,  
11 Your Honor.

12 THE COURT: That's fine.

13 MR. PASCOE: Hopefully, it won't take  
14 long. Here he is.

15 CLERK OF COURT: Right here, sir.  
16 Please have a seat here, sir, and state your full name  
17 for the record.

18 DEPUTY LUCAS: David Edward Lucas.

19 DAVID EDWARD LUCAS, having  
20 first been duly sworn, testified as follows:

21 **DIRECT EXAMINATION**

22 BY MR. JEFFRIES:

23 Q Deputy Lucas, will you tell the jury where  
24 you're employed?

25 A Richland County Sheriff's Department.

David Lucas - Direct

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1 Q In what capacity are you with the Sheriff's  
2 Department?

3 A At this time, a K-9 handler, deputy.

4 Q So you're with the K-9 unit?

5 A Correct, sir.

6 Q What were you doing in December of last year  
7 with the Sheriff's Department?

8 A Patrol Division.

9 Q Were you working the road?

10 A Correct.

11 Q How long have you been with the Sheriff's  
12 Office, all total?

13 A Over two and a half years.

14 Q Okay. And how long have you been in law  
15 enforcement?

16 A Almost nine years.

17 Q So where did you work before you started with  
18 the Richland County Sheriff's Department?

19 A Sumter County Sheriff's Office.

20 Q Okay. Now, back in December of last year,  
21 2002, what area of Richland County were you assigned  
22 to?

23 A From Olympia to Sumter County and Kershaw  
24 County to the Calhoun County line, the Region One area  
25 of Richland County.

David Lucas - Direct

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1           Q     Is that the southeast area of Richland  
2 County?

3           A     Yes, sir.

4           Q     What were your general duties?

5           A     To answer calls, basic traffic enforcement.

6           Q     And were you working on December 6th, which  
7 was a Friday night? Were you working that evening?

8           A     Yes, sir.

9           Q     What was your shift that evening?

10          A     Seven to seven -- 7 p.m. to 7 a.m.

11          Q     So you had been working through the night of  
12 December 6th into the morning of December 7th?

13          A     Yes, sir.

14          Q     Okay. What were you doing, if you can  
15 remember, around 2 a.m. on Saturday morning, the 7th?

16          A     We had -- a call had just been cleared from  
17 Club Voodoo's, and I had stopped off at the Waffle  
18 House to get something to eat.

19          Q     And did you get something to eat at the  
20 Waffle House?

21          A     Yes, I did.

22          Q     Okay. Tell me what happened after you ate at  
23 the Waffle House.

24          A     Myself and Master Deputy Pearce were walking  
25 out to the parking lot, and a call came over the radio

David Lucas - Direct

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1 for a fight in progress at Club Voodoo's. Just as I  
2 was walking to the car, I heard about three or four  
3 gunshots.

4 Q Okay. You said you got a call that there was  
5 a fight in progress at the Club Voodoo?

6 A Correct.

7 Q And were you going to respond to that call?

8 A Correct.

9 Q Okay. And what happened as you were  
10 responding to that call?

11 A As I was getting in the car, I heard three to  
12 four gunshots in that general vicinity.

13 Q So what did you do then?

14 A I got in my car, and Master Deputy Pearce,  
15 who was working security at the Waffle House, said he'd  
16 back me up since he was the closest unit. We were both  
17 the closest units there. We got into our cars and  
18 responded to the scene.

19 Q Okay. Where is the Club Voodoo located from  
20 where the Waffle House is? What's the distance?

21 A Less than half a block.

22 Q Less than half a block?

23 A Yes.

24 Q And you had been to the Club Voodoo earlier?

25 A Yes.

David Lucas - Direct

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1           Q     Okay. How long did it take you to get from  
2 the Waffle House to the Club Voodoo?

3           A     Thirty seconds, maximum.

4           Q     And could you tell that the gunshots were  
5 coming from that area, or did you just get that from  
6 the call on the radio that it was at the club?

7           A     No, I could hear them coming from that  
8 general distance.

9           Q     Did any other officers respond to the Club  
10 Voodoo when you did?

11          A     Several officers.

12          Q     You said you were with Deputy Pearce earlier?

13          A     Yes, we arrived first.

14          Q     Did he respond with you?

15          A     Correct.

16          Q     Now, what area did you respond to when you  
17 first arrived at the club?

18          A     We came in the driveway, and it was just  
19 complete chaos, cars coming out at a high rate of  
20 speed. Our blue lights were on. Our sirens were on.  
21 We were trying to get through the traffic. There's  
22 people running across the parking lot, you know,  
23 driving over curbs and stuff, trying to get to the bar  
24 itself. It was just total chaos in the parking lot.

25                I pulled up to the front of the bar. Master

David Lucas - Direct

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1 Deputy Pearce pulled up behind me. We got out. A girl  
2 ran up to him, and she shouted. I could hear her  
3 shouting, too, that "He's been shot!" We went ahead  
4 and called for an ambulance -- hadn't seen anything  
5 yet, but went ahead and got the ambulance en route.

6 Q When she said he had been shot, did you know  
7 at all who she was talking about?

8 A No, I did not.

9 Q Okay. Did she tell you who she was talking  
10 about?

11 A No, she did not.

12 Q Okay. So where did you continue to at that  
13 point?

14 A We walked -- as the parking lot's clearing,  
15 we walked towards the bar to go into the exit, shined a  
16 light through the window. Master Deputy Pearce was  
17 just in front of me. We shined a light through the  
18 window, and you could see a body laying at the doorway.  
19 We could not open that door.

20 Q So you were on the outside of the club  
21 looking in, and you could see a body laying?

22 A Yes.

23 Q And where was the body laying?

24 A Right at the exit -- what turned out to be  
25 the exit door.

David Lucas - Direct

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1 Q Okay. What did you do next?

2 A Went to the entrance of the door, Master  
3 Deputy Pearce as my cover officer. We went in, circled  
4 around a bar-type area. As we walked up to where the  
5 body was, the victim -- as I was walking up to him, he  
6 took his last breath. He just took like a deep breath  
7 and just sighed -- just "haaah" and just let it out.  
8 And you could see some blood on his back. We got on  
9 the radio and told EMS to expedite, to get there as  
10 fast as they could. And we started a crime scene from  
11 there.

12 Q Let me ask you, how was he positioned in the  
13 hallway, if you can remember?

14 A The door is here. He was laid flat, head  
15 facing -- here's the door. He was laid down.

16 Q Would he have been blocking someone trying to  
17 get through that door? Would he have been in the  
18 hallway?

19 A He was relatively close to the door, if you  
20 tried.

21 Q And did you attempt to pick him up or move  
22 him in any way?

23 A I did check for a pulse after I had heard  
24 that breath. I reached down and checked for a pulse,  
25 did not feel a pulse. I saw a cell phone laying next



David Lucas - Direct

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1 to him with the numbers 911 dialed in it.

2 Q And you say that emergency medical services  
3 were called?

4 A Correct.

5 Q Now, were you able to determine the victim's  
6 identity?

7 A No, I was not.

8 Q Okay. Now, in a case like this where there's  
9 a possible homicide and the individual is down, who do  
10 you notify?

11 A First-line supervisor.

12 Q And did you do that in this case?

13 A Yes, Corporal Allen.

14 Q You said Corporal Allen --

15 A Corporal Billy Allen, correct.

16 Q -- responded? Was he your direct supervisor?

17 A At that time, yes.

18 Q Okay, he would have been at that time. Now,  
19 when EMS arrived, are you aware if they made any  
20 determination as to the victim's condition?

21 A I watched them put the electrodes on him, and  
22 there was no heartbeat.

23 Q No response. Do you know if Major Crimes  
24 responded to the scene?

25 A Yes.

David Lucas - Direct

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1 Q A Major Crimes investigator responded?

2 A Correct, yes.

3 Q Okay. And what investigator was that, if you  
4 remember?

5 A I don't remember.

6 Q Okay. Let me show you State's Exhibit #1 and  
7 ask you if you recognize it. Do you recognize what  
8 this diagram depicts?

9 A Yes, the club.

10 Q And where would you have responded when you  
11 first came in? Where were you coming from, first of  
12 all?

13 A The Waffle House would have been over here  
14 close to I-77 and 378. I came in that side entrance.  
15 I parked my car right about here in the fire lane and  
16 took some pictures of the crime scene. Master Deputy  
17 Pearce parked behind me. And right here is where we  
18 walked up to first, shined the light. Then we went in  
19 here, walked around. Actually, we walked around, then  
20 went there, and right there was the body.

21 Q And I believe you testified earlier you  
22 couldn't get in this door?

23 A Correct, we could not.

24 Q Okay. And where was the body in this area?

25 A Right here.

David Lucas - Direct

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1 Q Okay. So you say you came around here  
2 through the back end --

3 A Correct.

4 Q -- through the club and found the victim  
5 here?

6 A Yes, sir.

7 Q And that area where Club Voodoo is, you  
8 stated that was in southeast Richland County?

9 A Correct, sir.

10 Q That's in the county limits?

11 A Yes, sir.

12 Q Nothing further. Answer any questions  
13 defense might ask.

14 THE COURT: Thank you, Mr. Jeffries.

15 THE COURT: Mr. Littlejohn.

16 MR. LITTLEJOHN: Thank you, Your Honor.

17 **CROSS-EXAMINATION**

18 BY MR. LITTLEJOHN:

19 Q Deputy Lucas, my name is Cam Littlejohn. I  
20 represent Jeroid Price. You told us when you  
21 originally got the call, you were at the Waffle House?

22 A Correct, sir.

23 Q In the parking lot?

24 A Walking out to my unit.

25 Q You were walking out to your car?

David Lucas - Cross

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1           A     Correct, sir.

2           Q     Okay. And about this same time, you heard  
3 three to four shots?

4           A     Correct, sir.

5           Q     How long was it after that that you got the  
6 call from the dispatcher?

7           A     We got the call about the same time as we  
8 were going to the car. It was just seconds. It wasn't  
9 very long.

10          Q     So did you receive the call first, or did you  
11 hear the shots first?

12          A     Received the call first.

13          Q     You received the call first?

14          A     Yes, and I was going to my car to respond to  
15 the call.

16          Q     Okay.

17          A     And I heard the shots.

18          Q     Then you heard the shots?

19          A     Correct, sir.

20          Q     Okay. Now, you said it took you about 30  
21 seconds to get down there?

22          A     Approximately.

23          Q     That was to the entrance to the Voodoo Club?

24          A     Approximately, yes, sir.

25          Q     Okay. And I believe you indicated that when

David Lucas - Cross

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1       you got there, you and Deputy Pearce looked through the  
2       exit door. That would be on your left as you're facing  
3       the club, is that right?

4             A     Yes, sir.

5             Q     Okay. You shined a light through that door?

6             A     Yes, sir.

7             Q     The door was closed?

8             A     Yes, sir.

9             Q     Okay. Then you said you went in the entrance  
10       door and walked around?

11            A     Yes, sir.

12            Q     And that's when you saw the man that had been  
13       shot?

14            A     We had already seen him through the window.

15            Q     Okay.

16            A     We shined a light through there, and we were  
17       just trying to get a way in.

18            Q     All right. Then you got a way in, and then  
19       you saw him directly without having to look through the  
20       door?

21            A     Sir.

22            Q     I say, after you went in the entrance door,  
23       went around, that's when you saw the man directly?

24            A     Yes, sir.

25            Q     Okay. When you saw him, he was laying face-

David Lucas - Cross

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1 down?

2 A Correct.

3 Q Okay. With his head up in the corner?

4 A Kind of at the side.

5 Q Kind of at the side -- you mean to the side  
6 wall?

7 A Laid down.

8 Q Okay. I meant by that the corner of that  
9 little hallway he was in -- if you remember.

10 A I don't remember the exact position of his  
11 head.

12 Q Okay. And that's a narrow hallway, is it  
13 not?

14 A Yes, it's about between here and there.

15 Q Okay. And the victim was a big man, wasn't  
16 he?

17 A Yes.

18 Q A very large man?

19 A Yes, sir.

20 Q And when you found him, he was face-down, is  
21 that right?

22 A Yes, sir.

23 Q And you indicated that you didn't do anything  
24 to move the body, but you took his pulse?

25 A I just reached down and touched his neck.

David Lucas - Cross

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1 Q Okay. Did you get any pulse at that time?

2 A I did not.

3 Q Okay. Did you do anything to move his body?

4 A I did not.

5 Q Did you see any indication that his body had  
6 been moved?

7 A I did not.

8 Q You didn't see anything?

9 A No, sir.

10 Q Okay. Now, at that point, you said you  
11 called for an ambulance and called for your supervisor?

12 A We had already prior called an ambulance.

13 Q Already called, okay. And while you were  
14 there securing the scene, did anybody move the man's  
15 body?

16 A Not that I saw, no. We locked it down, crime  
17 scene taped it, put one at the crime scene with the  
18 crime scene locked.

19 Q All right. And as far as you could tell from  
20 all indications, from all the evidence available to  
21 you, the body was there where it hit the floor?

22 A The body stayed in the position where when I  
23 got on the scene, it did not move.

24 Q I believe that's all I have, if you could  
25 indulge me just a moment, Judge.

David Lucas - Cross

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1 THE COURT: Certainly.

2 Q Deputy Lucas, just one final thing. Did you  
3 or other deputies attempt to keep the witnesses there  
4 -- the people that were apparently on the scene when  
5 you got there?

6 A We tried our best, I could tell you that  
7 much. But, like I said, it was total chaos. I mean,  
8 you've got hundreds and hundreds of people, vehicles  
9 traveling at a high rate of speed, and people running.

10 Q Right.

11 A And we did what we could, but nobody wanted  
12 to stay.

13 Q Nobody wanted to stay?

14 A Nobody approached us to say they saw what  
15 happened, nobody stood over there -- like I said, we  
16 had the one female screaming somebody had been shot.

17 Q Right.

18 A And then she vanished.

19 Q Did you or some of the other deputies clear  
20 the people out from that area there?

21 A As we moved the crime back?

22 Q Yes.

23 A Yes, we did.

24 Q So you told people to get out of the area?

25 A We didn't tell them to leave. We just told



David Lucas - Cross

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1       them they needed to back up, and if they saw something,  
2       they needed to stand over there.

3           Q     Okay. All right, sir. That's all I have,  
4       Your Honor.

5                   THE COURT: Thank you, sir.

6                   THE COURT: Mr. Jeffries, anything  
7       further?

8                   MR. JEFFRIES: Nothing further, Your  
9       Honor.

10                  THE COURT: Okay. Thank you, sir.

11                  THE COURT: Deputy, you may step down.  
12       Thank you, sir.

13                  DEPUTY LUCAS: Thank you.

14                  THE COURT: Is the State prepared to  
15       call another witness?

16                  THE COURT: All right, ladies and  
17       gentlemen of the jury, I think that will conclude all  
18       the witnesses today. We'll get started again at 9:30  
19       in the morning. I just ask that overnight you not  
20       discuss any of the testimony or evidence you've seen or  
21       heard today.

22                  We'll be back in the jury room that you  
23       all have been using all of this morning and this  
24       afternoon a few minutes before 9:30. We'll try to be  
25       prepared to go right at 9:30. So I hope you all have a

1 good night, and we'll see you all in the morning.

2 Thank you.

3 THE COURT: Mr. Bailiff, let me bring  
4 them back in for a moment.

5 BAILIFF: Bring them back in?

6 THE COURT: Yes, sir.

7 BAILIFF: Come on back.

8 BAILIFF: The jury is present, Your  
9 Honor.

10 THE COURT: Okay. Thank you, sir.

11 THE COURT: Ladies and gentlemen, as you  
12 all recall, during voir dire this morning, we did go  
13 into there was an article in *The State* paper about the  
14 beginning of this trial. I don't know if there will be  
15 any more media coverage of this, either on TV or in the  
16 paper. But I would ask that if you watch TV tonight  
17 and there is a story on TV or on the radio about this  
18 trial that you cut it off.

19 Don't pay any attention to any coverage  
20 from the media regarding this trial, and the same  
21 obviously would go for anything in the newspaper. The  
22 deliberations that you all will undertake in this trial  
23 will and should only come from the evidence that's  
24 presented to you from this witness stand and in the  
25 form of the evidence that's admitted by this Court.

1                   So I just ask that you avoid any  
2 newspaper articles or television or radio coverage of  
3 this trial, should there be any for the rest of the  
4 week. And at that point, I'll let you all go. Have a  
5 good night. Thank you.

6                                 (Jury out for day at 5:22  
7 p.m.; to return at 9:30 a.m. Tuesday.)

8                   THE COURT: Thank you, sir.

9                   THE COURT: Anything further from  
10 counsel before we break?

11                   MR. LITTLEJOHN: No, Your Honor.

12                   MR. PASCOE: No, Your Honor. Thank you.

13                   THE COURT: Okay. We'll see you all at  
14 9:30 in the morning, then. Thank you.

15                                 --End of Day--

16                   Tuesday, November 16, 2003

17                   THE COURT: Is counsel for both sides  
18 ready to receive the jury?

19                   MR. LITTLEJOHN: The defense is ready,  
20 Your Honor.

21                   MR. PASCOE: Yes, Your Honor.

22                   THE COURT: We're ready for the jury  
23 now. Thank you, sir.

24                                 (The jury returned to the  
25 courtroom at 9:47 a.m., after which the following

1 proceedings were had:)

2 BAILIFF: The jury is all present, Your  
3 Honor.

4 THE COURT: Thank you, sir.

5 THE COURT: Good morning, ladies and  
6 gentlemen. I hope you all had a good night. Before we  
7 get started -- and we'll be ready to get started in  
8 just a minute -- I just wanted to make sure -- there  
9 was an article in the paper this morning, in *The State*  
10 paper, regarding the trial yesterday and testimony that  
11 was given in this courtroom.

12 And I just wanted to verify with you all  
13 whether anybody saw that article this morning or read  
14 that article. Okay, let the record reflect no juror  
15 indicates that they've read anything. Thank you,  
16 ladies and gentlemen. Again, we're ready to get  
17 started.

18 THE COURT: Mr. Pascoe, is the State  
19 ready to call their next witness?

20 MR. PASCOE: Yes, sir. Thank you. The  
21 State calls Joe Jones, Your Honor.

22 (The witness was sworn.)

23 BAILIFF: Mr. Jones, place your left  
24 hand on the Bible, face the Clerk, and raise your right  
25 hand.

1 CLERK OF COURT: Please have a seat up  
2 here, sir, and state your full name for the record.

3 JOE JONES, having first been  
4 duly sworn, testified as follows:

5 **DIRECT EXAMINATION**

6 BY MR. PASCOE:

7 Q Good morning, Mr. Jones.

8 A Good morning.

9 Q That's your name, Joe Jones -- pretty easy to  
10 spell?

11 A Yes, sir.

12 Q Okay. Are you from the Columbia area, sir?

13 A Yes, I am.

14 Q Did you go to college?

15 A Yes, I did.

16 Q Where did you go to school?

17 A I went to Benedict College.

18 Q Were you in a fraternity?

19 A Yes, I'm in Omega Psi Phi.

20 Q Okay. Did you go to Club Voodoo's the night  
21 of December 6, 2002, sir?

22 A Yes, I did.

23 Q Approximately what time did you get there?

24 A I got there around about, say, between 10:30  
25 and 11:00, a 30-minute wait to get in before I got in.

Joe Jones - Direct

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1           Q     Okay. How were the people allowed into the  
2 club at Club Voodoo's?

3           A     Well, the security that was working the  
4 floor, it was by choice of who they wanted to let in.  
5 And it's like whoever they knew got in.

6           Q     What was security like all that night?

7           A     Security, awful. I mean, it could have been  
8 better, which it was a line at first. But when they  
9 started letting people in from deciding whoever they  
10 wanted to let in, everybody just ganged the door. It  
11 was like a big mob at the door. People was pushing.  
12 Every time they opened the door, they was pushing in.  
13 So they just went through the crowd and let in whoever  
14 they wanted to let in.

15          Q     And did you know anyone working at the door  
16 as a bouncer or security that night?

17          A     Yes, I knew -- I don't know his name, but I  
18 know his face. We went to college together.

19          Q     Okay. At Benedict?

20          A     Yes.

21          Q     Okay. What did you do when you finally got  
22 inside the club?

23          A     Well, I had a buddy of mine, he came down  
24 from Atlanta, and he wanted to go out. But once we got  
25 in, we went to the bar, went to the back, because

Joe Jones - Direct

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1       that's the only place in the club that was actually  
2       kind of freed up, because they was packed in hot in the  
3       club.

4           Q     Did you see anything unusual take place on  
5       the dance floor that night?

6           A     Yes. Towards the end of the night, a bunch  
7       of guys started squaring off. They started playing all  
8       kind of hype music, and they just started squaring off.  
9       And it was a dance atmosphere at first, but then both  
10      sides just took over the floor.

11          Q     And you said both sides took over the floor.  
12      Could you tell who the sides were?

13          A     Yes.

14          Q     And who were they?

15          A     It was the Bloods and the Crips.

16          Q     So you testified it started as a dance, and  
17      then it turned into Bloods and Crips taking over the  
18      dance floor?

19          A     Yes, sir.

20          Q     How long did the confrontation between the  
21      Bloods and the Crips take place?

22          A     A couple of songs -- a couple of them. I  
23      don't know really how long, but they'd been facing off  
24      for a minute.

25          Q     Did you pay attention to who they were or who

Joe Jones - Direct

202

1 was involved at all?

2 A Yes. I mean, both of them was flashing their  
3 colors and their gang signs.

4 Q When the party ended at 2:00 in the morning,  
5 what did you do?

6 A Well, before the club let out, me and my  
7 buddy, you know, we kind of figured what was about to  
8 happen. We thought, you know, that they was about to  
9 just tear the club up. So we actually got out. It was  
10 three of us. We got out, and by the time everybody got  
11 out, we was outside, a couple of more people.

12 And I had my door adjacent open, and I was  
13 standing on my floorboard. And I was actually looking  
14 over everybody. You know, by this time, everybody was  
15 just, you know, mingling and talking outside.

16 Q Okay. So you actually went out a little bit  
17 before the party actually ended?

18 A Yes, I'd say a couple of minutes.

19 Q And did anything catch your eye as you were  
20 out by your car that morning?

21 A Yes. What caught my eye was that I saw a  
22 gentleman weaving through the crowd, because everybody  
23 else was still. But he was weaving through the crowd,  
24 kind of hunched over, trying to get back in the door.  
25 And, actually, security still had the door kind of



Joe Jones - Direct

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1 open.

2 Q And did you actually look at that person as  
3 he was walking toward you and the crowd?

4 A Yes, because I kind of vaguely remember him  
5 in the club.

6 Q Okay. Do you remember what his hair was  
7 like?

8 A Yes, it was in braids.

9 Q In braids -- about how big he was?

10 A He was mid-sized, stocky.

11 Q And what caught your eye to watch that  
12 gentleman?

13 A Because he was hunched over. He came from  
14 behind a car. So initially I thought that he was going  
15 to hit somebody or he was just trying to get back in  
16 the club, either one. But nobody was really paying  
17 attention to him. But he just stood out, because  
18 everybody was out, but he was making his way back to  
19 the door.

20 Q Let me show you what's been marked as State's  
21 Exhibit 2. Do you recognize that document?

22 A Yes, that's the parking lot of the club.

23 Q Okay. Would it assist you in showing the  
24 jury where you were parked and where you saw the  
25 gentleman walk if you could use State's Exhibit 2?

Joe Jones - Direct

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1           A     Okay.

2           Q     Would it assist you?

3           A     Yes, it would.

4           Q     Okay. Can I have him step down, Your Honor?

5                     THE COURT: Yes, sir.

6           Q     Thanks. Come on over here, Mr. Jones. If  
7 you could, point out for the jury where you were parked  
8 and where you were standing after the party let out.

9           A     I was parked like about right up in here,  
10 down in this area.

11          Q     And where did you see the gentlemen that you  
12 fixed yourself on and watched as he walking towards the  
13 door?

14          A     Okay. By this time, everybody was dispersed  
15 out all in here in the driving area over to the side.  
16 He was coming from over here.

17          Q     Okay.

18          A     But it was like a different crowd, so he had  
19 to kind of weave through the crowd to get to the door.

20          Q     Okay. And did he walk in an unusual manner?

21          A     Yes, he did. He was kind of slouched over  
22 like he was hiding something in his hand.

23          Q     I want to stand over there where the State's  
24 table -- stand right there -- and I want you to  
25 demonstrate for the jury how you saw that man walking.

Joe Jones - Direct

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1           A     I was facing him this way. He was walking  
2     like this here towards the door, like this here,  
3     hunched over. But he had something on his side right  
4     here.

5           Q     No doubt he had something in his right hand?

6           A     Yes, because, I mean, he was kind of swinging  
7     it, but I thought it was an iron or something.

8           Q     Now, where did you see that person walking  
9     like that end up going to?

10          A     He went to the door, the front entrance.

11          Q     Okay. And I think this is already a State's  
12     exhibit in evidence. State's Exhibit 7, does that  
13     depict the entrance?

14          A     Yes.

15          Q     Okay. Now, when you saw the person walk to  
16     the entrance -- and let's say the entrance is right  
17     here -- tell the jury what you saw that person do, Mr.  
18     Jones.

19          A     He was walking fast. So when he got here, he  
20     kind of went in a slow jog like this here. And when he  
21     was right here, I seen something in his hand, and I  
22     knew it was steel by that time. As soon as he went in,  
23     I heard one shot, pause, and then rapidly coming after  
24     that.

25          Q     Any doubt in your mind what was in that

Joe Jones - Direct

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1 person's hand when you saw him reach the door?

2 A No doubt.

3 Q What was it?

4 A I didn't know whether it was a gun. I knew  
5 it was some kind of steel, that he had something in his  
6 hand, because as soon as he went in the door, the shots  
7 started.

8 Q Okay. What did the person do next?

9 A After this time, I jumped out, and my buddy  
10 said, "Man, what happened?" And I was hearing some  
11 shots. So by this time, it's a wave coming at us,  
12 because everybody's falling, everybody's running to  
13 their car. I mean, we couldn't get out at first. So I  
14 looked, and I see him. He was running back towards  
15 this way, and he went behind a green SUV. There was a  
16 couple of guys just running, and when he went behind  
17 the green SUV, he disappeared.

18 Q I've got you. You can sit down. A green  
19 SUV. How long was that person in that doorway before  
20 that first shot rang out?

21 A Oh, man, it was probably one or two seconds,  
22 at the most.

23 Q And where did you end up driving to after the  
24 shots?

25 A I went home.

Joe Jones - Direct

207

1           Q     Okay. You testified that there was one shot  
2     and then a pause?

3           A     Yes, sir.

4           Q     Do you know how long the pause was after the  
5     first shot? You just have to guess.

6           A     If I estimated, I'd say within about three to  
7     four seconds, something like that. But by this time,  
8     you know, it was like the whole wave was coming towards  
9     us. Everybody was trying to get out, trying to get out  
10    of there by then.

11          Q     Now, you testified you went home after the  
12    shots were fired. But did you voluntarily meet with  
13    the police back on December the 16th of last year?

14          A     Yes, I did.

15          Q     Okay. And did you tell them what you told  
16    the jury?

17          A     Yes, sir.

18          Q     Did they show you anything when they  
19    interviewed you?

20          A     They showed me some lineups.

21          Q     Let me show you what's been marked as State's  
22    Exhibit 41. Do you recognize that lineup?

23          A     Yes, I do.

24          Q     What do you recognize that to be?

25          A     I recognize it to be one of the gunmen.

Joe Jones - Direct

208

1 Q Is that the same lineup that the police  
2 showed you on December the 16th of last year?

3 A Yes.

4 Q Same condition it was in back then?

5 A Exact.

6 Q What did they ask you to do with that lineup?

7 A They told me to take my time, it wasn't no  
8 rush, and pick out who did I think was the shooter.

9 Q Did they even tell you that a gunman was in  
10 that photo lineup?

11 A No.

12 Q Okay. Did you pick someone out as you  
13 thought looking like the person you saw that night?

14 A Yes, sir.

15 Q Who did you pick out?

16 A First, my first pick was number one. And I  
17 told them I vaguely remember number three, but  
18 definitely number one.

19 Q Okay. State's Exhibit 41 is already in  
20 evidence, as well. That's the person that you saw  
21 walking towards the door with something in his hand --

22 A Yes, sir.

23 Q -- stood up, lifted his arm, and a shot was  
24 fired?

25 A Yes, sir.

Joe Jones - Direct

209

1 Q Did you see any other gunman?

2 A At that time, no.

3 Q And let me show you what's marked as State's  
4 Exhibit 58. After you picked out one or three, did  
5 they have you fill out an affidavit?

6 A This is mine, yes.

7 Q Is that your signature saying you picked out  
8 number one or number three as being that person you saw  
9 walking to the door with something in his hand?

10 A Yes, sir.

11 Q I'd ask that State's Exhibit 58 be admitted  
12 into evidence, which is the affidavit.

13 THE COURT: Any objection?

14 MR. LITTLEJOHN: No objection.

15 THE COURT: Okay. Without objection,  
16 it's admitted.

17 (State's Exhibit 58 was  
18 received in evidenced.)

19 MR. PASCOE: Beg the Court's indulgence.

20 THE COURT: Yes, sir.

21 Q You said that you knew one of the security  
22 guards, at least by face?

23 A Yes, we went to Benedict together.

24 Q Let me show you what's been marked as State's  
25 Exhibit 61. Do you recognize anybody in that lineup?

Joe Jones - Direct

210

1 A Yes, I do.

2 Q Who do you recognize?

3 A I think he goes by JayLu now.

4 Q Okay. Point him out for me, just to make  
5 sure I know. Okay. Is that the person that was  
6 working as a security guard that night?

7 A Yes, he was working the door.

8 Q I'd ask that State's Exhibit 61 be admitted  
9 into evidence, Your Honor.

10 THE COURT: Any objection? No  
11 objection, Mr. Littlejohn?

12 MR. LITTLEJOHN: No objection, Your  
13 Honor.

14 THE COURT: Okay. Without objection,  
15 it's admitted.

16 (State's Exhibit 61 was  
17 received in evidence.)

18 Q That was the person working security that  
19 night?

20 A Yes, it was.

21 Q Mr. Jones, I want to thank you for coming  
22 down. Answer any questions that Mr. Littlejohn has for  
23 you, okay?

24 A Okay.

25 THE COURT: Mr. Littlejohn.



Joe Jones - Direct

211

1 MR. LITTLEJOHN: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. LITTLEJOHN:

4 Q Mr. Jones, my name is Cam Littlejohn. I  
5 represent Jeroid Price.

6 A Okay.

7 Q You indicated you got to the Voodoo Club  
8 about 10:30 or 11:00 that night, is that right?

9 A Yes.

10 Q Okay. And you indicated that security was  
11 bad -- I believe that was your term?

12 A Yes.

13 Q By that, you mean they weren't checking for  
14 things?

15 A Well, the guys they let in, they didn't check  
16 them at all. They just went straight in.

17 Q They just went straight in?

18 A Yes.

19 Q You had to wait for half an hour, didn't you?

20 A Yes.

21 Q Okay. You said during the course of the  
22 evening that a number of people squared off, I believe  
23 was the way you put it?

24 A Yes.

25 Q You said these were people that to you

Joe Jones - Cross

212

1 represented Bloods and Crips, is that right?

2 A They was Bloods and Crips.

3 Q What were they doing? Were they throwing  
4 signs?

5 A Yes, they were.

6 Q Okay. Did you see people wearing colors?

7 A Yes.

8 Q Okay. And you said this lasted for a couple  
9 of songs, I believe is the way you put it?

10 A Yes.

11 Q Okay. Did these things happen during the  
12 course of the evening other than during the course of  
13 the two songs?

14 A Well, I was towards the back, and I'd see a  
15 couple of, you know -- I'm not going to say skirmishes  
16 -- a couple mouthing off. But, once again, security  
17 was bad.

18 Q Okay. The man that got shot, did you see him  
19 that night, or do you know?

20 A I remember vaguely seeing him, but it was so  
21 packed in there. There was a lot of people in the  
22 club.

23 Q Okay. He was a big man?

24 A Yes.

25 Q Okay. Did you see him in a confrontation?

Joe Jones - Cross

213

1 Did you see him in one of these little arguments or  
2 skirmishes, as you said?

3 A It was both of them had numbers. You know,  
4 they was over there doing their dance. They're over  
5 there throwing up their signs. But I personally didn't  
6 see him.

7 Q You didn't see him in particular?

8 A No, not with nobody against nobody.

9 Q All right. Mr. Jones, you explained to us  
10 how you left the club and went out to your car. And  
11 you said you were standing over where you were looking  
12 over your car, is that right?

13 A No, I was standing on my -- I opened my door,  
14 and I was standing on my floorboard --

15 Q Okay.

16 A -- above everybody.

17 Q All right. Were you facing the club or  
18 facing away from the club?

19 A Facing it. Are you talking about my car?

20 Q Huh?

21 A My car?

22 Q Yes, when you were standing on the  
23 floorboard.

24 A I was facing the club. My car was faced  
25 inwards.

Joe Jones - Cross

214

1           Q     Okay, now I understand. But you were facing  
2 the club?

3           A     Yes.

4           Q     Okay. And you said you saw this man weaving  
5 through the crowd?

6           A     Yes.

7           Q     All right. And you indicated this man had  
8 braids?

9           A     Yes.

10          Q     And I believe you said he had on -- what was  
11 he wearing?

12          A     I don't vaguely remember what he was wearing.

13          Q     You don't remember what he was wearing.

14          A     No.

15          Q     Okay.

16          A     But I do remember his face, and I did pick  
17 out his face.

18          Q     Okay. Do you remember speaking to  
19 Investigator Robertson back on the 16th of December?

20          A     I spoke to a lot of cops.

21          Q     Okay. Do you recall giving a description  
22 that the man had on a gray jacket-type shirt and dark  
23 blue jeans?

24          A     Probably did.

25          Q     You probably did?

Joe Jones - Cross

215

1           A     Yes.

2           Q     Do you remember making that statement or not?

3           A     No, I don't remember.

4           Q     Okay. Now, you also indicated to the  
5 officers that the man had gold teeth, did you not?

6           A     I told him that he may have, but it was dark  
7 in the club and hot. I know that don't have anything  
8 to do with it, but you're not going to see me just  
9 staring at somebody's mouth.

10          Q     Okay. But in the affidavit which was  
11 introduced, you indicated that man had gold teeth,  
12 didn't you?

13          A     I probably did.

14          Q     Okay. So there's no question about it, I'm  
15 referring to State's Exhibit 58. I believe that's been  
16 identified as your affidavit. Does that refresh your  
17 memory?

18          A     Yes.

19          Q     Okay. Do you recall telling the police that?

20          A     Yes. But I also told him that he may have  
21 had them teeth.

22          Q     Okay. Now, you said this man that you saw  
23 going the crowd went up to which door, the entrance  
24 door or the exit door?

25          A     He went through -- it was the side, if I'm

Joe Jones - Cross

216

1 not mistaken. I just know it just happened so fast.  
2 It was like a crowd to one side, saw him going towards  
3 the door. It was different crowds, remember that, and  
4 there was a crowd right there by the door. I just know  
5 he was heading towards the door. And when he turned, I  
6 saw something in his hand, and he ran in.

7 Q Okay. And you said you heard a shot?

8 A Yes, I did.

9 Q Did it come from that object in the man's  
10 hand?

11 A I'd say within a second or two, I heard shots  
12 once he went in.

13 Q Okay. And did you see the shots?

14 A No, I didn't the shots.

15 Q Okay. Did the three shots come from the man?

16 A No, there was like one shot, pause, then  
17 other shots came out.

18 Q Okay. Did it appear to you that the three  
19 shots came from the same person?

20 A I wouldn't judge that -- I couldn't. I just  
21 know once he was in the club, it was out of my  
22 vision --

23 Q Okay.

24 A -- who shot.

25 Q All right. Did you see the man that got

Joe Jones - Cross

217

1 shot?

2 A During the course of the club.

3 Q Okay. When the man came, as you said,  
4 creeping through the crowd, and got up to the entrance  
5 way --

6 A Yes.

7 Q -- did you see in that area the man that got  
8 shot?

9 A No.

10 Q You didn't see him at all?

11 A It looked like a little skirmish. I don't  
12 know what exactly was going on, because by this time,  
13 they was through the door. So, I mean, it was a couple  
14 of people standing by the door. I didn't know whether  
15 they was security or who it was.

16 Q Okay. So you don't know whether you saw the  
17 man that got shot or not?

18 A No.

19 Q Do you recall, when you were talking to the  
20 investigators back on December 16th, telling them that  
21 you saw the victim struggling with the man that you saw  
22 walking through the crowd?

23 A Well, I mean, I probably did. I probably  
24 did.

25 Q Okay. Do you remember or not?

Joe Jones - Cross

218

1           A     Did I say that?

2           Q     Yes.

3           A     Vaguely, no, I don't. Not right offhand, I  
4     don't.

5           Q     Okay. So you could have told the  
6     investigators that you saw the man who was shot?

7           A     I told them that I saw him in the course of  
8     the club.

9           Q     Okay. Do you recall telling the  
10    investigators you saw the man that got shot struggling  
11    with the man that came through the crowd?

12          A     Struggling with him?

13          Q     Yes.

14          A     No, he wasn't struggling with nobody, because  
15    once he went in, the shots were fired. The main thing  
16    that I mainly saw was the shooter going from the car to  
17    the side, going through the door, and shots started  
18    ringing.

19          Q     Mr. Jones, let me show you the notes of  
20    interview where you talked with --

21                   MR. PASCOE: Object, Your Honor. He  
22    can't show him notes of the interview.

23                   MR. LITTLEJOHN: Your Honor, I'm showing  
24    him this document --

25                   MR. PASCOE: He can't show him notes of



Joe Jones - Cross

219

1 an interview. He can't do that. That's Damon  
2 Robertson's notes.

3 MR. LITTLEJOHN: Your Honor, I want to  
4 see if these notes --

5 THE COURT: Whose notes are they?

6 MR. LITTLEJOHN: I'm not asking him if  
7 this is his statement.

8 THE COURT: Okay. Whose notes are they?

9 Q Mr. Jones, let me show you --

10 MR. PASCOE: Can you get it marked as  
11 ID, Your Honor, please?

12 THE COURT: We'll be glad to do that.

13 MR. PASCOE: Not put it into evidence,  
14 but just mark it as ID.

15 THE COURT: We'll mark it as that.

16 MR. PASCOE: Thank you.

17 Q Mr. Jones, let me show you what's been marked  
18 Defendant's Exhibit #1 for identification purposes  
19 only. And this was given to us by the State and is  
20 represented as Investigator Robertson's notes of your  
21 interview with him on December 16, 2002. Would you  
22 look at just the last paragraph? And I'll ask you a  
23 couple of questions about your memory as to what you  
24 told Investigator Robertson on that date.

25 A Yes.

Joe Jones - Cross

220

1           Q     Okay. Do you recall telling him that you saw  
2     the person that got shot in a struggle with the man  
3     that you saw walking through the parking lot?

4           A     Well, what it was is that when the guy, now  
5     that I -- yes, I did say that. But what it was is that  
6     the guy that was bobbing through the crowd was not the  
7     one he was struggling with. But by this time, I'm  
8     thinking security already done broke them up, because  
9     security was still in the club, towards the front. So  
10    it must be they were still in there struggling.

11                But the whole time when I seen this, I was  
12    like, okay, security's got that, because they actually  
13    had to be right there where they were struggling at.  
14    So I'm like, okay, a little cat fight, maybe it was  
15    broken up. But I was still looking at the guy that was  
16    coming in the door.

17           Q     Well, Mr. Jones, just so we understand, what  
18    you saw was the man walking through the parking lot?

19           A     Yes.

20           Q     And what you're telling us now is you didn't  
21    see the victim -- you didn't see the man that got shot,  
22    is that right?

23           A     It's two different people.

24           Q     Correct.

25           A     The man I saw walking through the parking lot

Joe Jones - Cross

221

1 was the gunman.

2 Q Correct. The man that walked through the  
3 parking lot, did you see him struggling with another  
4 individual there at the door?

5 A At the door?

6 Q Yes. Did you see that?

7 A It was another guy struggling with him. But  
8 I'm thinking security already broke that up, because it  
9 was right there by them. I didn't know they was linked  
10 together.

11 Q Mr. Jones, I don't mean to interrupt you.  
12 I'm just trying to get at what you saw --

13 A Okay.

14 Q -- not what you assume security did but what  
15 you saw.

16 A Yes. What I saw, my eyes were mainly focused  
17 on the guy bobbing through the club, because I actually  
18 thought, well, he was about to sneak somebody or  
19 something like that.

20 Q Okay.

21 A My eyes were mainly fixed on him.

22 Q Okay. So you saw the man that walked through  
23 the crowd?

24 A Yes.

25 Q You didn't see the man that got shot?

Joe Jones - Cross

222

1           A     No.

2           Q     Okay. But on the 16th of December, you told  
3 the investigators you saw the man walking through the  
4 crowd, struggle with the man that got shot, isn't that  
5 right?

6           A     That's saying they're two different people.

7           Q     Correct. It would have to be?

8           A     Yes.

9                     MR. LITTLEJOHN: If you'd indulge me  
10 just a moment, Judge.

11                    THE COURT: Yes, sir.

12           Q     That's all I have, Your Honor.

13                    THE COURT: Okay. Thank you, Mr.  
14 Littlejohn.

15                    MR. PASCOE: The State, Your Honor, just  
16 very briefly.

17                    THE COURT: Yes, sir.

18                             **RE-DIRECT EXAMINATION**

19 BY MR. PASCOE:

20           Q     Mr. Jones, from your vantage point outside,  
21 could you have seen what was taking place inside the  
22 building in State's Exhibit 17 or just what was at the  
23 door?

24           A     From my vantage point, I was standing over  
25 here by -- when it was a struggle, security guards were

Joe Jones - Redirect

223

1 right there. So I'm thinking that was over right  
2 there.

3 MR. LITTLEJOHN: Your Honor, I'm going  
4 to object to whatever he was thinking. That doesn't  
5 testify to what he saw.

6 Q Just answer the question.

7 A Yes.

8 Q Could you see what would be going on inside  
9 if you're from the outside?

10 A No.

11 Q Okay. So would you have been able to see a  
12 second gunman if he was inside?

13 A No.

14 Q All right. You could only see a second  
15 gunman if he was coming from the outside to the exit  
16 door, correct?

17 A Yes, sir.

18 Q And the person that you saw, did he have a  
19 red hat on?

20 A At that time? It probably slipped my mind  
21 because it was so hot in the club --

22 MR. LITTLEJOHN: Your Honor, I'm going  
23 to object.

24 Q I'm talking about --

25 THE COURT: Okay. Hold on a second,

Joe Jones - Redirect

224

1 everybody. That objection likewise is sustained.  
2 Ladies and gentlemen, you're to disregard any testimony  
3 from the witness that is speculation, that he did not  
4 observe or witness himself.

5 THE COURT: You can continue, Mr.  
6 Pascoe.

7 MR. PASCOE: Thank you, Your Honor.

8 Q The person you saw, you testified his hair  
9 was in braids, correct?

10 A Yes.

11 Q And he didn't have a hat on, did he -- that  
12 you saw weaving through the crowd, he didn't have a  
13 hat?

14 A No.

15 Q And you said that he was medium build. He  
16 wasn't small?

17 A No.

18 MR. PASCOE: Beg the Court's indulgence.

19 THE COURT: Yes, sir.

20 Q And as soon as the person you saw with the  
21 braids got to the door, within a second, what did you  
22 hear?

23 A Gunshots.

24 Q That's all I have.

25 THE COURT: Thank you, sir.

Joe Jones - Redirect

225

1 THE COURT: Anything further, Mr.  
2 Littlejohn?

3 MR. LITTLEJOHN: No, Your Honor.

4 THE COURT: Thank you, sir.

5 THE COURT: Mr. Jones, you may step  
6 down, sir. Thank you.

7 MR. PASCOE: The State calls Deandre  
8 Eiland, Your Honor.

9 BAILIFF: Place your left hand on the  
10 Bible, raise your right hand, and face the Clerk.

11 (The witness was sworn.)

12 CLERK OF COURT: Please have a seat up  
13 here, sir, and state your full name for the record.

14 MR. EILAND: Deandre Eiland.

15 DEANDRE EILAND, having first  
16 been duly sworn, testified as follows:

17 **DIRECT EXAMINATION**

18 BY MR. PASCOE:

19 Q Good morning, Mr. Eiland. Where are you  
20 originally from, Deandre?

21 A Tupelo, Mississippi.

22 Q Okay. And you're going to the University of  
23 South Carolina?

24 A Yes, sir.

25 Q You play football there?

Deandre Eiland - Direct

226

1 A Yes, sir.

2 Q What year did you just finish?

3 A My senior year.

4 Q And what position did you play?

5 A Cornerback.

6 Q And, in fact, you've been asked to play in  
7 the Blue/Gray game on Christmas?

8 A Yes, sir.

9 Q Did you know the victim, Carl Smalls?

10 A Yes, sir.

11 Q Okay. How did you know Carl?

12 A We played football together when he was at  
13 South Carolina.

14 Q And what year did he come to South Carolina?

15 A 2000.

16 Q Okay. Was he in the same class as you?

17 A Yes, sir.

18 Q All right. What position did he play?

19 A Deep tackle and end.

20 Q Okay. Speak up the best you can.

21 A Defensive tackle and defensive end.

22 Q Okay. How long did he stay at USC, do you  
23 recall?

24 A I think like one year.

25 Q Where did he go from there?



Deandre Eiland - Direct

227

1           A     North Carolina.

2           Q     Okay. And would you still see him from time  
3 to time even after he left for the University of North  
4 Carolina?

5           A     Yes, sir.

6           Q     Okay. Did you consider Carl a friend?

7           A     Yes, sir.

8           Q     Okay. Let me ask you this, was Carl  
9 affiliated with any kind of gangs?

10          A     Yes, sir.

11          Q     And what was that?

12          A     Crips.

13          Q     Is that uncommon for football players to be  
14 affiliated with games?

15          A     Sir?

16          Q     Is that uncommon today, unfortunately, that  
17 people are affiliated with gangs?

18          A     Somewhat. It's not like as bad as some.

19          Q     Were there other football players that were  
20 even affiliated?

21          A     I'm sure.

22          Q     At USC?

23          A     Yes, sir.

24          Q     Let me direct your attention now to the early  
25 morning hours of December 7th, okay? That's a Saturday

Deandre Eiland - Direct

228

1 morning. Where did you end up going?

2 A Club Voodoo's.

3 Q And who did you go to Club Voodoo's with?

4 A Steve Kennedy and Kyle Cushman.

5 COURT REPORTER: Steve who?

6 MR. EILAND: Kennedy.

7 Q And approximately what time do you think you  
8 got to Voodoo's that early morning?

9 A Like around like 1:30.

10 Q Okay.

11 MR. LITTLEJOHN: Your Honor, can I ask  
12 the witness to speak up?

13 THE COURT: Yes, sir.

14 MR. EILAND: I'll try to remember.

15 COURT REPORTER: You need to talk  
16 louder.

17 MR. EILAND: Oh, yes, ma'am.

18 THE COURT: You can sit real close to  
19 that microphone and just speak loud so the last person  
20 back there on that back row of the jury can hear you,  
21 too, sir.

22 A About 1:30.

23 Q Okay. And what did you do when you got there  
24 at 1:30?

25 A Walked around the club a couple of times, and

Deandre Eiland - Direct

229

1       then got me a drink and went in the corner.

2               Q     Okay. Did you see Carl inside the club?

3               A     Yes, sir.

4               Q     Okay. Did you see anything take place that  
5       was unusual or made you feel uncomfortable?

6               A     I saw him like arguing and stuff, you know,  
7       going back and forth.

8               Q     Okay, describe that for the jury. What  
9       happened?

10              A     I seen mostly a lot of commotion and people  
11      walking back. And I looked over there, and I saw Carl,  
12      you know, being held back, you know, him talking to a  
13      bunch of people.

14              Q     And the bunch of people he was talking to,  
15      could you tell what group they were affiliated with?

16              A     I know they had on a lot of red. And I'm not  
17      sure all of them were Bloods, but I know a few of them  
18      were.

19              Q     And what did you end up doing? Did you do  
20      anything?

21              A     I tried walking over there, but the girls I  
22      was talking to held me back. When I finally got over  
23      there, they had about broke it up.

24              Q     Did you see anyone in particular that was  
25      with the group in the red that was involved?

Deandre Eiland - Direct

230

1           A     The big bouncer, JayLu, he was in the middle  
2     of it, and it looked like he was trying to break it up.

3           Q     JayLu?

4           A     Yes, sir.

5           Q     Trying to break it up?

6           A     Yes, sir. That's what it looked like to me.

7           Q     Okay. Is he in a gang, do you know?

8           A     I think he's a Blood.

9           Q     Do you know where he went to school?

10          A     Benedict.

11          Q     Did he play sports?

12          A     Football.

13          Q     And you had known him, you had seen him  
14     before?

15          A     Yes, sir.

16          Q     After the commotion had stopped, did you have  
17     an opportunity to see and talk to Carl after that?

18          A     Yes, sir, like when they had like closed the  
19     club or whatever, we was walking out together. And I  
20     turned around and asked him was he straight, and he was  
21     like, "Yea," and I walked to the car.

22          Q     Okay. Was he mad?

23          A     No, he didn't seem to be.

24          Q     Did he act violent?

25          A     No, sir.

Deandre Eiland - Direct

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1 Q Did he say he wanted to kill anybody?

2 A No, sir.

3 Q And the party ended at approximately 2:00,  
4 because you were only there for, what, about a half  
5 hour?

6 A Yes, sir.

7 Q Tell the jury what you did as you exited the  
8 Club Voodoo's. What did you do?

9 A Once I asked Carl was he straight, I started  
10 talking to a girl. When I turned around, he was gone.  
11 And I walked to my car and cranked it up.

12 Q What did you hear or see then?

13 A I was looking for Kyle Cushman, like for him  
14 to come to the car. And by that time, he had made it  
15 to the car, and a shot -- like I heard a shot, then I  
16 ducked down. And I saw Rachiem running to my car. I  
17 was waiting for him to get there, and when he got  
18 there, we jumped in the car. When we started to leave,  
19 I heard two more shots.

20 Q Okay. Did Rachiem play football at Carolina?

21 A Yes, sir.

22 Q Okay. So how many shots do you remember  
23 hearing in all?

24 A Three.

25 Q Okay. And I know you said you heard at least

Deandre Eiland - Direct

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1 three shots?

2 A Yes, sir.

3 Q All right. You testified you heard one shot.  
4 How long of a pause was there in between the first shot  
5 and the other shots that you heard?

6 A I'd say about three or four seconds.

7 Q No doubt there was a pause?

8 A Yes, sir.

9 Q Where did you end up driving to, Deandre?

10 A Back to my dorm, East Quad.

11 Q And did you end up going back to Voodoo's  
12 that morning?

13 A Yes, sir.

14 Q Tell the jury why you went back to Voodoo's.

15 A I was in my room, and my home boy kept  
16 calling me. He was like, "Carl got shot." And I  
17 called all the hospitals and stuff, and me and Rachiem  
18 went back up there just to see if it was him -- you  
19 know, just to find out if it was him.

20 Q And when you got to Voodoo's, did you meet  
21 with the police that morning?

22 A Yes, sir.

23 Q And did you give them a written statement  
24 about what you saw and heard that morning?

25 A Yes, sir.

Deandre Eiland - Direct

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1           Q     And did you tell the police that morning who  
2     you thought they needed to speak to about this  
3     shooting?

4           A     Yes, sir.

5           Q     And, specifically, do you remember who you  
6     told them they needed to talk to?

7           A     The bouncer, JayLu.

8           Q     That played football at Benedict?

9           A     Yes, sir.

10          Q     And hair in braids?

11          A     Yes, sir.

12          Q     Why did you tell the police they needed to  
13     talk to him?

14          A     Because I saw a bunch of his friends with  
15     him, and he was in the middle of it.

16          Q     And did you tell them that JayLu would know  
17     who did it?

18          A     Yes, sir.

19          Q     Let me show you what's been marked as State's  
20     Exhibit 61 already in evidence. Do you recognize JayLu  
21     from that picture?

22          A     Yes, sir, the one with braided hair.

23          Q     And that's the person you told the police  
24     they had to go see?

25          A     Yes, sir.

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1 MR. PASCOE: Beg the Court's indulgence.

2 THE COURT: Yes, sir.

3 MR. PASCOE: Can I have him step down  
4 just for a second, Your Honor?

5 THE COURT: Yes, sir.

6 MR. PASCOE: Thank you.

7 Q You need to speak up, okay, like you yell at  
8 wide receivers, all right? Do that for me. Stand over  
9 here and face me. I'm going to stand here. Tell this  
10 jury how strong Carl Smalls was.

11 A Carl was real strong.

12 Q Let me ask you this. How strong are you?  
13 How much can you bench press?

14 A Like 365.

15 Q Three sixty-five. You're about to take your  
16 combine for the NFL, aren't you?

17 A Yes, sir.

18 Q If you had a gun in your waistband -- you,  
19 strong as you are -- and Carl Smalls reached for it,  
20 who would win that battle?

21 MR. LITTLEJOHN: Your Honor, I'm going  
22 to have to object to this. This is very speculative.

23 THE COURT: Sustained.

24 MR. PASCOE: It's not speculative. I'm  
25 asking him -- he bench presses 365 --



Deandre Eiland - Direct

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1                   THE COURT: I understand, but I think  
2                   that's speculative. He can testify as to how strong he  
3                   knew the victim to have been. But who would win that  
4                   battle, I don't know.

5                   Q     Do you know who would win that battle -- just  
6                   yes or no?

7                   MR. LITTLEJOHN: Your Honor, I'm going  
8                   to object.

9                   THE COURT: I'm going to sustain --  
10                  sustained. You can ask him how strong Mr. Smalls was.  
11                  But a battle between the victim and Mr. Eiland, I'm not  
12                  going to let him speculate to that.

13                  Q     How much could Carl Smalls bench press?

14                  A     When he came in as a freshman, about 225 to  
15                  275.

16                  Q     Is that a lot?

17                  A     Yes, sir -- for a freshman.

18                  Q     Okay. Sit back down, thank you. That's all  
19                  I have. Thank you, Judge.

20                  THE COURT: Thank you, sir.

21                  THE COURT: Mr. Littlejohn.

22                  MR. LITTLEJOHN: Thank you, Your Honor.

23                               **CROSS-EXAMINATION**

24                  BY MR. LITTLEJOHN:

25                  Q     Mr. Eiland, my name is Cam Littlejohn. I

Deandre Eiland - Cross

236

1 represent Jeroid Price.

2 A How are you doing?

3 Q Fine. How are you?

4 A Pretty good.

5 Q You told us Carl Smalls was a Crip, is that  
6 right?

7 A Yes, sir.

8 Q He was a member of the Crips?

9 A Yes, sir.

10 Q And, Mr. Eiland, are you affiliated with the  
11 Crips?

12 A Yes, sir.

13 Q Are you a member of that group?

14 A Yes, sir.

15 Q Okay. So y'all were both Crips?

16 A Yes, sir.

17 Q Okay. Now, you told us that during the  
18 course of the evening that Carl Smalls got into an  
19 argument with some guys?

20 A Yes, sir.

21 Q Okay. Do you know who he got in an argument  
22 with?

23 A I just like saw like Mo and like a bunch of  
24 his friends.

25 Q Okay. Was Carl Smalls threatening him?

1           A     Not that I could see.

2           Q     Okay. Do you know what words he was using?

3           A     No, sir.

4           Q     Okay. Did it appear to you that he was in an  
5 argument with him?

6           A     Yes, sir.

7           Q     Okay. Now, you said at one point during this  
8 argument that some Bloods got into it and were holding  
9 Carl back?

10          A     The big dude, JayLu, he was the bouncer for  
11 that night, he was like holding him back.

12          Q     Okay. He was holding Carl back from fighting  
13 somebody?

14          A     I think so, yes, sir.

15          Q     Okay. And you said JayLu was wearing red  
16 that night?

17          A     Yes, sir.

18          Q     And you indicated, I believe -- correct me if  
19 I'm wrong, now -- you said some Bloods held Carl Smalls  
20 back?

21          A     Yes, sir.

22          Q     Okay. So those Bloods weren't fighting Carl  
23 Smalls, they were trying to keep him from getting in a  
24 fight?

25          A     Yes, sir.

Deandre Eiland - Cross

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1           Q     Okay. And you say JayLu was one of them that  
2     was trying to break it up?

3           A     Yes, sir.

4           Q     Okay. Now, did you see Carl Smalls get in a  
5     fight with a girl that night, get in an argument with  
6     her?

7           A     No, sir.

8           Q     You didn't see that?

9           A     No, sir.

10          Q     Now, you told us how you went out into the  
11     parking lot, Mr. Eiland, and you were talking to a  
12     girl. And I believe you said that your attention was  
13     directed back toward the club because you heard a shot?

14          A     No, sir. I was talking to the girl. And  
15     when I turned around to see where Carl was, he wasn't  
16     there. That's when I walked to my car.

17          Q     Okay. You walked to your car?

18          A     Yes, sir.

19          Q     You heard a shot?

20          A     No, I was waiting for my teammate to come  
21     back, then I heard a shot, yes, sir.

22          Q     Okay. You heard a shot, and you got in your  
23     car?

24          A     Yes, sir.

25          Q     And then you heard two more shots?

Deandre Eiland - Cross

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1 A Yes, sir.

2 Q And that's when you left?

3 A Yes, sir.

4 Q Do you remember seeing a group of football  
5 players there at the club, namely, Derrick Watson and  
6 Shawn Smith?

7 A No, sir.

8 Q You didn't see them?

9 A No, sir.

10 Q You didn't see Andrew Pinnock there?

11 A No, sir.

12 Q How about C.J. Frye? Did you see him there?

13 A Yes, sir.

14 Q You saw C.J., okay.

15 A Yes, sir.

16 Q So you didn't see Derrick, Shawn, and Andrew  
17 in a car?

18 A No, sir.

19 Q Okay. So, Mr. Eiland, you didn't actually  
20 see anybody shoot anybody?

21 A No, sir.

22 MR. LITTLEJOHN: If you'd indulge me  
23 just a moment.

24 THE COURT: Yes, sir.

25 Q Let me just clarify a couple of things, Mr.

Deandre Eiland - Cross

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1 Eiland. Who did you go to the Voodoo Lounge with that  
2 night -- Steve Kennedy?

3 A And Kyle Cushman.

4 Q And Kyle Cushman?

5 A Yes, sir.

6 Q That's "Red"?

7 A Yes, sir.

8 Q He's known as "Red," okay.

9 A Yes, sir.

10 Q Okay. And who did you leave with?

11 A Those two and Rachiem Monroe.

12 Q Rachiem Monroe jumped in the car with you?

13 A Yes, sir.

14 Q Was Carl Smalls supposed to leave with y'all?  
15 Was he supposed to ride with you?

16 A No, sir.

17 Q Not that you know of?

18 A No, sir.

19 Q Okay, thank you. That's all I have, Your  
20 Honor.

21 THE COURT: Thank you, sir.

22 THE COURT: Mr. Pascoe?

23 RE-DIRECT EXAMINATION

24 BY MR. PASCOE:

25 Q He asked you a bunch of questions about gang

Deandre Eiland - Redirect

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1 membership, and you admitted to your affiliation with  
2 the Crips. If you called a Blood a "slob," and you  
3 were outnumbered, what would happen to you?

4 A Probably --

5 MR. LITTLEJOHN: Your Honor, I'm going  
6 to object. That's speculation again.

7 MR. PASCOE: It's not. I asked what  
8 would happen.

9 A I think --

10 THE COURT: Wait a minute, hold on. If  
11 there's an objection, everybody is going to wait until  
12 I make a ruling on it. I'll be glad to hear from the  
13 other side if they think there's an exception. He  
14 testified about his membership. I'm going to allow the  
15 question. Your objection is overruled.

16 MR. PASCOE: Thank you, Your Honor.

17 Q What would happen to you?

18 A They'd probably get mad, you know, and try to  
19 fight.

20 Q Okay. Is there a difference between your  
21 street Bloods and Crips and those that maybe even go to  
22 college?

23 A Not too much.

24 Q Did you tote a gun while you were in college?

25 A No, sir.

Deandre Eiland - Redirect

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1           Q     Sometimes Crips, if there are Bloods in the  
2 street, do they tote guns?

3           A     If they feel they need to.

4           Q     This was a college party you went to that  
5 night?

6           A     Yes, sir.

7           Q     A fraternity from USC?

8           A     Yes, sir.

9           Q     That's all I have. Thank you.

10                THE COURT: Thank you, sir.

11                THE COURT: Mr. Littlejohn.

12                MR. LITTLEJOHN: No, Your Honor.

13                THE COURT: Thank you, sir.

14                THE COURT: Mr. Eiland, you may step  
15 down, sir. Thank you for coming.

16                MR. JEFFRIES: The State calls Chemiqua  
17 Ellington. I apologize, Your Honor. She's actually  
18 coming from our office upstairs.

19                THE COURT: Yes, sir.

20                THE COURT: Where's our witness?

21                MR. PASCOE: They brought the wrong one  
22 down.

23                THE COURT: All right, let's do this.  
24 Ladies and gentlemen of the jury, why don't you all  
25 take a short break. We'll take about five minutes.



Deandre Eiland - Redirect

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1 MR. PASCOE: Here she is, Your Honor.

2 THE COURT: Okay, thank you.

3 THE COURT: Ma'am, come on down. You  
4 all try and get your next folks lined up and ready to  
5 come down.

6 BAILIFF: Ma'am, place your left hand on  
7 the Bible, raise your right hand, and face the Clerk.

8 (The witness was sworn.)

9 CLERK OF COURT: Please have a seat up  
10 there, ma'am, and spell your first and last names.

11 THE COURT: Speak loud where everybody  
12 can hear you.

13 MS. ELLINGTON: C-H-E-M-I-Q-U-A E-L-L-  
14 I-N-G-T-O-N.

15 CHEMIQUA ELLINGTON, having  
16 first been duly sworn, testified as follows:

17 **DIRECT EXAMINATION**

18 BY MR. JEFFRIES:

19 Q Your full name is Chemiqua Joy Ellington, is  
20 that correct?

21 A LaJoy.

22 Q LaJoy?

23 A Uh-huh.

24 Q And what do you generally go by?

25 A Joy.

Chemiqua Ellington - Direct

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1 Q Joy, okay. Is that what your friends and  
2 family call you -- Joy?

3 A Yes.

4 Q How old are you, Joy?

5 A Twenty-one.

6 Q You're 21?

7 A Yes.

8 Q Have you ever testified in Court before?

9 A No.

10 Q Are you a little nervous?

11 A Yes.

12 Q Well, just take your time and make you speak  
13 up. Speak as loud as you can and feel comfortable at  
14 the same time, and just take your time. I know this is  
15 difficult for you. Do you know the defendant in this  
16 case, Jeroid Price?

17 A No, I don't.

18 Q Have you ever met him at any time that you're  
19 aware of?

20 A No, I haven't.

21 Q Did you receive a subpoena to be here today?

22 A Yes.

23 Q Now, where are you from originally?

24 A Charleston.

25 Q And are you in college here in Columbia?

Chemiqua Ellington - Direct

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1 A Yes.

2 Q What year are you?

3 A Senior.

4 Q So you've lived in Columbia, at least during  
5 the school year, for about four years?

6 A Yes.

7 Q Where did you go to high school?

8 A Hanahan High.

9 Q And is that in Charleston?

10 A It's in Hanahan, yes.

11 Q In Charleston County?

12 A Uh-huh.

13 Q Now, do you know the victim in this case,  
14 Carl Smalls?

15 A Yes.

16 Q And how did you know Carl?

17 A Because he's my boyfriend.

18 Q He was your boyfriend?

19 A Yes.

20 Q When did you and Carl meet?

21 A We met the end of my junior year and senior  
22 year of high school.

23 Q In high school?

24 A Uh-huh.

25 Q So you dated about three or four years?

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1           A     Yes.

2           Q     How did you first start dating?   How did you  
3   meet Carl?

4           A     Through a mutual friend, Rachiem Monroe.

5           Q     Rachiem Monroe?

6           A     Uh-huh.

7           Q     You say he was a mutual friend?

8           A     Yes.

9           Q     And how were you and Rachiem acquainted?   How  
10   did y'all become friends?

11          A     We went to high school together.

12          Q     And how did Rachiem and Carl know each other?  
13   How did they become friends?

14          A     Through football.

15          Q     So Rachiem played football, too?

16          A     Yes.

17          Q     Did they play at the same high school?   Did  
18   they go to the same high school?

19          A     No, they didn't.

20          Q     Do you know how long they had been friends?

21          A     No, I don't.

22          Q     Did Rachiem go to the same high school as  
23   you?

24          A     Yes.

25          Q     Okay.   Carl went to another high school?

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1           A     Yes.

2           Q     So they played against each other in  
3     football?

4           A     Uh-huh.

5           Q     And they became friends that way?

6           A     Yes.

7           Q     Describe to the jury, if you could, Carl's  
8     physical description back in December of last year. Do  
9     you know about how much he weighed, generally?

10          A     Two eighty-five, 6'1", 6'2".

11          Q     And were y'all the same age?

12          A     No, he was two or three years older than me  
13     -- two, I think.

14          Q     Would he have been in the same class as  
15     Rachiem Monroe? Were they the same age?

16          A     No, Rachiem is 21, I think, with me -- I  
17     think.

18          Q     Now, you stated earlier you came to Columbia  
19     to go to college when you left the Charleston area.  
20     How did you decide where you were going to go to  
21     college?

22          A     Just he was going to go to USC, and I had  
23     been accepted at Columbia College, so naturally it was  
24     a decision just to.

25          Q     When Carl went to USC, did he play football

Chemiqua Ellington - Direct

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1       there?

2             A       Yes.

3             Q       Okay. Is that where Rachiem Monroe went to  
4 college, too?

5             A       Yes.

6             Q       Did he play football there, too?

7             A       Yes.

8             Q       Okay. Tell me, if you could, why did Carl  
9 decide to come to USC, if you know, originally?

10            A       To play football, and I guess to be a little  
11 bit closer to me, I'm assuming.

12            Q       Now, did Carl at some point leave the  
13 University of South Carolina?

14            A       Yes.

15            Q       And where did he go?

16            A       The University of North Carolina at Chapel  
17 Hill.

18            Q       Okay. Now, did you still get to see each  
19 other as much when he went to Chapel Hill as you did  
20 when he was in Columbia?

21            A       No, because he played football. But when he  
22 made time, he came.

23            Q       And did Rachiem and Carl remain friends after  
24 Carl transferred to North Carolina?

25            A       Yes.

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1           Q     Joy, I want to take you back to December 6th  
2     of last year. That would have been a Friday. Did you  
3     see or hear from Carl that day, early in the day?

4           A     No, I didn't.

5           Q     Okay. Tell the jury what happened that day  
6     as far as meeting or seeing Carl.

7           A     I went out with a couple of my friends to the  
8     mall. And when I came back, I was in my room, and he  
9     was knocking on the window. He came down to surprise  
10    me from Chapel Hill.

11          Q     So he showed up at your room, and you didn't  
12    know he was coming?

13          A     I didn't know.

14          Q     And were you surprised?

15          A     Yes, I was.

16          Q     Were you glad to see him, or was it time --

17          A     Yes, I was real happy to see him.

18          Q     About what time was it when he got there,  
19    generally?

20          A     I'm thinking eight, nine. It was dark. I'm  
21    thinking it was around that time.

22          Q     So you had an opportunity to spend some time  
23    together?

24          A     Yes, we did.

25          Q     At some point, did you make plans to go out

Chemiqua Ellington - Direct

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1 that evening?

2 A Yes.

3 Q And where did you decide that you were going  
4 to go?

5 A To Club Voodoo's on Garners Ferry.

6 Q And who were you going to go to the party  
7 with?

8 A My friend, Shameka Wright.

9 Q What kind of event was this that was going on  
10 at the Club Voodoo's?

11 A It was a sorority-fraternity party.

12 Q I'm sorry, who did you say went with you?

13 A My friend, Shameka Wright.

14 Q So the both of you all. Who drove to Club  
15 Voodoo's?

16 A I did.

17 Q Whose idea, if you can remember, was it to go  
18 to Club Voodoo's that night?

19 A It was Carl's idea.

20 Q It was Carl's idea?

21 A Yes.

22 Q Did you want to go to the club that night?

23 A Not really. I don't usually go to sorority  
24 and fraternity parties.

25 Q Did you want to spend some time with him



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1       since he had come down?

2           A     Yes, naturally.

3           Q     Was Carl in a fraternity?

4           A     No, he wasn't.

5           Q     Are you aware if he had any friends at USC  
6       who were in a fraternity, specifically the Alpha  
7       fraternity who was throwing this party?

8           A     Yes.

9           Q     Okay. About what time did you get to the  
10      party, if you can remember, approximately?

11          A     About 11:10 or 11:15.

12          Q     Now, did you have anything to drink at the  
13      party?

14          A     He bought me an amaretto sour, but I didn't  
15      drink it. It was just there. I didn't drink it.

16          Q     Did Carl have anything to drink while he was  
17      at the party?

18          A     Not to my knowledge, no.

19          Q     Do you know if he had anything to drink  
20      earlier in the day?

21          A     He did a fund-raiser earlier that day.

22          Q     Was he intoxicated at the party?

23          A     No, he wasn't.

24          Q     Well, let me ask you, when you got into the  
25      club, who, if anybody, did you see when you got in

Chemiqua Ellington - Direct

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1 there that you recognized or knew?

2 A I saw some football players that I recognized  
3 and some girls who attend school with me.

4 Q Okay. Did you see anybody that you knew from  
5 back in Charleston?

6 A I saw a friend of mine, Bernard Rembert, but  
7 he was there with some football players.

8 Q Okay. And who is Bernard Rembert to you, or  
9 who would he have been back in December of last year?

10 A He's a friend, somebody that I knew from back  
11 in the past, from a long time ago.

12 Q Did you date him for any period of time back  
13 when you were in school?

14 A Not per se, but, yes.

15 Q Had you gone out on a date with him?

16 A No.

17 Q Now, did Carl know Bernard Rembert?

18 A Yes, he did.

19 Q How did he know Bernard?

20 A They played football together.

21 Q Did Bernard Rembert play football in college,  
22 too?

23 A Yes.

24 Q Where did he go to school?

25 A Clemson.

Chemiqua Ellington - Direct

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1           Q     Now, did he and Carl exchange words? You  
2     can't tell me what they said. But was there ever an  
3     altercation between he and Carl that night?

4           A     Yes.

5           Q     Did that conversation ever turn physical?

6           A     No, it didn't.

7           Q     Were there any punches thrown?

8           A     No, there wasn't.

9           Q     What do you think Carl was upset about? Do  
10    you know what that altercation was about?

11          A     Bernard saying hello to me.

12          Q     So he may have been jealous, you think?

13          A     I wouldn't say jealous. I would say a little  
14    bit overprotective about another boy talking to your  
15    girlfriend per se in front of your friends, I would  
16    say.

17          Q     What was Carl's demeanor? And, again, you  
18    can't say what he said. But was he angry? What was  
19    his demeanor like during this time when Bernard had  
20    talked to you?

21          A     He wasn't upset. I think it was more of an  
22    ego trip, just seeing somebody coming to me from across  
23    the room.

24          Q     And you said there were no punches thrown,  
25    right?

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1           A     No, there wasn't.

2           Q     Did you and Carl have an argument about this  
3     at all?

4           A     We had a discussion about it, not an  
5     argument.

6           Q     Okay. You and Carl had a discussion, as you  
7     put it. Did y'all argue or have any issues throughout  
8     the period of your relationship? Did y'all ever get  
9     into arguments?

10          A     Every couple does, relationship wise.

11          Q     And how did those discussions usually end?  
12     Who usually got the last word in?

13          A     I did.

14          Q     Was that how this one ended that night?

15          A     Yes, it did.

16          Q     So did you make up, so to speak?

17          A     Yes, we did.

18          Q     Tell the jury what happened next. What kind  
19     of crowd was there at the party?

20          A     Excuse me?

21          Q     What kind of crowd was there at the party?

22          A     College kids. Meaning -- what do you mean?

23          Q     Was it fairly full? Was the club packed, or  
24     how was it?

25          A     Yes, it was.

Chemiqua Ellington - Direct

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1 Q Okay. What about outside the club? Were  
2 there people outside, also?

3 A There were people in lines outside, trying to  
4 get in.

5 Q Was there anything that happened during the  
6 night at the club that made you feel uncomfortable?

7 A Somebody was shooting outside.

8 Q You stated earlier you didn't really want to  
9 go to the party that night anyway. Did you decide to  
10 leave the club at that time?

11 A Yes, I did.

12 Q And did you and Carl leave together? Did  
13 Carl leave when you left?

14 A We were all walking outside together at one  
15 point in time.

16 Q And why did you want to leave early?

17 A Well, one, because I didn't want to be there  
18 in the beginning; and, two, because somebody was  
19 shooting outside.

20 Q Now, were some of Carl's friends still in the  
21 club as you were leaving?

22 A Yes.

23 Q And did he stay, or did he go with you?

24 A In the mix of the crowd walking outside, we  
25 got mixed up. And he walked one way, and Shameka and I

Chemiqua Ellington - Direct

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1 walked another. And he had my car keys, so, naturally,  
2 I wasn't going to leave without him.

3 Q Did you make arrangements for somebody else  
4 to come get you, or how were you going to get home  
5 since you couldn't find Carl with the keys?

6 A We called one of my friends to come pick us  
7 up, and she came to pick us up. But by that time, I  
8 guess he was in the parking lot. And she told a cop to  
9 get the keys from him, and he gave them to the cop.  
10 And I got in my car, and he walked back to the car with  
11 me. And he just decided to go with Rachiem, which is  
12 his best friend. And Shameka and I got in my car, and  
13 we left.

14 Q Okay. Did you know how Carl was going to get  
15 home? Did he tell you?

16 A With Rachiem and some other football players.

17 Q So he had a ride?

18 A Uh-huh.

19 Q And you did eventually get your keys back, so  
20 you had a ride?

21 A Yes, I drove my car back.

22 Q Okay. Now, did you and Carl plan to see each  
23 other later on that evening or the next day?

24 A Yes.

25 Q Okay. And that would have been Saturday, the

Chemiqua Ellington - Direct

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1 6th?

2 A Yes.

3 Q Tell the jury what happened after you left  
4 the club.

5 A Shameka and I left in my car, and my friend  
6 Angelica was driving behind us in her car. And we got  
7 back to school, and I'm thinking about 45 minutes later  
8 we had a call saying that somebody had gotten shot.  
9 And it was Shameka's friend calling to say that. And  
10 we went to Richland twice.

11 We went to Richland, back to Baptist, and  
12 then back to Richland. And the liaison there told me  
13 to go back down to the scene of the accident, that  
14 maybe he was still there. So that's what I did.

15 Q Now, did you at some point become aware that  
16 Carl had been shot at the club?

17 A Yes. I was talking to a copy on his cell  
18 phone. A cop picked up his cell phone and told me to  
19 come back down to the scene of the accident.

20 Q Let me stop you. You were trying to call on  
21 the cell phone?

22 A Yes.

23 Q Is that what happened?

24 A Yes.

25 Q And when somebody else picked up the cell

Chemiqua Ellington - Direct

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1 phone, it wasn't Carl?

2 A Yes.

3 Q And that was an officer that picked up the  
4 cell phone?

5 A Yes.

6 Q What did you do after speaking to the  
7 officer?

8 A He told me that I knew just a lot of  
9 information about him, so he told me to come back down  
10 and identify him. And that's what I did.

11 Q You did go back down?

12 A Uh-huh.

13 Q And what happened when you got to the club?  
14 When did you become aware that Carl had died?

15 A One of the investigators, a cop -- one of  
16 them told me -- because I knew so much about him, told  
17 me that it was him and asked me to identify him, make  
18 sure it was him.

19 Q And did you identify him?

20 A Yes.

21 Q And did you voluntarily cooperate with law  
22 enforcement even though this was a very traumatic and  
23 difficult situation for you?

24 A Yes.

25 Q And did you give a statement to the



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1 investigator that morning, December 7, 2002?

2 A Yes.

3 Q Was that statement given to Investigator  
4 Smith?

5 A Yes.

6 Q Did you tell him the same thing that you're  
7 telling the jury here today?

8 A Yes.

9 MR. JEFFRIES: Beg the Court's  
10 indulgence.

11 THE COURT: Yes, sir.

12 Q That's all I have. Please answer any  
13 questions the defense might have. Thank you.

14 THE COURT: Thank you, Mr. Jeffries.

15 THE COURT: Mr. Littlejohn.

16 MR. LITTLEJOHN: Thank you, Your Honor.

17 **CROSS-EXAMINATION**

18 BY MR. LITTLEJOHN:

19 Q Ms. Ellington, my name is Cam Littlejohn. I  
20 represent Jeroid Price. You indicated to Mr. Jeffries  
21 that you gave a statement to the Sheriff's Department  
22 right after this happened?

23 A Yes.

24 Q And you told him you said the same thing to  
25 them that you're saying today?

Chemiqua Ellington - Cross

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1           A     Yes.

2           Q     Okay. Now, Ms. Ellington, you indicated it  
3 was some time that evening that Carl Smalls showed up  
4 at your room?

5           A     Yes.

6           Q     And that was at Columbia College -- or USC?  
7 Where do you go to school? I didn't even catch that.

8           A     Columbia College.

9           Q     Columbia College. He showed up at your room?

10          A     Yes.

11          Q     Okay. Then y'all decided to go to Club  
12 Voodoo's?

13          A     Yes.

14          Q     Okay. And so you, and he, and your friend  
15 Shameka --

16          A     Yes.

17          Q     -- went to Voodoo's?

18          A     Yes.

19          Q     And you got there about 11:10, 11:15,  
20 somewhere in that area?

21          A     Yes.

22          Q     Okay. Now, up until that time, had Carl  
23 Smalls been drinking at all?

24          A     He had a Bud Lite, but he wasn't intoxicated.

25          Q     Okay. Well, what I'm asking you is what he

Chemiqua Ellington - Cross

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1 had to drink.

2 A A Bud Lite, and that's it, as I can remember.

3 Q Do you recall him having some kind of  
4 liqueur?

5 A Yes, I do.

6 Q What was that?

7 A I think some Courvoisier, I think. I think  
8 that's what it was.

9 Q And when was that?

10 A He had it in my room.

11 Q Had it in your room before you went to the  
12 party?

13 A Yes.

14 Q Okay. What is that? That's a liqueur --

15 A Yes.

16 Q -- or liquor, or what?

17 A Yes, it is.

18 Q Do you remember how much he had?

19 A No. He had it in my room, but I don't  
20 remember him drinking that. I remember him drinking  
21 the Bud Lite.

22 Q Okay. But you have some recollection of him  
23 having this liqueur?

24 A Yes.

25 Q Okay. Now, when you got to Club Voodoo's,

Chemiqua Ellington - Cross

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1       you indicated that you saw an old friend of yours,  
2       Bernard Rembert?

3             A     Yes.

4             Q     And Bernard Rembert is a football player at  
5       Clemson?

6             A     Yes.

7             Q     Okay. And you knew him because he was from  
8       Charleston, is that right?

9             A     Yes.

10            Q     Okay. And I believe you said that Mr.  
11       Rembert came up and spoke to you?

12            A     Yes.

13            Q     And at that point, Carl Smalls came up and  
14       had some words with Mr. Rembert?

15            A     He didn't come up to him immediately.

16            Q     Did he come up to him eventually?

17            A     Yes.

18            Q     Okay. And he had some words with Bernard  
19       Rembert?

20            A     Yes.

21            Q     Okay. And you told us before that Carl  
22       Smalls was not upset. Isn't that what you told the  
23       jury a few minutes ago?

24            A     Yes, he wasn't upset. Naturally, I think he  
25       would not be upset but ego trip, another man seeing

Chemiqua Ellington - Cross

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1       somebody else talking to his girlfriend in front of  
2       millions of people there that night. Naturally, you  
3       would be upset.

4           Q     Okay. So he was upset?

5           A     Not upset. I think it was because all his  
6       friends were there. I think it was just because he saw  
7       him talking to me more than one time. He wasn't upset.

8           Q     Okay. Now, you gave the Sheriff's Department  
9       a statement that same morning, isn't that right?

10          A     Yes.

11          Q     Do you recall telling Investigator Smith that  
12       Carl had been up in Bernard's face, and he bumped him?

13          A     Yes.

14          Q     You said that to them, didn't you?

15          A     Yes.

16          Q     Then you said they had words, but people were  
17       holding them back to keep them from fighting. Do you  
18       recall making that statement?

19          A     Because he did that because Bernard said  
20       something to him, and, naturally, you're going to say  
21       something back.

22          Q     Okay. But would you agree with me that Carl  
23       Smalls was a little more than just upset?

24          A     No, I wouldn't.

25          Q     Even though he came up and got in this man's

Chemiqua Ellington - Cross

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1 face and bumped him?

2 A Like I said before, I think it was an ego  
3 trip.

4 Q But you agree that he did go up and bump him?

5 A Yes, he did.

6 Q And he was having this ego trip because  
7 another man was talking to his girlfriend --

8 A Yes.

9 Q -- which was you, right?

10 A Yes.

11 Q And he was upset about it, isn't that right?

12 A Well, if that's how you want to put it, I  
13 guess.

14 Q Okay. Now, Ms. Ellington, some time after  
15 that you indicated that you decided to leave?

16 A Yes.

17 Q And you had gone there with Carl Smalls and  
18 Shameka in your car?

19 A Yes.

20 Q Carl Smalls had your keys?

21 A Yes.

22 Q Okay. And you said that you were walking out  
23 to the parking lot, and you got separated from Carl  
24 Smalls?

25 A Yes.

Chemiqua Ellington - Cross

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1 Q Okay. And then later you got your keys from  
2 him?

3 A Yes -- I didn't per se.

4 Q A police officer did?

5 A Yes.

6 Q Okay. So you had to ask a police officer or  
7 somebody else had to ask a police officer to get the  
8 keys from Carl Smalls?

9 A Carl was on the opposite side of the parking  
10 lot from where I was. I didn't see him. And one of my  
11 friends spotted him, and the cop was just there, not  
12 hollering across the parking lot telling him to get the  
13 keys. She asked the cop to get the keys as just to  
14 please ask him to give us the keys so we can go.

15 Q Okay. Now, was Carl Smalls agitated at you  
16 at this point?

17 A No, he wasn't.

18 Q He wasn't upset with you?

19 A No, he wasn't.

20 Q You weren't upset with him?

21 A No, I wasn't.

22 Q Was there any reason you couldn't go up and  
23 say, "Carl, let me have my car keys"?

24 A I was in the car, and somebody sitting right  
25 here, naturally, I'm not upset with him, just asked her

Chemiqua Ellington - Cross

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1 to get the keys -- or she asked him. I didn't even see  
2 him.

3 Q Okay. But y'all had to get a police officer  
4 to get the keys?

5 A He was there. He was standing outside. And  
6 instead of us moving out of the car, getting out the  
7 car, parking the car, and going across the parking lot  
8 and possibly losing him again, she just asked the cop  
9 to get the keys from him. We were in the car -- in her  
10 car -- getting ready to leave.

11 Q Okay. So the police officer just went and  
12 fetched the keys for y'all?

13 A Yes, that's all he did.

14 Q He didn't do it because there was any  
15 difficulty between y'all?

16 A No, he didn't.

17 Q Okay. Do you remember when you gave your  
18 statement to the Sheriff's Department making the  
19 statement, "I wanted to go, but Carl wouldn't give me  
20 my keys"?

21 A I meant that he wouldn't give me my keys when  
22 we were in the club. Somebody was shooting outside.  
23 That's why I didn't have my keys. When we went  
24 outside, we lost him. He wouldn't give me my keys  
25 because somebody was shooting outside, and he didn't



Chemiqua Ellington - Cross

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1 want me to get caught up in the crossfire, and my  
2 friend Shameka.

3 Q But you did make the statement Carl wouldn't  
4 give you the keys?

5 A Yes, I did.

6 Q And you did have to get a police officer to  
7 get the keys from Carl?

8 A No, I didn't. He was there, standing in  
9 between the car and my friend, and he got the keys  
10 because we didn't want to get out, move the car, park  
11 the car, and come back and get the keys and possibly  
12 lose him again.

13 Q Ms. Ellington, isn't it a fact that Carl was  
14 so upset at that point that you didn't want to approach  
15 him to get the keys, that he was agitated, he was mad?

16 A No, he wasn't. Like I said before, we had a  
17 discussion about it in the club. That was that. I  
18 told Carl it was unnecessary. He didn't have to act  
19 like that over something so petty. He could lose his  
20 scholarship or something else. And that was the end of  
21 that. He understood. We even danced after that.

22 Q Okay. Did you see him getting in any  
23 altercations with other people other than Bernard  
24 Rembert?

25 A No, I didn't.

Chemiqua Ellington - Cross

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1 Q You didn't see that?

2 A No, I didn't.

3 MR. LITTLEJOHN: If you'd indulge me  
4 just a moment.

5 THE COURT: Yes, sir.

6 Q No further questions, Your Honor.

7 THE COURT: Okay. Thank you.

8 THE COURT: Mr. Jeffries.

9 MR. JEFFRIES: Briefly, Your Honor.

10 THE COURT: Yes, sir.

11 **REDIRECT EXAMINATION**

12 BY MR. JEFFRIES:

13 Q Why did Carl have your keys in the first  
14 place?

15 A I didn't have any pockets on my pants.

16 Q Okay. Did you say earlier in your direct  
17 testimony there was some type of shooting outside?

18 A Yes.

19 Q And you saw the police when you were outside?

20 A Yes.

21 Q And you also stated you and Carl left on good  
22 terms?

23 A Yes, we did. The last thing he said to me  
24 was that he loved me.

25 Q Nothing further.

1 THE COURT: Thank you, sir..

2 MR. LITTLEJOHN: Nothing further.

3 THE COURT: Nothing further?

4 THE COURT: Ma'am, you may step down.

5 Thank you.

6 THE COURT: All right, ladies and  
7 gentlemen of the jury, we're going to take a short  
8 break. You all return to the jury room. Do not  
9 discuss the evidence or the testimony you've heard or  
10 seen thus far. We'll bring you back out shortly.  
11 Thank you.

12 (Jury out at 11:01 a.m. for  
13 break.)

14 THE COURT: Thank you, sir.

15 THE COURT: Anything before we take a  
16 break, counsel?

17 MR. PASCOE: Your Honor, one of our  
18 witnesses has not shown up. As we mentioned to you, if  
19 we still can't locate him, can we get a bench warrant?

20 THE COURT: Motion granted.

21 MR. PASCOE: Thank you, Your Honor.

22 THE COURT: Thank you.

23 THE COURT: Counsel, we're going to take  
24 a break. Give me about five minutes. And, Mr.  
25 Kendrick, if you can join us back in chambers, I need

Chemiqua Ellington - Redirect

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1 to see all counsel. Give me about five minutes,  
2 though. We'll be in recess for about ten minutes.  
3 Thank you.

4 (Break in proceedings.)

5 THE COURT: All right, counsel. We've  
6 had some discussions back in chambers, and I don't at  
7 this point know that we need to go any further on that  
8 topic matter. But I'll talk to you all at the lunch  
9 break about that. Let me tell everybody, both sides,  
10 that we're going to try this case. We're going to do  
11 it fairly. We're going to do it in a civil manner.

12 We're going to adhere to proper  
13 courtroom etiquette and decorum with each other and  
14 with the Court. I think you all know I don't lose my  
15 patience very often, but when I do, it's not good. And  
16 my level of patience with a couple of things is  
17 diminishing quickly. So we'll talk at the lunch break.  
18 Are both sides ready to receive the jury?

19 MR. PASCOE: Yes, Your Honor.

20 MR. LITTLEJOHN: Yes, Your Honor.

21 THE COURT: We're ready for the jury.

22 Thank you, sir.

23 (Jury back in at 11:47 a.m.)

24 BAILIFF: The jury is all present, Your  
25 Honor.

Chemiqua Ellington - Redirect

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1 THE COURT: Thank you, sir.

2 THE COURT: Thank you, ladies and  
3 gentlemen. I'm sorry that took a little bit longer. I  
4 had to address some other matters unrelated to this  
5 case and dealing with some stuff with the lawyers that  
6 I needed to do outside your presence. But we're ready  
7 to continue, and the State may call their next witness.

8 MR. PASCOE: Thank you, Your Honor.

9 THE COURT: Thank you, sir.

10 MR. PASCOE: The State calls Derrick  
11 Cattenhead.

12 BAILIFF: Sir, place your left hand on  
13 the Bible, raise your right hand, and face the Clerk.

14 (The witness was sworn.)

15 CLERK OF COURT: Please have a seat,  
16 sir, and state your full name for the record.

17 THE COURT: Be sure you speak loud  
18 enough for everybody to hear you.

19 MR. CATTENHEAD: My name is James  
20 Derrick Cattenhead.

21 JAMES DERRICK CATTENHEAD,  
22 having first been duly sworn, testified as follows:

23 **DIRECT EXAMINATION**

24 BY MR. PASCOE:

25 Q Good morning, Mr. Cattenhead.

James D. Cattenhead - Direct

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- 1           A     Good morning.
- 2           Q     How old are you, sir?
- 3           A     I'm 31.
- 4           Q     And are you currently getting a degree?
- 5           A     I am.
- 6           Q     What type of degree are you getting?
- 7           A     Master of Divinity.
- 8           Q     Okay. Where did you get your undergraduate
- 9     degree?
- 10          A     University of South Carolina.
- 11          Q     When did you graduate from USC?
- 12          A     Officially, in May of this year.
- 13          Q     Okay. And were you in any fraternity back
- 14     then?
- 15          A     Yes, Alpha Phi Fraternity, Incorporated.
- 16          Q     That's Alpha Phi Alpha?
- 17          A     Yes.
- 18          Q     And do you recall the late night hours of
- 19     Friday, December 6th, and the early morning hours of
- 20     Saturday, December 7th, of last year?
- 21          A     Yes, sir, I do.
- 22          Q     And where did you end up going, Mr.
- 23     Cattenhead?
- 24          A     It was Club Voodoo. It was like the end of
- 25     the year party for my fraternity.

James D. Cattenhead - Direct

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1           Q     Approximately what time did you get to Club  
2     Voodoo's?

3           A     It was between 12:30, 1:00, something like  
4     that.

5           Q     And why did you go?

6           A     Well, actually, I was studying for a final  
7     exam, and I was burned out, and I wanted to get out and  
8     support the chapter.

9           Q     Okay. Who sponsored the party?

10          A     My actual chapter.

11          Q     And did you hold any positions as an Alpha  
12     back then?

13          A     I did.

14          Q     What was your position?

15          A     I was assistant state director.

16          Q     As the assistant state director of Alpha,  
17     would you have anything to do with the party?

18          A     Not directly.

19          Q     Okay. Why is that?

20          A     Because of my position, I was actually over  
21     all of the collegiate chapters in South Carolina. So,  
22     for the most part, I was hands-off anything unless  
23     there was a problem or something like that. But I also  
24     liked to support the chapters throughout the state.

25          Q     All right. You testified you got to the

James D. Cattenhead - Direct

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1 party after midnight. Did you have anything to drink  
2 that night?

3 A I didn't.

4 Q Okay. While you were at the party that  
5 morning, did you observe anything that made you feel  
6 uncomfortable?

7 A I did.

8 Q And where were you when you observed that?

9 A It was near -- I guess near the bar, right  
10 before you get onto the dance floor.

11 Q You can just stay seated there. I'll show  
12 you State's Exhibit 1. Point out where you were  
13 standing.

14 A I guess it was around about -- it had to be  
15 around right here. I actually didn't know the dance  
16 floor was that big. But it was somewhere over here,  
17 because I remember it was near the corner -- because I  
18 guess it was like a rail or a balcony or whatever, and  
19 I was standing right about here, because it was near  
20 the corner of the bar.

21 Q And tell the jury what you observed that made  
22 you feel uncomfortable. What happened?

23 A Well, I was actually, you know, standing up  
24 talking to a couple of my brothers, and out of nowhere,  
25 I mean, it was like two guys. It wasn't so much an



James D. Cattenhead - Direct

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1       altercation or anything, but they were actually going  
2       back and forth. And, you know, the young man basically  
3       told the other gentleman, "You're going to fall like  
4       'The Matrix.'" And I'm like, "Are you serious?"

5               This is like something from a movie, you  
6       know. But, you know, at that point, you know, a couple  
7       of football players were with him, and I assume the  
8       guy, Mr. Carl Smalls, was one of the guys, you know,  
9       that the gentleman was directly into. And I asked one  
10      of the football players, you know, "Is everything  
11      okay?" because at that point, you know, I didn't want  
12      anything to happen at the party, because, you know, it  
13      was a fund-raiser for the most part for the fraternity,  
14      and we didn't need any altercations or something like  
15      that.

16             So at that point, the football player and the  
17      other football player basically said, "You know,  
18      everything's okay, Derrick. You know we're not going  
19      to let anything happen in the party or nothing like  
20      that. So don't worry about that." That was it.

21             Q     Let me ask you this. Let me back you up for  
22      a minute. You testified about a confrontation that  
23      started taking place on that area of the dance floor?

24             A     Right.

25             Q     How far were you from it?

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1           A     Probably a good, I want to say, three feet.  
2     That was like right there for the most part.

3           Q     It just came right up on you?

4           A     Right up on me. I didn't go towards it. It  
5     was just like the guys like came up.

6           Q     How many people were involved in it?

7           A     I would say Carl Smalls, Rachiem -- which he  
8     was actually standing to the side -- and maybe about  
9     four or five others guys facing, you know, Carl Smalls.

10          Q     So it was Carl Smalls, and Rachiem is his  
11     friend?

12          A     Right.

13          Q     And there were four or five guys facing those  
14     two?

15          A     Right.

16          Q     Okay. Could you tell whether it was gang-  
17     related at all?

18          A     I assumed that it was.

19                     MR. LITTLEJOHN: Your Honor, I'm going  
20     to have to object to his assumption. If he saw  
21     something --

22                     THE COURT: I'll let you rephrase that,  
23     Mr. Pascoe.

24                     MR. PASCOE: Thank you.

25          Q     What, if anything, did you see that made you

James D. Cattenhead - Direct

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1 think it was gang-related?

2 A Hand signals -- I mean, the colors. I was a  
3 youth counselor for an organization, and a lot of the  
4 kids -- actually, I was like a dummy, I guess, you  
5 know, to the fact of gang-related incidents until the  
6 kids actually showed me certain things. And it was  
7 very familiar.

8 Q And you recognized Rachiem and Carl Smalls  
9 there on one side. Did they go to college?

10 A Yes. I didn't know Carl, but I knew Rachiem.

11 Q Okay. Did you recognize any of those other  
12 four fellows --

13 A No.

14 Q -- as going to college that you had ever  
15 seen?

16 A I never saw any of those guys.

17 Q And was there any one person in particular  
18 with those four people that was doing anything?

19 A Yes, it was one guy. It was almost like the  
20 rest of the guys were behind him. It was just one guy  
21 in particular that was doing all the talking.

22 Q And, if you could, what was that one guy  
23 wearing that you recall?

24 A Well, very vividly, the only thing that I can  
25 remember is a hat. He had on a hat which was red and

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1 white and black or blue.

2 Q And what, if anything, did you see that  
3 person -- how big was that person?

4 A Maybe about 5'8", 5'9", medium size. He  
5 wasn't a very big guy -- a medium-sized guy.

6 Q Certainly, a lot smaller than Carl Smalls?

7 A Oh, definitely.

8 Q What, if anything, did you see that person do  
9 that made you feel uncomfortable?

10 A Just, you know, when he said, "You're going  
11 to fall like 'The Matrix'" and just basically fell back  
12 like the trust for all the other guys like caught him.  
13 And at that point, that's when I went over to Rachiem,  
14 you know, and asked him was everything okay.

15 Q And who was the person in that hat you  
16 described, the small person, directing those words to?

17 A It was definitely towards Carl, because  
18 Rachiem was in the back of Carl. You know, it was only  
19 two guys on one side and then the other guys on the  
20 other side.

21 Q Tell the jury -- and I want you to actually  
22 even show the jury. If you need to stand up, with the  
23 Court's permission, the Judge will let you. I want you  
24 to show the jury what the person in the black, red, and  
25 white hat that was small -- what complexion was he?

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1           A     He was definitely dark-skinned.

2           Q     Okay. Show the jury how he said it, the  
3     "You're going to fall like 'The Matrix'" towards the  
4     victim.

5           A     He basically just said, you know -- I guess  
6     after the words were exchanged. I didn't know  
7     everything that was going on. But he basically said,  
8     "Before the night is over with, you're going to fall  
9     like 'The Matrix.'" And I was like, unbelievable.

10          Q     Did you ever see anything like that before?

11          A     Never, I mean, because at our parties, I  
12     mean, you have people always -- you know, you have  
13     beefs and stuff like that at the parties, but not a  
14     direct threat that, you know, "I'm going to kill you."  
15     You know, I've never seen that at any of our parties.

16                     MR. LITTLEJOHN: Your Honor, I object.  
17     I don't believe that's his testimony.

18                     THE COURT: He can carry on.

19                     MR. PASCOE: Thank you.

20                     THE COURT: If you know something, sir,  
21     or you perceived something, you can testify as to what  
22     you perceived directly. Just don't speculate on things  
23     when you don't know, okay?

24                     MR. CATTENHEAD: Yes, sir.

25          Q     Is that how the person in that hat, small

James D. Cattenhead - Direct

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1 build with the dark-skinned complexion, was doing his  
2 hands?

3 A He was.

4 Q And what did that look like to you that he  
5 was doing with his hands?

6 A A gun -- like gunshots.

7 Q Now, you testified that after that, you were  
8 concerned and went and talked to Rachiem Monroe?

9 A I did.

10 Q And the victim, Carl Smalls, was there, too?

11 A Well, no, he wasn't in my presence when I was  
12 talking to Rachiem.

13 Q Did Carl Smalls appear to be mad?

14 A No, he was calm.

15 Q Was he acting violent at all?

16 A Not when I saw him.

17 Q What you saw that night about "falling like  
18 'The Matrix,'" is that something that would normally  
19 happen at an Alpha party you've been to?

20 A No.

21 Q Did you actually see the shooting, Mr.  
22 Cattenhead?

23 A I didn't.

24 Q Okay. Where were you when the shooting took  
25 place?

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1           A     I was standing outside like on the sidewalk,  
2     like right before you get to the actual pavement --  
3     well, actually, in the parking lot.

4           Q     Tell the jury what, if anything, you did hear  
5     and see.

6           A     It was just gunshots and people scattering,  
7     and, of course, it was quite natural to be doing, also.

8           Q     Sure. Where did you go after you heard the  
9     gunshots?

10          A     I ducked between some cars and ran to my car,  
11     and then I left.

12          Q     Can you describe how you heard the gunshots?

13          A     I guess I heard the first shot, and then I  
14     heard another shot. And after that, I don't remember  
15     anything. I mean, I was running, you know, trying to  
16     get to my car.

17                   MR. PASCOE: Beg the Court's indulgence.

18                   THE COURT: Yes, sir.

19                   MR. PASCOE: Thank you.

20          Q     Mr. Cattenhead, I want to thank you for  
21     coming today. Answer any questions that Mr. Littlejohn  
22     has for you.

23                   THE COURT: Thank you, sir.

24                   THE COURT: Mr. Littlejohn.

25                   MR. LITTLEJOHN: Thank you, Your Honor.

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1 CROSS-EXAMINATION

2 BY MR. LITTLEJOHN:

3 Q Mr. Cattenhead, my name is Cam Littlejohn. I  
4 represent Jeroid Price.

5 A Yes, sir.

6 Q He's the defendant in this case. You told  
7 the jury this was a fraternity party that was put on by  
8 Alpha Phi Alpha?

9 A Well, the fraternity is Alpha Phi, but it was  
10 a chapter party, which the chapter is at USC?

11 Q Okay. And there were a number of other  
12 fraternities and sororities that participated in  
13 sponsoring this party, didn't they?

14 A Like I said, I wasn't directly involved with  
15 arranging the party. You know, afterwards, they said  
16 it was co-sponsored with our sister sorority, which is  
17 Alpha Kappa Alpha, but I don't know. I mean, I didn't  
18 do the contracts, any paperwork, or anything like that.

19 Q Okay. So you weren't involved in putting the  
20 party together?

21 A No, I was not.

22 Q I see. Now, you indicated that you saw Carl  
23 Smalls there that night?

24 A I did.

25 Q Okay. He wasn't a member of your fraternity,



James D. Cattenhead - Cross

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1 was he?

2 A He was not.

3 Q Okay. So, to your knowledge, was he a member  
4 of any fraternity or sorority that was putting on this  
5 party?

6 A No -- I mean, the only fraternity was Alpha  
7 Phi Alpha.

8 Q Okay.

9 A I mean, we don't co-sponsor parties with any  
10 other fraternity. Now, we may, you know, periodically  
11 do something with a sorority -- you know, Alpha Kappa  
12 Alpha or whoever -- but we never co-sponsor a party  
13 with another fraternity, not at USC. That's not how we  
14 do things.

15 Q So he wasn't one of the fraternity brothers  
16 of the fraternity?

17 A He was not one of my fraternity brothers.

18 Q Okay. Now, you said there were a lot of  
19 people there that night?

20 A There was.

21 Q How many people do you think were there?

22 A I couldn't even guess. I mean, it was a lot  
23 -- more than usual, more than usual -- a lot, a lot.

24 Q Very crowded?

25 A Very crowded.

James D. Cattenhead - Cross

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1 Q Okay. And a lot of people were drinking?

2 A I assume. I mean, I can't say that they were  
3 actually drinking. You know, I wasn't partaking in  
4 that.

5 Q You weren't drinking at all?

6 A I was not drinking at all.

7 Q But other people were going up to the bar and  
8 buying drinks?

9 A Yes, of course.

10 Q So it's a safe assumption they were drinking  
11 those drinks they bought?

12 A Yes, yes.

13 Q Okay. People were dancing?

14 A They were.

15 Q Okay. And you said that at some point as  
16 you're standing next to the bar that you notice Carl  
17 Smalls get in this argument?

18 A It wasn't really an argument, because, like I  
19 said, it was like words exchanged, and then I saw a  
20 young man, you know, make a motion. But I won't  
21 necessarily say it was an argument.

22 Q Okay. And you said that there was Carl  
23 Smalls and Rachiem Monroe?

24 A Yes.

25 Q You knew both of them beforehand?

1           A     I didn't know Carl.  Actually, when I came in  
2     the club and someone pointed him out, that was the  
3     first time that I ever saw.  I never saw him before.

4           Q     So that's the only way you knew him?

5           A     That's the only way I knew him.  But I knew  
6     Rachiem, because I had some classes with him.

7           Q     Okay.  And you said that Carl Smalls,  
8     Rachiem, four or five other guys exchanged some words?

9           A     Yes, pretty much.

10          Q     And then Rachiem --

11          A     Not Rachiem.  Rachiem was in the back.  The  
12     other guys, they wasn't exchanging words, you know.  It  
13     was just more so that one guy, you know, making a  
14     statement to Carl.  That was pretty much, you know, the  
15     gist of it.

16          Q     Okay.  But you indicated Carl didn't get  
17     upset from that statement?

18          A     He didn't, I mean, because, like I said, it  
19     was real brief.  Right after that, I went up to  
20     Rachiem, and he said it's okay.  That was it, you know.

21          Q     So, according to you, this guy threatened  
22     Carl Smalls with a gun, but he didn't get upset?

23          A     He didn't.  He didn't.  That's why, you know,  
24     it was kind of weird.  You know, I was like, "This is  
25     unbelievable."  But after talking to Rachiem, you know,

James D. Cattenhead - Cross

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1 quite naturally, I was like, "Okay, it's okay.

2 It's nothing for us to be alarmed" -- because  
3 at previous parties, if there's a beginning of an  
4 altercation, you know, with security, with us having to  
5 pay for security, we automatically get them out of the  
6 club in order for the party to keep going on. So at  
7 that point, I didn't feel like it was any need, you  
8 know, to address any other issue or anything.

9 Q Okay. So you didn't feel that Carl Smalls  
10 was upset?

11 A No, I did not.

12 Q And you didn't know him at that point?

13 A I didn't know him.

14 Q And Rachiem Monroe told you everything was  
15 okay?

16 A He did.

17 Q So you assumed everything was all right?

18 A I did.

19 Q Okay. Did you see Carl Smalls any other time  
20 that night?

21 A No other time that night, because maybe after  
22 that, maybe a couple of minutes later -- 30 minutes or  
23 so -- I was getting ready to leave. I was only there  
24 probably about 30 minutes or so.

25 Q Do you recall seeing Carl Smalls dancing,

1 doing the Crip walk?

2 A I did.

3 Q You did see him do that?

4 A I did.

5 Q Okay.

6 A I don't know if it was the Crip. But from  
7 what, you know, the kids in my youth group, you know,  
8 did little walks and stuff like that, I think it was  
9 pretty close.

10 Q Okay. And then at some point, you saw Carl  
11 Smalls draw a line on the dance floor with his foot?

12 A He did.

13 Q Okay.

14 A He did.

15 Q And told Investigator Robertson that when he  
16 interviewed you?

17 A I did.

18 Q Okay. And, Mr. Cattenhead, you said you were  
19 on the sidewalk when you heard the gunshot?

20 A I was.

21 Q And you said you heard one, then a second  
22 shot -- you're not sure if there was a shot after that?

23 A I'm not sure. I was making my way over to my  
24 car.

25 Q And you took off?

James D. Cattenhead - Cross

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1           A     After the first --

2           Q     I mean, you got in your car and left?

3           A     After the first shot, I ran, ducked in  
4     between some cars. I heard another shot. By that  
5     time, I was making my way to my car.

6           Q     Okay. So you didn't see anybody get shot or  
7     anybody --

8           A     I didn't.

9           Q     -- shooting?

10          A     I didn't.

11          Q     Okay.

12                     MR. LITTLEJOHN: If you'd indulge me  
13     just a moment, Your Honor.

14                     THE COURT: Yes, sir.

15          Q     Mr. Cattenhead, just one final question. You  
16     had mentioned something about a hat. Did a lot of  
17     people have hats on that night?

18          A     They did. They did.

19          Q     There must have been more than a hundred  
20     people in there, wouldn't that be safe to say?

21          A     Yes, sir.

22          Q     Maybe a hundred and fifty?

23          A     Yes, sir.

24          Q     A lot of them had hats on?

25          A     They did.

1 Q Okay, thank you.

2 THE COURT: Thank you, sir.

3 THE COURT: Mr. Pascoe?

4 MR. PASCOE: Just a couple of questions.

5 THE COURT: Yes, sir.

6 MR. PASCOE: Thank you.

7 RE-DIRECT EXAMINATION

8 BY MR. PASCOE:

9 Q Derrick, did Carl draw the line and do the  
10 Crip walk before or after he was told that he was going  
11 to fall like "The Matrix"?

12 A It was before.

13 Q Before. Did you see him tell anybody that he  
14 was going to kill them?

15 A Who, Carl?

16 Q Carl.

17 A Definitely not. He didn't say anything. I  
18 mean, he didn't say anything. He did, you know, what I  
19 presume to be the Crip mark, drew the line, and stepped  
20 back. That was it. He never uttered a word.

21 Q Do you know what "The Matrix" is?

22 A Yes, I know what "The Matrix" is.

23 Q What is it?

24 A It's a movie.

25 Q Okay. That's all I have, Your Honor.

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1 THE COURT: Thank you, sir.

2 THE COURT: Mr. Littlejohn.

3 MR. LITTLEJOHN: Just one follow-up,  
4 Your Honor.

5 RE-CROSS EXAMINATION

6 BY MR. LITTLEJOHN:

7 Q Mr. Cattenhead, of course, you didn't follow  
8 Carl Smalls around that evening?

9 A I didn't follow him anyone around that  
10 evening.

11 Q Okay. So you don't know if he got into other  
12 confrontations with girls or other people or anything?

13 A I have no idea.

14 Q Okay. Thank you, sir.

15 THE COURT: Thank you, sir.

16 THE COURT: Mr. Cattenhead, you may step  
17 down, sir. Thank you.

18 THE COURT: The State may call their  
19 next witness.

20 MR. PASCOE: Thank you. May it please  
21 the Court, Your Honor. The State calls Investigator  
22 James Richardson.

23 MR. PASCOE: Is Mr. Cattenhead excused,  
24 Your Honor?

25 THE COURT: Yes, sir. There's no reason



James D. Cattenhead - Recross

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1 to keep him here.

2 MR. LITTLEJOHN: No objection.

3 THE COURT: Okay, you're free to come  
4 and go as you please, sir.

5 MR. CATTENHEAD: Yes, sir.

6 THE COURT: Thank you.

7 MR. PASCOE: Thank you.

8 (The witness was sworn.)

9 CLERK OF COURT: Please have a seat  
10 there and state your full name for the record.

11 MR. LITTLEJOHN: Your Honor, may we  
12 approach the bench for a moment?

13 THE COURT: Yes, sir.

14 THE COURT: Ladies and gentlemen, I need  
15 to take up something with the lawyers outside your  
16 presence. I promise you this will take about five  
17 minutes or so. We won't leave the courtroom, so we'll  
18 bring you right back out. If you'll just return to the  
19 jury room. Do not discuss the evidence or testimony  
20 you've heard or seen so far. Thank you.

21 (Jury out at 12:10 p.m.)

22 THE COURT: Thank you, sir.

23 THE COURT: Investigator, you may step  
24 down while we do this. I think you've already been  
25 sworn, sir, and we'll bring you back shortly, possibly.

1 THE COURT: Mr. Littlejohn.

2 MR. LITTLEJOHN: Your Honor, it's my  
3 understanding the next witness, Detective Richardson,  
4 is a supposed expert in or has investigated gang  
5 activity, and the Solicitor's Office intends to put him  
6 up to testify, not as to what happened on December the  
7 7th at the Voodoo Club but as to generalities as to  
8 what gangs do, and what their tendencies might be, and  
9 their colors, etc.

10 Your Honor, I would object to that  
11 testimony. I don't see where that general line of  
12 testimony has anything to do specifically with the  
13 incident that occurred on December 7th at the Voodoo  
14 Club. There's been some evidence as to animosity  
15 between Bloods and Crips, and I think that's a given.  
16 The jury understands that. I don't see that they need  
17 a full-blown explanation of gang activity.

18 This is not a civic group or a school  
19 class that needs to be educated about any groups. I  
20 think that would be highly prejudicial in this case.

21 THE COURT: Thank you, sir. You still  
22 have an opportunity to voir dire the witness as to his  
23 qualifications. But your objection right now is just  
24 as to the relevance of his testimony and the  
25 prejudicial effect --

1 MR. LITTLEJOHN: Yes, Your Honor.

2 THE COURT: -- of that testimony? Okay.

3 Thank you, sir.

4 THE COURT: Mr. Sorenson.

5 MR. SORENSON: May it please the Court,

6 Your Honor.

7 THE COURT: Yes, sir.

8 MR. SORENSON: The State's position is  
9 that, especially in light of the testimony that this  
10 jury has heard over the last day and a half, it would  
11 be very relevant, and it would aid the jury in

12 understanding a lot of the testimony that has come  
13 before them as far as what flashing signs, Crips,  
14 names, stuff of that nature is, along with also stuff  
15 that we're going to tie in ultimately with a later  
16 witness that was found in this defendant's apartment.

17 As Your Honor understands, the motive  
18 that we're putting forward for this crime is that it  
19 was a gang-related homicide. And, therefore, I think  
20 it would go towards helping explain that motive, in  
21 light of other evidence that's going to come in later  
22 in the trial, additionally.

23 THE COURT: Anything further, Mr.

24 Littlejohn?

25 MR. LITTLEJOHN: No, Your Honor.

1 THE COURT: Okay, thank you.

2 THE COURT: I do think it's relevant in  
3 light of the testimony regarding the flashing of signs  
4 and all of that and helping this jury understand sort  
5 of some of the signs and what all that means. I had to  
6 ask my law clerk what the Crip walk is, even. I'm not  
7 from the MTV/BET generation. So I think it would aid  
8 them in understanding this testimony.

9 And I think we did introduce some photos  
10 yesterday of Mr. Brooks purportedly flashing a gang  
11 sign and all of that. They need to understand what  
12 this is or not. So I'll allow his testimony.  
13 Certainly, Mr. Littlejohn, you still have the right to  
14 voir dire him as to his qualifications if you choose  
15 to. But we'll let him testify.

16 He actually did not need to leave the  
17 room, but I guess he thought he was still sequestered.  
18 If you'll tell Investigator Richardson he can come back  
19 in.

20 THE COURT: Investigator Richardson,  
21 you've been previously sworn. So we'll continue, Mr.  
22 Sorenson.

23 THE COURT: If you'll bring the jury  
24 back out.

25 MR. SORENSON: Your Honor, I guess

1 before they come in --

2 THE COURT: Yes, sir.

3 MR. SORENSON: -- there were several  
4 items that were recovered during the search of the  
5 defendant's apartment. Obviously, we haven't gotten to  
6 putting that witness up. I plan on marking them for ID  
7 and showing them to this officer during his testimony,  
8 with the understanding that we will lay, hopefully, a  
9 proper foundation for their admissibility with a future  
10 witness who is sworn.

11 THE COURT: You're not introducing them  
12 or referring to them as coming --

13 MR. SORENSON: We can mark them for ID  
14 if you want.

15 THE COURT: -- from the defendant at  
16 this point?

17 MR. SORENSON: That they wouldn't be  
18 referred to where they came from at all at this point  
19 in time.

20 THE COURT: Okay.

21 MR. LITTLEJOHN: Your Honor, given that  
22 setup, I don't know that I have an objection. But I  
23 was going to object to them coming in, just by virtue  
24 of the fact that they're just red clothing.

25 THE COURT: And we'll deal with it,

1 certainly at the time that they get ready to introduce  
2 them. But I'll let this witness as an expert witness  
3 testify as to his opinions or conclusions regarding  
4 whatever it is they've got for showing, just as long as  
5 there's no reference to at this point coming from the  
6 defendant. At the point that they put a witness on to  
7 introduce it into evidence, I'll certainly hear your  
8 objection.

9 MR. LITTLEJOHN: All right.

10 THE COURT: Okay, we're ready for the  
11 jury.

12 (The jury returned to the  
13 courtroom at 12:15 p.m., after which the following  
14 proceedings were had:)

15 BAILIFF: The jury is all present, Your  
16 Honor.

17 THE COURT: Thank you, sir.

18 THE COURT: Ladies and gentlemen, we're  
19 ready to continue. Thank you for your patience.

20 THE COURT: Mr. Sorenson.

21 MR. SORENSON: Thank you, Your Honor.  
22 May it please the Court.

23 JAMES RICHARDSON, having first  
24 been duly sworn, testified as follows:

25 **DIRECT EXAMINATION**

James Richardson - Direct

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1 BY MR. SORENSON:

2 Q Good afternoon, Investigator Richardson.

3 A Good afternoon, sir.

4 Q Will you please tell us where you're  
5 employed?

6 A I'm employed with Richland County Sheriff's  
7 Department.

8 Q And what are your current duties with the  
9 Sheriff's Department?

10 A I'm a full-time gang investigator with the  
11 County.

12 Q Okay. And how long have you been in law  
13 enforcement, sir?

14 A Altogether, about 16 years, sir.

15 Q Okay. And how long of that have you been in  
16 your current capacity as a gang investigator?

17 A Two years, sir.

18 Q Two years. And if you would go through for the  
19 jury and kind of tell us a little bit about your  
20 specialized training you've had in that regard.

21 A Yes, sir. I've been trained in Florida  
22 through the Florida Gang Investigators Association, the  
23 North Carolina Gang Investigators Association. I'm  
24 currently the Midlands president for the South Carolina  
25 Gang Investigators Association. I've done numerous

James Richardson - Direct

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1 speeches, talks, educational type environment to law  
2 enforcement, civilians all across the Southeast and  
3 here in South Carolina.

4 Q Okay. About how many different lectures do  
5 you think you've given over the last two years on gang  
6 activity here in the state of South Carolina?

7 A Probably pretty close to 600.

8 Q And you indicated that you're a gang  
9 investigator. You've done that for two years. Tell  
10 the jury, what does that entail as far as your day-to-  
11 day activities?

12 A It mainly entails gathering intelligence and  
13 disseminating it through our department and updating  
14 our gang intelligence talks as far as for the education  
15 of parents. It also entails us interviewing gang  
16 members and basically keeping track of where they are,  
17 what they're doing, and that type of stuff.

18 Q Okay. And as part of your day-to-day  
19 training, you indicated that you interview gang  
20 members. You also keep up with reading material and  
21 stuff of that nature?

22 A Absolutely, sir. Just about every book that  
23 I can get my hands on in reference to gangs, I read.

24 Q Okay. And what associations do you then  
25 belong to as a result of your activities as a gang



James Richardson - Direct

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1 investigator?

2 A The North Carolina Gang Investigators  
3 Association, the Florida Gang Investigators  
4 Association, and the South Carolina Gang Investigators  
5 Association.

6 Q And so would it be safe to say that over the  
7 last years in law enforcement that you have pretty much  
8 dealt exclusively with issues relating to gang activity  
9 here in, I guess, specifically the Midlands?

10 A Yes, sir.

11 Q Your Honor, at this time, we'd offer  
12 Investigator Richardson as an expert in the field of  
13 gangs and gang activity.

14 THE COURT: Any objection or request of  
15 voir dire, Mr. Littlejohn?

16 MR. LITTLEJOHN: Your Honor, I want to  
17 cross-examine, please.

18 THE COURT: Yes, sir.

19 CROSS-EXAMINATION VOIR DIRE

20 BY MR. LITTLEJOHN:

21 Q Investigator Richardson, you indicated that  
22 you had gone to training in Florida and North Carolina?

23 A Yes, sir.

24 Q And that's put on by -- what did you say --  
25 the Gang Investigators Association?

James Richardson - Cross

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- 1           A     Yes, sir.
- 2           Q     Those are police officers, aren't they?
- 3           A     Yes, sir.
- 4           Q     All police officers?
- 5           A     Not necessarily -- Solicitor's Office, groups  
6     like that, yes, sir.
- 7           Q     Okay. So police officers and prosecutors?
- 8           A     Yes, sir.
- 9           Q     Okay. They aren't psychologists, or  
10    sociologists, or newspaper reporters?
- 11          A     As far as I know, sir. I don't know their  
12    background as far as who makes up their board.
- 13          Q     Okay. But they're all interested in law  
14    enforcement as it relates to gangs?
- 15          A     I believe so, yes, sir.
- 16          Q     And that's what you're interested in?
- 17          A     Yes, sir.
- 18          Q     And you work with the Sheriff's Department  
19    that investigated this case?
- 20          A     Yes, sir.
- 21          Q     Okay. And you said you had been doing this  
22    for two years?
- 23          A     Yes, sir -- full-time for two years.
- 24          Q     Have you received any formal education in  
25    this field?

James Richardson - Cross

301

1 A Formal education, as in?

2           Q     Other than going to these police  
3     associations?

4           A     No, sir. It's basically self-taught, a lot  
5     of it, because it's a continuing entity. It's an ever-  
6     flowing entity. Pretty much, you've got to keep track  
7     with it on a day-to-day basis.

8 Q Okay. Have you ever written any articles or  
9 any treatises on the subject?

10           A     I've never written any articles. I've had  
11       several that were published through interviews and  
12       stuff like that.

13 Q Okay. But you've never written any?

14                   A     No, sir.

15 Q You've never been published on the subject?

16                   A     No, sir.

17 Q And most of your activities and day-to-day  
18 things are dealing with police officers, is that right?

19           A     No, sir -- dealing with gang members, in most  
20     cases.

21 Q Okay. As a police officer?

22           A     Yes, sir.

23 MR. LITTLEJOHN: Your Honor, --  
24 qualifications.

25 THE COURT: Okay. I do find that under

James Richardson - Cross

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1       702, I think he's got the requisite experience and  
2       training to be qualified under 702. So I'm going to  
3       qualify him as an expert. I note your exception to  
4       that.

5                   MR. LITTLEJOHN: Yes, Your Honor. That  
6       would be an exception --

7                   THE COURT: Thank you, sir.

8                   MR. LITTLEJOHN: -- for the record.

9                   THE COURT: Yes, sir.

10                  MR. SORENSON: Thank you, Your Honor.

11                               DIRECT CONTINUED

12                  Q     If you would, Investigator Richardson, please  
13       give the jury a little bit of background about the  
14       origins of gangs.

15                  A     Gangs have been around basically since the  
16       beginning of time. Where they really started affecting  
17       is during immigration to the United States into New  
18       York City. Gangs were formed in the neighborhoods as a  
19       way to protect their heritage and their culture,  
20       because the different heritages were so different, and  
21       they were formed as a way to protect those  
22       neighborhoods.

23                               The current gangs we're seeing today  
24       basically came out of two different places, one out of  
25       Chicago and one out of L.A. In Chicago, the main hit

James Richardson - Direct

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1 of the gangs started in the late '60s, '70s, and then  
2 in L.A., there are gangs dating back to the mid '20s  
3 and '30s.

4 Q Okay. And how about types of gangs. What  
5 kind are there?

6 A The types of gangs that we're seeing today  
7 are two basic types. We have traditionals and non-  
8 traditionals. A traditional gang is one that has a  
9 history, like out of Chicago or L.A. Non-traditional  
10 is like a neighborhood set or something like that. The  
11 types of gangs we're seeing are like Crips, Bloods,  
12 Pyru, Latin Kings, Gangster Disciples, groups like  
13 that.

14 Q Okay. Those names that you just said to the  
15 jury, are some of them kind of related to each other,  
16 or are they all separate kind of entities?

17 A They're related as in their beliefs in some  
18 cases. The Bloods believe under People Nation, which  
19 is they believe in like the right side of the body or  
20 the left side of the body, and they have certain  
21 numbers and stuff that they go by to show their  
22 affiliations, so the other gang members, they know who  
23 they are.

24 MR. LITTLEJOHN: My objection is  
25 continuing throughout, Your Honor.

James Richardson - Direct

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1 THE COURT: Yes, sir. I'm sure it's  
2 continuing.

3 A And the other side is the Folk Nation, which  
4 are like Gangster Disciples of the Folk Gang, and  
5 Hoovers, and groups like that, and Crips.

6 Q Crips fall under that?

7 A Yes, sir.

8 Q Okay. How about specifically here in the  
9 Midlands and in Columbia? Do we have gangs --

10 A Yes, sir, we do.

11 Q -- in this area?

12 A Yes, sir, we do.

13 Q What gangs are located here in Columbia?

14 A We have Folk Nation, Gangster Disciples,  
15 Crips, Bloods, Pyru, Hispanic gangs, MS-13 Gangs,  
16 groups like that, from other places.

17 Q Okay. I'm going to ask you specifically. I  
18 believe this came out yesterday in a witness'  
19 testimony. You indicated they're Bloods --

20 A Yes, sir.

21 Q -- Crips?

22 A Yes, sir.

23 Q I want to ask you specifically about  
24 something called GKB.

25 A Yes, sir.

James Richardson - Direct

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1 Q What is that?

2 A The GKB stands for Gangster Killer Bloods.  
3 They are a sub-group of another group out of New York  
4 called the UBN, or United Blood Nation.

5 Q Is that all kind of affiliated under the  
6 Blood sect?

7 A Yes, sir, it is.

8 Q Okay. How about Nine Tre, or TRE?

9 A Nine Tre is also a Bloods gang, a derivative  
10 of a Blood gang out of New York.

11 Q Both found here in the Midlands?

12 A Yes, sir.

13 Q If you would, Investigator Richardson, tell  
14 us, how do gangs go about distinguishing themselves or  
15 differentiating themselves from other gangs?

16 A Most of the time, the way that they  
17 differentiate is through clothing, or bandannas, or  
18 hand signs and stuff like that. They're kind of  
19 getting away from wearing bandannas, because everybody  
20 knows what they're looking for. So now it's different  
21 symbols -- the clothing, the hand signs, the talk, the  
22 way that they talk, the way that they disrespect each  
23 other, and things like that.

24 Q Okay. As far as clothing goes, are there  
25 certain like sports jerseys that are associated with

James Richardson - Direct

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1 different gangs --

2 A Yes, sir.

3 Q -- such as the Crips and the Bloods?

4 A Yes, sir.

5 Q If you would, give us some examples of that.

6 A For instance, like for the Crips, it would be  
7 like a Cowboys jersey, and it disrespects the -- the  
8 Bloods would disrespect the Crips by wearing a five-  
9 pointed star, and it would be blue. And the Cowboys is  
10 an acronym that means "Crips only win by offing young  
11 slobs."

12 Q And you had indicated signs. Can you tell us  
13 a little more about what you mean by hand signs?

14 A The hand signs are like sign language that  
15 they make up, and it could be like showing their  
16 affiliation by using different hand signs. Also, it  
17 can be a disrespect by using a hand sign. And they can  
18 also communicate different messages like how to set up  
19 to do an attack on somebody, or what have you.

20 Q And is there almost like kind of code that  
21 comes out of that, also --

22 A Absolutely, yes, sir.

23 Q -- as far as there are terms meaning  
24 different terms and stuff of that nature?

25 A They really have their own dictionary in some



James Richardson - Direct

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1 cases, called a Book of Knowledge. And within this  
2 Book of Knowledge, it has different number codes,  
3 different secret passwords, the handshakes, the signs,  
4 the symbols, everything that they would need to know to  
5 be a gang member.

6 Q Okay. And how does a person come about  
7 becoming a gang member?

8 A First, through the affiliation, and then they  
9 have to go through an initiation process. And it  
10 varies from gang to gang as to how it's done. But most  
11 of the time, they have to get jumped in or beat in to  
12 get into the gang. They get beat up for a certain  
13 period of time.

14 Q And that's by other gang members?

15 A Yes, sir, by other gang members.

16 Q And within the certain gangs, such as the  
17 Bloods or the Crips, is there any kind of a hierarchy  
18 within those groups?

19 A Yes, sir, there is. They do have a chain of  
20 command. We have several high-ranking officials here  
21 in Columbia, from what we understand.

22 Q You had indicated there being a kind of a  
23 Book of Knowledge, I believe is the term you used?

24 A Yes, sir.

25 Q Is there also sort of a code of conduct or

James Richardson - Direct

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1 behavior that gang members are supposed to follow once  
2 they become a member?

3 A Absolutely, yes, sir.

4 Q And does that differ from different gang to  
5 different gang as far as what that code of behavior or  
6 code of conduct is?

7 A Yes, sir, in some cases, it does.

8 Q And, specifically, I want to ask you about a  
9 couple of things. Are gang members allowed to give  
10 other non-gang members information about their  
11 particular group?

12 A Like secret handshakes and stuff like that,  
13 they wouldn't do, as far as the different passwords --  
14 not to non-gang members, they wouldn't give it, no,  
15 sir.

16 Q And are they allowed to even admit to other  
17 non-gang members such as law enforcement that they  
18 actually belong to a gang?

19 A It depends on the gang.

20 Q Okay. What do you mean by that?

21 A Well, like the Crips out of L.A., they always  
22 claim, they always say who they're affiliated with, no  
23 matter what the circumstances. But being as under with  
24 the UBN or GKB, the Gangster Killer Bloods, I've read  
25 over several Books of Knowledge where one of their

James Richardson - Direct

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1 rules stipulates that they will never admit their  
2 affiliation with Bloods.

3 Q So they might admit to a crime, even to  
4 shooting somebody, before they would admit to being a  
5 Blood?

6 A I've seen that before, yes, sir.

7 Q If you would, tell us a little bit about how  
8 gang members interact with other rival gangs.

9 A In most cases, they don't interact. It's  
10 pretty much an uneasiness. The gang members know what  
11 part of town they can go to and what part of town they  
12 can't go to. They know what they can or can't wear in  
13 different areas of town or different places, like  
14 shopping areas and things like that.

15 Q Okay. And when they do interact --  
16 specifically, this jury has heard testimony about  
17 people flashing signs at each other.

18 A Yes, sir.

19 Q Describe for the jury what that means or what  
20 that is.

21 A Flashing signs would be like throwing their  
22 bandanna up or throwing a hand sign up or something  
23 like that, or saying a disrespecting word, something to  
24 basically show that they're proud of who they are and  
25 that they're against the other group.

James Richardson - Direct

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1 Q Okay. And if you would, talk about how are  
2 ways that a gang can disrespect another rival gang.

3 A There are actually several ways they can  
4 disrespect. For instance, a Blood gang member would be  
5 called a slob by a Crip gang member, and it's showing  
6 their disrespect. The Crip gang member would be called  
7 a crab. A Folk Nation would be called a doughnut.

8 A hand sign, they could take their hand signs  
9 that they do, that they claim. For instance, the hand  
10 sign that I'm holding up right now is a Folk Nation  
11 hand sign. If I wanted to disrespect the Folk Nation,  
12 I would turn the hand sign upside-down, and that would  
13 show disrespect, or if I wanted to -- let's say I was a  
14 Crip, and I wore a red T-shirt. I would wear a Band-  
15 aid over that T-shirt, showing that I'm disrespecting  
16 them.

17 Q Okay. What are the signs for a Blood?

18 A The left hand sign, a B.

19 Q Kind of like a B?

20 A Yes, sir.

21 Q And if you disrespect a Blood, what would you  
22 do, then?

23 A Throw it upside-down, yes, sir.

24 Q How about a Crip, then?

25 A A Crip would be a C, and the same thing --

James Richardson - Direct

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1       you throw it upside-down.

2               Q     I've heard a lot about like gang graffiti --

3               A     Yes, sir.

4               Q     -- being written on overpasses, and  
5       buildings, and stuff of that nature.

6               A     Yes, sir.

7               Q     Are there ways to disrespect rival gangs  
8       through graffiti?

9               A     Yes, sir. They can either spray-paint it  
10      upside-down, or they would cross certain letters out.  
11      Like, for instance, a Blood would cross out a C,  
12      showing that he disrespects them, with a line, or they  
13      would turn it upside-down, and vice versa. A Crip  
14      would disrespect a Blood by turning their B's backwards  
15      or something like that.

16                    They would also not say the words. For  
17      instance, they would write the letters CK, which stands  
18      for Crip Killer, on a wall, and then, of course, they  
19      would cross out the C.

20               Q     Now, you had spoken earlier, sir, about gangs  
21      distinguishing themselves from other gangs by the  
22      clothing they wear and the signs that they use, the  
23      terms that they use. Is there certain music also  
24      that's associated with different gangs?

25               A     Well, we've seen where some of the rappers,

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1       one gang will listen to one certain kind of rap or one  
2       rap artist, but they won't listen to another, I guess  
3       because of the affiliation that they feel that they  
4       have -- that the rappers have. And in some of the  
5       music, the rappers openly tell you who they're  
6       representing.

7           Q       And you've heard of something called the Crip  
8       walk before?

9           A       Yes, sir.

10          Q       Tell the jury what that is.

11          A       The C walk, the Crip walk, is a disrespect to  
12       the Bloods. It actually originated in L.A. where they  
13       do a dance on the ground, and it's supposed to spell  
14       out the word. And then, as they go across it, they're  
15       crossing it out. So they're disrespecting the rival  
16       gang.

17          Q       In your experience, Investigator Richardson,  
18       can flashing signs at a rival gang member, or wearing  
19       colors, or doing something like the Crip walk, can that  
20       also lead to violence between rival gang members?

21                   MR. LITTLEJOHN: Your Honor, I'm going  
22       to object. May we approach the bench?

23                   THE COURT: Yes, sir.

24          Q       Investigator, let me repeat the question for  
25       you. In your experience and your training, sir, can

James Richardson - Direct

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1 gang members flashing signs, wearing colors, doing  
2 things such as the Crip walk, can that lead to violence  
3 breaking out between rival gang members?

4 A Absolutely, yes, sir.

5 Q As part of your duties and your training, I  
6 believe you indicated that a part of what you try to do  
7 is kind of keep tabs on gang members here in Columbia?

8 A Yes, sir.

9 Q Now, through your training, have you become  
10 familiar with the defendant, Jeroid Price?

11 A I became familiar with his name on the  
12 street, yes, sir.

13 Q Are you aware of whether he's affiliated with  
14 a gang?

15 A Yes, sir.

16 MR. LITTLEJOHN: Your Honor, I'm going  
17 to object to this. This is beyond the purview of what  
18 he's been qualified to do, and we're going into  
19 hearsay.

20 THE COURT: Yes, sir. Why don't you all  
21 approach?

22 THE COURT: Okay, I'm going to overrule  
23 the objection. And, Mr. Sorenson, you can continue.

24 MR. SORENSON: Thank you.

25 Q Once again, I believe you indicated that you

James Richardson - Direct

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1 are familiar with the defendant, Jeroid Price?

2 A Yes, sir. His name has been mentioned  
3 several times during interviews.

4 Q Are you aware of whether he's affiliated with  
5 a gang?

6 A I am, sir.

7 Q What gang is that?

8 A The GKB, or Gangster Killer Bloods.

9 Q Are you aware of what his position is within  
10 that gang?

11 A The word that we received is that he is known  
12 as a supreme, which is a higher elevation. He's like  
13 an officer within the gang.

14 Q I want to return you specifically back to  
15 talking now specifically about Bloods or GKB's. What  
16 colors are associated with that organization?

17 A Red, sir.

18 Q And are you familiar with the hand signs that  
19 are associated with that group?

20 A I am, sir.

21 Q And if I could, I want to show you a couple  
22 of photographs that are in evidence, State's Exhibit  
23 #52. Have you had an opportunity to see that  
24 photograph, sir?

25 A Yes, sir.



James Richardson - Direct

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1 Q And State's Exhibit #61?

2 A Yes, sir.

3 Q Okay. And if you would -- can I get him to  
4 step down just briefly, Your Honor?

5 THE COURT: Yes, sir.

6 Q In front of the jury, just kind of show, if  
7 you would, Investigator Richardson, what the  
8 significance of these photographs are as far as from a  
9 gang standpoint.

10 A In this particular photograph, I see two  
11 individuals who are flashing gang hand signs, the first  
12 of which being this gentleman right here to the bottom  
13 right. He's throwing up a Crip killer sign, which is  
14 CK, and with his left hand, he's throwing up a B, which  
15 stands for Blood. The other gentleman next to him is  
16 throwing up a hand sign over his arm, which is a Pyru  
17 hand sign they use to show their affiliation.

18 Q What is Pyru?

19 A Pyru is a sub-group of the UBN, or a sub-  
20 group of the Bloods up in California.

21 Q And how about as far as especially the guy on  
22 I guess it would be the jury's left, the clothing that  
23 he's wearing?

24 A He's wearing all red, and he's wearing what  
25 looks like a 76ers jersey, which is showing affiliation

James Richardson - Direct

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1 with the five-pointed star.

2 Q And the individual with the Pyru sign, are  
3 you aware of who that individual is?

4 A I'm not aware of who that is, sir.

5 Q Okay. So the defendant, Jeroid Price, you  
6 don't know him personally --

7 A I do not know him personally.

8 Q -- as far as knowing his face?

9 A No, sir.

10 Q All right. Now I'm showing you State's  
11 Exhibit #52, that photograph. Is there anything  
12 significant in that photograph?

13 A The red bandanna that one gentleman is  
14 holding up, and it looks like he's getting ready to  
15 throw up a Blood sign. The gentleman sitting right  
16 behind him looks like he's smoking a cigar or something  
17 like that. He's throwing up a Blood hand sign showing  
18 his affiliation. And I notice the red that they're  
19 wearing and the bandannas.

20 Q Okay. Investigator Richardson, I'd like to  
21 show you State's Exhibits #66 and #67.

22 A Yes, sir.

23 Q It's marked for ID at this point in time.  
24 Have you had an opportunity to see those items before?

25 A I did, sir.

James Richardson - Direct

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1 Q And specifically State's Exhibit #66, what is  
2 that item?

3 A This item here?

4 Q Whichever one is 66, and I believe that's --  
5 has it got a sticker on it?

6 A Okay, yes. Yes, sir.

7 Q Okay. Have you had an opportunity to go  
8 through that notebook?

9 A I did, sir.

10 Q Have you been able to find anything within  
11 that notebook or the pages of that notebook that is  
12 relevant with regards to gang activity?

13 A It seems like the book is like a  
14 conglomeration of rap music, where he's writing music.  
15 In one of the --

16 MR. SORENSON: Can I have him step down,  
17 Your Honor, once again for just a moment?

18 THE COURT: Yes, sir.

19 Q If you would, show the jury what you're  
20 talking about as you're going through there.

21 A It looks like there's several pages where he  
22 started writing rap music, is what it sounds like. One  
23 thing that stood out is back here where he started  
24 writing one of them. It says, "Yea, about a million to  
25 one chance, dog; hush" --

James Richardson - Direct

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1                   MR. LITTLEJOHN: Your Honor, excuse me,  
2 I would have to object. This is only for  
3 identification purposes.

4                   THE COURT: Yes.

5                   MR. LITTLEJOHN: If he wants to examine  
6 it and talk about it in general terms, I have no  
7 problem.

8                   THE COURT: Yes, I certainly don't mind  
9 him just showing what it is he's talking about. But if  
10 he's going to go through the whole thing, it is ID  
11 right now. But there was another matter. Let me see  
12 counsel for just a moment.

13                   THE COURT: Thank you, both.

14               Q     You may continue, Investigator.

15               A     One of the last, where he started out in this  
16 paragraph, it says, "GKB, I got this," referring to the  
17 GKB Gangster Killing Bloods, in this notebook.

18               Q     Okay. What is State's Exhibit #67?

19               A     Excuse me?

20               Q     What is State's Exhibit #67?

21               A     This is a book of different codes they would  
22 use like a dictionary. It gives a definition as to  
23 what different things mean, different words, what they  
24 would symbolize in the street and what they actually  
25 mean in layman's terms. And I noticed quite a bit of

James Richardson - Direct

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1 referring to the Bloods as far as Blood stoning and  
2 stuff like that. Also in the book, they're crossing  
3 out the C's, which would be a disrespect to the Crips.

4 Q Is that done pretty much throughout that  
5 entire --

6 A Yes, sir.

7 Q -- 115-page folder?

8 A Throughout the whole book.

9 Q Okay. And does that book or those pages kind  
10 of go through and lay out a lot of that terminology,  
11 and those codes, and those signs that you talked about  
12 earlier?

13 A Yes, sir.

14 Q I believe you had indicated, sir, that part  
15 of that would be associated, is that correct?

16 A Yes, sir.

17 Q I'm going to show you at this time what is  
18 marked as State's Exhibit #62. Have you had an  
19 opportunity to look through this bag of clothing, and  
20 hats, and stuff of that nature?

21 A I have, sir.

22 Q Are there any items in this bag that in  
23 looking at them -- well, first of all, what color is  
24 all this clothing that's in the bag?

25 A All of it's red or some affiliation of red.

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1           Q     Are there any other items in here that, as  
2     far as your experience and your training as a gang  
3     investigator, have any significance with regards to a  
4     Blood gang or affiliation of a Blood?

5           A     Yes, sir, the red and white. There's a --

6           Q     If you'll tell me, I'll just hold it and get  
7     stuff out.

8           A     All right. The New York Yankees hat, of  
9     course, their colors are not red and white, but yet he  
10    has a red-and-white New York Yankees hat. I believe  
11    there's an Atlanta Braves hat in there, also. It's all  
12    red.

13          Q     Does that have any --

14          A     AB, All Bloods.

15          Q     That's the Atlanta Braves hat?

16          A     Yes, sir -- and the bandanna, of course. The  
17    bandanna was highly starched, and it was perfectly  
18    folded five times, which the number five shows  
19    affiliation with the Bloods.

20          Q     The rest of this is pretty much just red  
21    clothing --

22          A     Yes.

23          Q     -- shirts and stuff of that nature?

24          A     The rest of it is just pretty much red  
25    clothes, sir.

James Richardson - Direct

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1           Q     And, lastly, sir, I want to show you State's  
2 Exhibits #63, #64, and #65. Were you given an  
3 opportunity to review these items?

4           A     I did, sir.

5           Q     Okay. First of all, what are they?

6           A     They appear to be bullet-proof vests, sir.

7           Q     Okay. What significance would they hold with  
8 regards to gang members? Is it common to find a  
9 bullet-proof vest on a gang member or when searching a  
10 gang member's apartment, or house, or car?

11          A     Most of the guys we deal with as far as this  
12 would not have this type of stuff. The lower-echelon  
13 gang members would not be -- probably wouldn't have  
14 this in their presence. But the higher-ranking gang  
15 members, we know for a fact that out of New York they  
16 actively seek body armor as a way to protect  
17 themselves. They've even had clothing made out of it,  
18 suit jackets or a leather jacket, and it'll have lining  
19 made out of Kevlar.

20          Q     You're looking at State's Exhibit #67. Do  
21 you recall something very similar to kind of like a  
22 pledge of allegiance in here?

23          A     Yes, sir..

24          Q     Okay. And if you would, what is that?

25          A     It's a pledge to the UBN, or to the United

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1 Blood Nation, where he's pledging his allegiance to  
2 that group.

3 Q Okay. What is that pledge that's in there?  
4 If you would, just read that pledge for the jury.

5 A "I pledge allegiance to the almighty red flag  
6 of the UBN, United Blood Nation, and for that bloodbath  
7 for which we stand, one set, under blood, for blood,  
8 and for all my blood bank or blood." And it goes on to  
9 say, the next paragraph, "What that red be like, five  
10 popping, six dropping, CKT to my casket, drops five  
11 alive, six must die, rest in peace to OG tie."

12 Q What does that CKT indicate?

13 A Crip Killing Thug.

14 Q And the reference to the five and the six?

15 A The five shows their affiliations to the  
16 Bloods, and the six is the affiliation to the Crips.  
17 In other words, with those two numbers, they show who  
18 they represent by wearing those numbers.

19 Q And, lastly, would you expect to find, in  
20 searching a gang member's home or car, weapons? Is  
21 that something that's common?

22 A Yes, sir, it's become.

23 Q Ammunition for those weapons, stuff of that  
24 nature?

25 A Yes, sir.



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1 MR. SORENSON: Beg the Court's  
2 indulgence.

3 THE COURT: Yes, sir.

4 Q That would be all I have, Your Honor. Please  
5 answer any questions Mr. Littlejohn has.

6 THE COURT: Thank you, sir.

7 THE COURT: Mr. Littlejohn.

8 CROSS-EXAMINATION

9 BY MR. LITTLEJOHN:

10 Q Investigator, the writings that you read to  
11 the jury a little while ago --

12 A Yes, sir.

13 Q -- and let me be specific, they've been  
14 marked for identification as State's Exhibits #67 and  
15 #66. You don't know who wrote these, do you?

16 A I do not know, sir.

17 Q You don't have any idea?

18 A No, I do not, sir.

19 Q You didn't do any sort of handwriting  
20 analysis or anything?

21 A No, sir.

22 Q You don't know whose writing it is?

23 A No, sir, I do not.

24 Q Okay. Bullet-proof vests, those are not  
25 illegal?

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1           A     No, sir, they are not.

2           Q     You can buy them at a gun show, or at a pawn  
3 shop, or virtually anywhere?

4           A     Yes and no. I mean, they're not illegal to  
5 have, and they're not illegal to sell.

6           Q     Right.

7           A     Yes, sir.

8           Q     You can go buy one?

9           A     Yes, sir.

10          Q     I can go buy one?

11          A     Yes, sir.

12          Q     Anybody on the jury can go buy one?

13          A     Sure, yes, sir.

14          Q     Okay. Nothing illegal?

15          A     No, sir.

16          Q     Okay. The items here in Exhibit 62 that you  
17 examined, red clothing --

18          A     Yes, sir.

19          Q     -- you don't know where this came from?

20          A     No, sir, I do not.

21          Q     You don't know whether this red clothing was  
22 intermixed with green clothing, or blue clothing, or  
23 yellow clothing, or any other clothing?

24          A     No, sir, I do not.

25          Q     You don't know if these items fit anybody in

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1 particular?

2 A No, sir, I do not.

3 Q You don't know Jeroid Price, do you?

4 A No, sir, I do not.

5 Q You've never met him?

6 A No, sir.

7 Q And some of the things you told us about  
8 Jeroid Price today, that's based on stuff you've heard  
9 from informants --

10 A Yes, sir.

11 Q -- from people who come in and trade  
12 information to the Sheriff's Department?

13 A No, sir. These people were not paid  
14 informants. They were just people on the street who,  
15 upon making contact with them, started giving up names.

16 Q And it's all hearsay, isn't it?

17 A Pretty much, yes, sir.

18 Q Because you don't know that of your own  
19 personal knowledge?

20 A No, sir.

21 Q You're just basing it on what somebody told  
22 you?

23 A Yes, sir.

24 Q Investigator Richardson, Mr. Sorenson showed  
25 you some photographs here, and particularly he showed

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1       you State's Exhibit 61.

2             A     Yes, sir.

3             Q     Do you remember seeing that photograph?

4             A     Yes, sir, I do.

5             Q     And that appears to be a group of six  
6 individuals?

7             A     Yes, sir.

8             Q     Okay. How many of them had on red clothing?

9             A     Only one, sir.

10            Q     Just the one?

11            A     Yes, sir.

12            Q     There's nothing illegal about wearing red  
13 clothing, is there?

14            A     No, sir, there's not.

15            Q     And out of six people, chances are somebody's  
16 going to have on something red, isn't it?

17            A     Probably so, yes, sir.

18            Q     Let me ask you about this sign right here --

19            A     Yes, sir.

20            Q     -- on the individual kneeling down. It looks  
21 like the defendant, Jeroid Price?

22            A     Yes, sir.

23            Q     Okay. You said that was a symbol for what?

24            A     The Pyrus use that symbol.

25            Q     The Pyrus?

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1           A     Yes, sir.

2           Q     And that's a gang?

3           A     Yes, sir. That's a Blood affiliation, yes,  
4     sir.

5           Q     But it's a separate gang from the Bloods?

6           A     No, sir. It's called Pyru Bloods.

7           Q     And they're based in L.A., I think you said?

8           A     Yes, sir, on Pyru Street in L.A.

9           Q     Okay. So those guys are from L.A. They're  
10   not from South Carolina?

11          A     That's correct, sir.

12          Q     Okay. Are you familiar with the NBA? Do you  
13   ever watch basketball on TV?

14          A     Yes, sir.

15          Q     Do you know who Doug Christie is?

16          A     I have no idea, sir.

17          Q     He plays for the Sacramento Kings.

18          A     Okay. I don't know, sir.

19          Q     Have you ever seen him use that sign --

20          A     Have not, sir.

21          Q     -- when he shoots a foul shot?

22          A     Have not, sir.

23          Q     You haven't?

24          A     I don't watch basketball.

25          Q     Okay. But you're not familiar with anybody

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1 else using that sign?

2 A As far as I know, it's used in sign language.  
3 Other than that, no.

4 Q Some people use that sign to say, "I love  
5 you"?

6 A That's correct, sir.

7 Q That's right?

8 A Yes, sir.

9 Q Other people use it for that?

10 A Yes, sir.

11 Q Matter of fact, on *Forrest Gump*, they use  
12 that sign. Did you watch that movie?

13 A I'm not familiar with that sign in that  
14 movie.

15 Q Okay. State's Exhibit 52 --

16 A Yes, sir.

17 Q -- you saw this photograph?

18 A Yes, sir.

19 Q You don't know any of these people?

20 A Do not.

21 Q Okay. And it shows a number of people at  
22 what appears to be a barbecue or something?

23 A That's what it appears to be, sir.

24 Q Okay. And you've got one person with a red  
25 hat, and one person with a red bandanna --

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1           A     Yes, sir.

2           Q     -- and one person sitting on a red cooler?

3           A     Yes, sir.

4           Q     That doesn't mean he's a Blood or anything,  
5 does it --

6           A     That does not mean that.

7           Q     -- just because he's sitting on a red cooler?

8           A     No, sir.

9           Q     Okay. Investigator Richardson, based on your  
10 experience as an investigator in this area -- Your  
11 Honor, reserving my objection --

12                   THE COURT: Yes, sir.

13           Q     -- isn't it common for gang members to have  
14 either burns or tattoos --

15           A     In most cases, yes, sir.

16           Q     -- indicating a gang affiliation?

17           A     Yes, sir.

18           Q     Do you know if Jeroid Price has any burns or  
19 tattoos such as that?

20           A     I have not had a chance to examine him, sir.

21           Q     Would it surprise you if I told you he  
22 didn't?

23           A     No, sir, it wouldn't, actually.

24                   MR. LITTLEJOHN: If you'd indulge me  
25 just a second, Your Honor.

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1 THE COURT: Certainly.

2 Q Investigator Richardson, just a couple of  
3 final things. Pyrus and GKB, those are two separate  
4 things?

5 A Yes, sir, they are.

6 Q Okay. What is an OG?

7 A Original gangster.

8 Q Original gangsters affiliated with what?

9 A Both sides, sir.

10 Q Would it be affiliated with the Crips?

11 A It can be affiliated with both.

12 Q An original gangster would be somebody in the  
13 hierarchy of the Crips if it was used in that context?

14 A It basically means just like an elder in the  
15 gang.

16 Q Okay. So an OG could be an elder in the  
17 Crips gang?

18 A Yes, sir.

19 Q That's all I have.

20 THE COURT: Thank you, sir.

21 THE COURT: Mr. Sorenson?

22 MR. SORENSON: Nothing further, Your  
23 Honor.

24 THE COURT: Okay. Thank you, sir.

25 THE COURT: Investigator Richardson, you



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1 may step down. Thank you, sir.

2 INVESTIGATOR RICHARDSON: Thank you,  
3 sir.

4 MR. SORENSON: Thank you, sir.

5 THE COURT: Okay. Ladies and gentlemen,  
6 it's probably a good time to take a break for lunch. I  
7 ask that you all return to the jury room and that you  
8 not discuss the case, or testimony, or evidence you've  
9 heard or seen thus far. We'll break till 2:30. Thank  
10 you.

11 (Jury out from 12:55 to 2:30  
12 for lunch.)

13 THE COURT: Okay, everybody, you need to  
14 be seated until the jury is out.

15 THE COURT: Thank you, sir.

16 THE COURT: Anything further we need to  
17 take up? Mr. Littlejohn --

18 MR. LITTLEJOHN: Yes, Your Honor.

19 THE COURT: -- let me just put on the  
20 record, during the course of Investigator Richardson's  
21 testimony, you had an objection that I treated as a  
22 continuing objection to, I'm assuming, the whole line  
23 of his direct. And I just wanted to make sure you got  
24 on the record your exception to that, as well as the  
25 hearsay objection.

1 MR. LITTLEJOHN: Yes, Your Honor.  
2 Particularly, I objected -- I want to add for the  
3 record that I objected to his testimony as to any  
4 tendency toward violence that might be anticipated with  
5 the showing signs, etc. He was testifying as to what  
6 reaction those sort of things might provoke, and I  
7 object to that supposition.

8 Secondly, Your Honor, I object to his  
9 description as to Jeroid Price as being high up in the  
10 Bloods gang, based on the fact that that was obviously  
11 hearsay and things he's heard on the street. And our  
12 position would be that would be inadmissible.

13 THE COURT: Okay. And we did have a  
14 sidebar about that. I just wanted to make sure --

15 MR. LITTLEJOHN: Yes, sir.

16 THE COURT: -- that the record reflected  
17 that I treated your objection as timely and continuing  
18 as to that. I just wanted to make sure you got  
19 everything on the record you needed to.

20 MR. LITTLEJOHN: Thank you, Your Honor.

21 THE COURT: Mr. Sorenson, as to that,  
22 does the State need to add anything to the record?

23 MR. SORENSON: No, sir.

24 THE COURT: Okay. Thank you, gentlemen.  
25 All right, we'll be in recess until 2:30. I don't know

1 if we needed to address any further the conversation we  
2 had back in chambers.

3 MR. PASCOE: Not unless you think it's  
4 necessary.

5 THE COURT: I didn't, but I'll be glad  
6 if either side needs to address that further. If  
7 something else arises with that, we'll address it then.  
8 Thank you, counsel.

9 MR. PASCOE: Thank you, Your Honor.

10 THE COURT: Thank you, both. We'll see  
11 you all at 2:30, then.

12 MR. PASCOE: Thank you, Judge.

13 (Break in proceedings.)

14 THE COURT: Are both sides ready to  
15 receive the jury? Do we need to give Ms. Rushing and  
16 Mr. Jeffries a moment?

17 MR. LITTLEJOHN: She went to feed her  
18 meter.

19 THE COURT: If you want to wait on her,  
20 I'll do that.

21 THE COURT: Okay. Are counsel for both  
22 sides ready?

23 MR. PASCOE: Yes, sir.

24 THE COURT: Thank you.

25 THE COURT: All right. We're ready for

1 the jury.

2 (The jury returned to the  
3 courtroom at 1:34 p.m., after which the following  
4 proceedings were had:)

5 BAILIFF: Your Honor, the jury is  
6 present.

7 THE COURT: Okay. Thank you, sir.

8 THE COURT: Thank you, ladies and  
9 gentlemen. I hope you all had a good lunch. We're  
10 ready to continue.

11 THE COURT: The State may call the next  
12 witness.

13 MR. PASCOE: Jason Woods, Your Honor.

14 BAILIFF: Step up here, please. Stand  
15 right there, left hand on the Bible, raise your right,  
16 and face him.

17 (The witness was sworn.)

18 CLERK OF COURT: Please have a seat up  
19 here, sir, and state your full name for the record.

20 MR. WOOD: My name is Jason Dexter Wood.

21 JASON DEXTER WOOD, having  
22 first been duly sworn, testified as follows:

23 **DIRECT EXAMINATION**

24 BY MR. PASCOE:

25 Q Good afternoon, Mr. Woods. Do you live here

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1 in Columbia, sir?

2 A Uh-huh.

3 Q Where did you go to school?

4 A Columbia High School.

5 Q And how old are you?

6 A Twenty-two.

7 Q And are you friends with both the defendant,  
8 Jeroid Price, and the co-defendant, Ryan Brooks?

9 A Yes, I am.

10 Q Okay. How long have you known Mr. Brooks?

11 A Since high school.

12 Q Okay. Did he have a nickname?

13 A B.D.

14 Q B.D. And how long have you known Jeroid  
15 Price?

16 A High school.

17 Q And does he have a nickname?

18 A I don't know.

19 Q Have you ever heard of a J.P.?

20 A A Justin Peters.

21 Q Not Jeroid Price?

22 A Huh-uh.

23 Q What about a J-Blades?

24 A No.

25 Q And all three of you -- Mr. Brooks and the

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1 defendant -- are close friends, is that correct?

2 A I guess you could say that.

3 Q Okay. Would you ever hang out with them?

4 A Yes.

5 Q And what sorts of things do y'all do when you  
6 hang out together?

7 A Play basketball, parties, things like that.

8 Q And you still kept in contact with both these  
9 defendants, even after they have been arrested, isn't  
10 that true?

11 A Well, no, not really. I didn't contact  
12 nobody.

13 Q Did any of them contact you?

14 A Yes, maybe one.

15 Q Who?

16 A Jeroid.

17 Q Contacted you?

18 A Yes.

19 Q Okay. Let me ask you this. There's nothing  
20 wrong with this, but even during the course of these  
21 proceedings, you've talked to the defendant's family?

22 A No.

23 Q You didn't talk to them today outside during  
24 the lunch break?

25 A Not really. I mean, I might have -- I don't

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1 know what I said to them. Maybe I did, and maybe I  
2 didn't. I don't know.

3 Q A simple question -- were you hanging out and  
4 talking with the defendant's family during lunch today?

5 A I mean, I know a lot of people there, some of  
6 his family. I don't know who is family and who isn't.

7 Q The fact of the matter is the only reason  
8 you're here today is because I subpoenaed you, isn't  
9 that true?

10 A Well, no. I would have came anyways if you  
11 wouldn't have subpoenaed me.

12 Q Well, let me ask you, why would you come?

13 A Because I'm friends with them.

14 Q With Mr. Price?

15 A Uh-huh.

16 Q Okay. Let me take you back to Friday,  
17 December the 6th, of last year, okay, the night of the  
18 party. What did you do that day?

19 A I went to work.

20 Q What time did you get home?

21 A Around 11:30.

22 Q P.M.?

23 A Yes.

24 Q Where did you end up going?

25 A To the party at the Voodoo's, where the

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1 shooting was.

2 Q Okay. Who did you go with?

3 A Anthony Patrick and Ryan Brooks.

4 Q Who picked you up?

5 A Anthony Patrick.

6 Q In whose vehicle?

7 A His.

8 Q Okay. What kind of vehicle did he have?

9 A A Rodeo.

10 Q Do you remember what color it was?

11 A Teal.

12 Q Could it also be called green -- teal or  
13 green?

14 A Yes, I guess so.

15 Q Approximately what time did you get to Club  
16 Voodoo's with Anthony Patrick and Ryan Brooks that  
17 night?

18 A Around 12:30.

19 Q So it was definitely after midnight?

20 A Well, I wouldn't say definitely, but maybe  
21 somewhere in that ballpark.

22 Q Okay. And do you recall what Mr. Brooks was  
23 wearing that night?

24 A No.

25 Q What was his hair like that night?



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1           A     I don't remember.

2           Q     Did you have an opportunity to see the  
3 defendant, Jeroid Price, at the party that night?

4           A     Yes, I seen him.

5           Q     Okay. And who was he hanging out with?

6           A     I don't know.

7           Q     Who did you end up hanging out with at the  
8 party?

9           A     Anthony Patrick.

10          Q     Who did Ryan Brooks end up hanging out with  
11 at the party?

12          A     I don't know. I mean -- I don't know.

13          Q     Did you ever see Ryan Brooks and the  
14 defendant hanging out together at the party?

15          A     Maybe so. I don't really remember that well.

16          Q     Do you remember any confrontations that Mr.  
17 Brooks or Mr. Price had with the victim, named Carl  
18 Smalls, that night?

19          A     Yes.

20          Q     What do you remember about that?

21          A     A lot of arguing, you know, back and forth,  
22 but nothing too major, just, you know, arguing.

23          Q     Okay. And was any of that gang-related?

24          A     I don't know.

25          Q     Are you a Blood?

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- 1 A No.
- 2 Q Do you know if Jeroid Price is a Blood?
- 3 A No.
- 4 Q Mr. Brooks -- is that a "no"?
- 5 A No.
- 6 Q None of you are in gangs?
- 7 A I'm not in a gang.
- 8 Q What did you do when the party ended?
- 9 A Went and got in the truck.
- 10 Q Okay. Who is "we"?
- 11 A I said I went and got in the truck.
- 12 Q Mr. Patrick's truck?
- 13 A Yes.
- 14 Q Did anyone else get in with you?
- 15 A Patrick.
- 16 Q Tell the jury what happened as you and Mr.
- 17 Patrick got in the truck.
- 18 A We was just sitting in the truck, playing
- 19 with girls in the parking lot.
- 20 Q Did anything unusual happen?
- 21 A You want me to tell --
- 22 Q Did you hear anything unusual? Did anything
- 23 unusual happen?
- 24 A Gunshots.
- 25 Q Okay. And where were the gunshots coming

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1 from, could you tell?

2 A No, I just heard the gunshots.

3 Q Tell the jury what you saw and heard as the  
4 gunshots went out.

5 A I heard a gunshot, I guess -- I heard a  
6 gunshot. Brooks came out of the club, got in the truck  
7 with us, and was like, "Go," and we left.

8 Q Did you see anything in Mr. Brooks' hand as  
9 he got in the truck?

10 A Yes, he had a gun.

11 Q Do you remember what kind of gun it was?

12 A A chrome gun.

13 Q You don't remember the type gun? Was it big  
14 or small?

15 A It was a gun.

16 Q How many shots in all do you think you heard  
17 that night?

18 A I don't know.

19 Q How many shots had you heard before you saw  
20 Brooks running into the truck?

21 A I guess one.

22 Q Did you hear any more shots as you saw Brooks  
23 running to the truck?

24 A Yes.

25 Q Do you remember how many?

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1           A     No.

2           Q     You've already testified after Brooks got in  
3     the truck, you heard more shots as you saw him running  
4     there. Who was driving?

5           A     Patrick.

6           Q     Okay. And where did y'all end up going?

7           A     We went and dropped B.D. off, then I went  
8     home.

9           Q     Now, you just heard shots, right? You heard  
10    that one shot and see the defendant running to the  
11    truck with a gun, and then you hear more shots. Did  
12    you ask Mr. Brooks what was going on?

13          A     No.

14          Q     You didn't have any interest whatsoever in  
15    finding out what happened?

16          A     I didn't want to know.

17          Q     And where did you go first?

18          A     We went and dropped B.D. off, and then  
19    Patrick dropped me off.

20          Q     Okay. Dropping B.D. is Ryan Brooks. You  
21    dropped him off first? Where were you sitting in the  
22    Rodeo?

23          A     In the passenger seat.

24          Q     Do you recall anybody calling Mr. Patrick's  
25    cell phone that night as y'all were leaving the scene?

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1           A     I don't remember.

2           Q     And it's your testimony you never asked  
3 Brooks what happened that night as you were leaving the  
4 scene?

5           A     Not that I remember.

6           Q     Now, let me ask you this. Don't tell us how  
7 or what was said, but when did you first learn that  
8 Price and Brooks may have been involved in a shooting?

9           A     I don't know the exact day.

10          Q     Do you remember giving a statement to the  
11 police on December 17th?

12          A     I guess it was the 17th.

13          Q     Do you remember telling them that you learned  
14 the next day that Price and Brooks may have been  
15 involved?

16          A     I don't remember that. But, you know, if I  
17 said that, I said it. I don't remember that. But if I  
18 did, you know, maybe I did.

19          Q     You told the police on December 17th that you  
20 learned by Sunday, December the 8th, that the  
21 defendants may have been involved in a shooting, right?  
22 That's what you told the police?

23          A     I don't know. That's what you said.

24          Q     I want to show it to you, then. You'd admit  
25 that you were anything but forthright with the police

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1 -- you weren't honest with the police when they came  
2 and interviewed you, correct?

3 A No, I wouldn't say that. I was honest.

4 Q You did everything you could to protect your  
5 friends, isn't that true?

6 A No, not really.

7 Q Page two of your statement, you can read it  
8 yourself to refresh your memory. This is a statement  
9 you gave on December the 17th. When did you tell the  
10 police that you had learned about the shooting?

11 A This says, "I spoke to B.D. the next day."

12 Q You don't have to read the statement, unless  
13 you want to.

14 A Okay.

15 Q When did you say you learned?

16 A The next day.

17 Q The next day. Now, since it was early in the  
18 morning Saturday at 2:00, did you learn about it on  
19 Saturday or Sunday, the next day?

20 A I don't know.

21 Q Okay. I'll give you the benefit of the doubt  
22 and say Sunday, the 8th, how's that? Now, when you  
23 gave your statement to the police on December the 17th,  
24 did you tell them that Mr. Brooks had driven back in  
25 the vehicle with you after the shooting?

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1           A     No, I didn't.

2           Q     Why not?

3           A     Because I didn't want to have any links to  
4     anything. You know, I didn't know. I figured maybe I  
5     could get in trouble if, you know, the police knew that  
6     I was in the same car with him.

7           Q     And you told them on the 17th -- the police  
8     -- that Brooks did not leave with you, isn't that true?  
9     You didn't tell the police that Brooks left with you  
10    that night of the shooting, correct?

11          A     Correct.

12          Q     Even though you knew the day after the  
13    shooting that he and Price may have been involved in a  
14    shooting, you didn't tell the police that?

15          A     I guess so. He told me -- he just told me  
16    what happened the next day.

17          Q     Now, also in your statement on December the  
18    17th, did you tell them that Mr. Brooks had a chrome  
19    .380-caliber pistol?

20          A     No.

21          Q     Sir, on page two of your statement -- do you  
22    want to look at it to refresh your memory -- do you  
23    remember being asked if you saw any gang activity that  
24    night?

25          A     I don't see it.

Jason Wood - Direct

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1           Q     On page two of your first statement on  
2     December the 17th, "Did you see the victim arguing with  
3     J.P. and B.D.?" And then they asked, "Did you see any  
4     gang activity?" What was your response to the police?

5           A     I seen some hand movements, but I didn't know  
6     what they were.

7           Q     You also mentioned that you saw blue rags,  
8     isn't that the truth, sir?

9           A     Yes, I said that.

10          Q     How come you didn't mention anything in here  
11     about Bloods or anybody wearing red that night?

12          A     I mean, what do you mean? That's what I saw.  
13     I told you what I saw.

14          Q     Is it true that you didn't want to mention  
15     anything about Bloods because you are a Blood?

16          A     That's not true.

17          Q     Now, you failed to tell the police something  
18     else in your first statement on December the 17th,  
19     also, didn't you?

20          A     What?

21          Q     Tell this jury who you bought a cell phone  
22     for and put in your name on Tuesday, December the 10th,  
23     three days after this murder.

24          A     I bought a cell phone for Jeroid Price.

25          Q     And you didn't tell the police that?



Jason Wood - Direct

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1           A     No.

2           Q     Whose name did you put the cell phone in?

3           A     Mine.

4           Q     And Jeroid Price had been wanted since at  
5     least the 13th of December, and you knew that when you  
6     gave your statement on the 17th, correct?

7           A     No, I did not know that.

8           Q     And you bought him a cell phone on the 10th,  
9     that's your testimony. But you didn't think that that  
10    was important to tell the police on the 17th?

11          A     No.

12          Q     Tell this jury why you felt the need to buy  
13    Mr. Price a cell phone on Tuesday, the 10th, after this  
14    murder and put it in your name. Tell the jury.

15          A     I didn't feel the need to do nothing. I  
16    didn't volunteer like, "Okay, let me go buy you a cell  
17    phone."

18          Q     Tell the jury why you put the cell phone in  
19    your name for Mr. Price.

20          A     Because he asked me to.

21          Q     Now, the police came back and reinterviewed  
22    you on January the 15th, didn't they?

23          A     I guess so.

24          Q     And that was the second statement that you  
25    gave, correct?

Jason Wood - Direct

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1           A     Yes.

2           Q     And you just told the jury that Mr. Price had  
3           asked you to put that cell phone in your name, correct?  
4           But didn't you try to make up another reason as to why  
5           you got that cell phone when you talked to the police?

6           A     No.

7           Q     Do you remember telling them it was so that  
8           you could build some good credit?

9           A     I'm saying that's the same deal. He asked me  
10          to. My motivation is to get the good credit.

11          Q     So let me make sure we've got this straight.  
12          The murder happens on Saturday, December the 7th. On  
13          Tuesday, the 10th, you get a cell phone because Mr.  
14          Price asked you to put it in your name, and you give it  
15          to Mr. Price three days after the shooting, correct?  
16          And you're also telling this jury that the other reason  
17          you went ahead and did it was because you wanted to  
18          build your credit?

19          A     Yes.

20          Q     Well, you had to be a little concerned when  
21          Mr. Price went on the run after the 13th that he wasn't  
22          going to pay your bill, isn't that true?

23          A     I guess -- well, I cut the line after I found  
24          out that he was on the run, because I didn't want it to  
25          seem like I was trying to do nothing to aid him.

Jason Wood - Direct

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1           Q     And you didn't come forward and tell the  
2     police that you had gotten Mr. Price a phone. They  
3     found that out and asked you about it, isn't that true?

4           A     Correct.

5           Q     Okay. And, finally, from the time you talked  
6     to the police on December the 17th until January the  
7     15th, did you have any other conversations with the  
8     defendant, Jeroid Price, while he was on the run from  
9     the police?

10          A     Maybe one.

11          Q     Okay. And did you tell the police about that  
12     in your second statement on January the 15th, after  
13     they informed you that they knew you had gotten him a  
14     phone?

15          A     I don't remember that.

16          Q     Do you remember them asking you, "Did Jeroid  
17     talk to you about this case?" And what was your  
18     response?

19          A     Yes, he wanted to know what was going on.

20          Q     And when the police asked you, "Did Jeroid  
21     tell you anything specific about what happened at the  
22     club?" what was your response?

23          A     I don't remember making that statement.

24          Q     You don't remember telling the police that he  
25     said that the guy was trying to take his gun from him

Jason Wood - Direct

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1 and B.D., B.D. shot him in the side -- "I remember him  
2 saying that he ended up shooting the guy, too. I don't  
3 remember exactly what he said about how it exactly went  
4 down"?

5 A No.

6 Q You don't remember Jeroid Price telling you  
7 that he ended up shooting Carl Smalls?

8 A No.

9 Q Please take a look at that.

10 A I see it.

11 Q Whose statement is that?

12 A I didn't write this statement.

13 Q It's typed, isn't it?

14 A Yes.

15 Q How many pages is it -- three pages, correct?

16 A Uh-huh.

17 Q Who signed page one?

18 A I did.

19 Q Swearing that this was the truth, the whole  
20 truth, and nothing but the truth. Who signed page two,  
21 where you said that Jeroid Price told you he shot the  
22 victim?

23 A But I never read the whole statement. Me and  
24 him, when the investigator interrogated me, I talked,  
25 he typed. When we was finished, he gave it to me to

Jason Wood - Direct

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1 sign. He said, "Okay, I'm going to make you a copy."  
2 He never came back with no copy. I never seen this  
3 until they sent me the subpoena to my house. This was  
4 a week ago.

5 Q Mr. Woods, who signed page two?

6 A Yes, I signed it.

7 Q And who signed page three?

8 A Me, I signed it. I signed all of it.

9 Q This is your statement. At this time, Your  
10 Honor, I'm going to ask that his statement be admitted  
11 into evidence.

12 THE COURT: Any objection?

13 MR. PASCOE: I'll get the original and  
14 put that in.

15 MR. LITTLEJOHN: If you'd indulge me  
16 just a moment, Your Honor.

17 THE COURT: Yes, sir.

18 MR. LITTLEJOHN: Your Honor, I don't  
19 object to that particular statement if he wants to put  
20 both of them in.

21 THE COURT: Okay.

22 MR. PASCOE: That's fine.

23 MR. LITTLEJOHN: I don't have any  
24 problem with both of them.

25 THE COURT: We'll mark them both.

Jason Wood - Direct

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1 MR. PASCOE: I need those back.

2 THE COURT: Thank you, sir.

3 MR. PASCOE: We'll put both of them in?

4 THE COURT: No objection to both of  
5 them.

6 MR. PASCOE: We'll mark the December  
7 statement, Your Honor, State's Exhibit 68, and the  
8 January statement, I assume, will be 69.

9 (State's Exhibits 68 and 69  
10 were received in evidence.)

11 Q And just to make sure the record's clear on  
12 State's Exhibit 68, that, too, is your first statement?

13 A Yes, I guess so.

14 Q Okay. That's your signature under page one  
15 and your signature under pages two and three, correct?

16 A Uh-huh.

17 Q Isn't it true, sir, that you were assisting  
18 Jeroid Price in trying to elude the police as early as  
19 Tuesday, December the 10th, when you got him that cell  
20 phone?

21 A No.

22 Q Thank you, Mr. Woods. Answer any questions  
23 that defense counsel has for you.

24 THE COURT: Thank you, Mr. Pascoe.

25 THE COURT: Mr. Littlejohn.

Jason Wood - Direct

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1 MR. LITTLEJOHN: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. LITTLEJOHN:

4 Q Mr. Woods, my name is Cam Littlejohn. I  
5 represent Jeroid Price.

6 A Uh-huh.

7 Q Mr. Woods, how old are you?

8 A I'm 22.

9 Q Do you live in Columbia?

10 A Yes, I do.

11 Q Have you lived in Columbia all your life?

12 Are you in school?

13 A No.

14 Q Are you working?

15 A Yes.

16 Q What do you do?

17 A I'm a mentor.

18 Q You're a mentor?

19 A Yes.

20 Q What do you do as a mentor? Who do you work  
21 for?

22 A It's called the Mentor Network. It's like  
23 group homes for the mentally disabled.

24 Q Okay. So you're employed by the State?

25 A No, it's a privately owned company.

Jason Wood - Cross

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1           Q     A privately owned company, okay. Mr. Woods,  
2     let me back up a second to December of last year. You  
3     indicated that you went to the Voodoo Club with Bryan  
4     Brooks --

5           A     Uh-huh.

6           Q     -- and Sherman Patrick -- Anthony Sherman  
7     Patrick, just the three of y'all?

8           A     Yes.

9           Q     You need to answer up so the Court Reporter  
10    can take down your answer.

11          A     Yes.

12          Q     Okay. And you said y'all got there about  
13    12:30 a.m.?

14          A     Yes.

15          Q     Now, when you went into the Voodoo Club, did  
16    you see Carl Smalls?

17          A     Yes.

18          Q     Did you know Carl Smalls or know who he was?

19          A     No.

20          Q     How do you know who I'm talking about?

21          A     Because he's the victim.

22          Q     Okay. Big guy?

23          A     Yes, a big guy.

24          Q     Real big guy, okay. And did you observe Carl  
25    Smalls during the course of the evening while you were



Jason Wood - Cross

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1 in there?

2 A Yes, I did.

3 Q And did you see him in any kind of arguments  
4 or confrontations?

5 A Yes, I did.

6 Q Okay. How many times did that occur that you  
7 saw?

8 A Over and over, consistently throughout the  
9 night.

10 Q Consistently through the night, okay.

11 A He might be arguing with one guy. They might  
12 break it up. Later on, he'd be arguing with somebody  
13 else, you know. No fights broke out, but he was  
14 constantly into some kind of altercation with somebody.

15 Q Okay. From what you could see, who was  
16 starting these altercations?

17 A Smalls was.

18 Q And this was a continuous thing that you saw?

19 A From the time that I was there till the time  
20 that I left, he was in something.

21 Q Did he get into something with Jeroid Price?

22 A I can't say directly, but, you know, it was  
23 like a crowd of guys. He was standing inside of the  
24 crowd, and Smalls was talking to all of them, I guess.  
25 You know, I couldn't make out what they was saying,

Jason Wood - Cross

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1 because I wasn't standing close enough to hear over the  
2 music. But I could see them, you know, that he was  
3 talking to them.

4 Q Okay. And you say this went on most of the  
5 night, okay. Now, Mr. Woods, did you leave the party  
6 when it was more or less declared over with?

7 A Yes, I did.

8 Q That's when the music stopped and the lights  
9 came on?

10 A Yes, the lights came on. It was over.

11 Q Okay. And I believe you said you went  
12 outside, and you and Anthony Patrick were talking to  
13 some girls or trying to talk to some girls, is that  
14 right?

15 A Yes.

16 Q Okay. Then you indicated that you heard a  
17 shot?

18 A Yes, I did.

19 Q Okay. And Ryan Brooks came and got in the  
20 vehicle with you, is that right?

21 A Yes.

22 Q And you didn't have any conversation with him  
23 about what might have occurred at that time, isn't that  
24 right?

25 A No.

Jason Wood - Cross

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1           Q     Now, between December 7, 2002, and December  
2     10, 2002, had you given any kind of statement to the  
3     Sheriff's Department?

4           A     No, I don't think so.

5           Q     Had any sheriff or deputy sheriff come and  
6     interviewed you, any investigator?

7           A     No.

8           Q     So you didn't know what was going on?

9           A     No, I didn't.

10          Q     Okay. Now, you indicated that you had gotten  
11     a telephone, you said for Jeroid Price?

12          A     Yes.

13          Q     And you did that because Jeroid owed them  
14     some money, didn't he?

15          A     Yes, he did.

16          Q     He got disconnected?

17          A     He owed money to the Sprint Company where I  
18     bought the phone from.

19          Q     Okay.

20          A     I had never had an account there, so it would  
21     be easier, you know, to get it in my name without  
22     having to pay back all the money that he already owed.

23          Q     Okay. So you were doing that as a favor to  
24     Jeroid?

25          A     As a favor.

Jason Wood - Cross

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- 1 Q Did you think you were doing anything wrong?
- 2 A No, I didn't.
- 3 Q You were trying to help him?
- 4 A Yes.
- 5 Q And, Mr. Woods, later on, when you were
- 6 interviewed the second time, you told the investigators
- 7 about that phone, didn't you?
- 8 A Yes, I did.
- 9 Q Now, let me back up a second. When Mr.
- 10 Pascoe asked you about your two statements that you
- 11 made, the day after you were at the Voodoo Lounge, did
- 12 you have a conversation with Ryan Brooks about what may
- 13 have happened?
- 14 A I think so, either that day or the day after.
- 15 Q Okay.
- 16 A Sometime on that weekend.
- 17 Q All right. And at that time, Ryan Brooks
- 18 made a statement to you, didn't he?
- 19 A Yes, he did.
- 20 Q And he told you what happened?
- 21 A Yes, he told me what happened.
- 22 Q Okay. And you told the investigators about
- 23 that conversation, didn't you?
- 24 A Yes, I told them what he told me.
- 25 Q Okay. And you gave that statement to the

Jason Wood - Cross

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1 investigators the first time you were interviewed on  
2 December 17th, is that right?

3 A Yes.

4 Q Okay. And I believe you told them -- and I'm  
5 reading from State's Exhibit 68 -- that "Yes, I spoke  
6 to B.D."

7 A That's his name, his street name.

8 Q Okay, that's Brooks -- "the next day, and he  
9 told me that J.P. and the victim were having words at  
10 the front door and the victim saw that J.P. had a gun  
11 in his waist. B.D. said that the guy rushed J.P. and  
12 was trying to take his gun away from him."

13 A Correct.

14 Q Did you tell them that?

15 A Correct.

16 Q Okay. "And B.D." -- that's Brooks -- "said  
17 that he then pulled his gun and shot the victim in his  
18 hip."

19 A Correct.

20 Q And that's what he told you. "B.D. then said  
21 that after he shot, he then turned and went out the  
22 door."

23 A Right.

24 Q Okay. And you told the agents that on  
25 December 17th, is that right?

Jason Wood - Cross

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1           A     Yes, I did.

2           Q     Okay. And that's what Brooks told you the  
3 day after you were at the Voodoo Club?

4           A     Either that Saturday or Sunday, one of the  
5 two.

6           Q     Okay. And on that day that you were  
7 interviewed, December 17th, why didn't you tell the  
8 officers about Brooks having a gun and Brooks riding  
9 home with you?

10          A     Because I didn't want to be involved. I  
11 didn't know if I was going to get in trouble for being  
12 in the car with him after he had done shot somebody.

13          Q     Okay. So you were scared of that?

14          A     Yes.

15          Q     And that's why you didn't mention it?

16          A     Yes.

17          Q     And, Mr. Woods, you didn't see anybody shoot  
18 anybody that night?

19          A     I did not see anybody.

20          Q     You just heard shots, you didn't see  
21 anything?

22          A     All I heard was the shots, and I saw Brooks  
23 run and get in the car. That's it.

24                   MR. LITTLEJOHN: If you'd give me just a  
25 moment, Your Honor.

Jason Wood - Cross

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1 THE COURT: Yes, sir.

2 Q Mr. Woods, one final thing. Did you ever  
3 know Jeroid Price by his initials? Did you ever call  
4 him J.P.?

5 A No, I didn't.

6 Q Have you ever heard him called J.P.?

7 A I don't know.

8 Q You don't know -- all right. That's all I  
9 have, Your Honor.

10 THE COURT: Thank you, sir.

11 THE COURT: Mr. Pascoe.

12 RE-DIRECT EXAMINATION

13 Q Just now on cross-examination, you were  
14 referring to him as J.P., before Mr. Littlejohn asked  
15 you that question, weren't you?

16 A I didn't say J.P.

17 Q He asked you if you told the police that,  
18 referring to him as J.P., and you said yes, in your  
19 statement. Isn't that true?

20 A I don't know what you're talking about.

21 Q And let me ask you this. How many times did  
22 you see the victim getting in a confrontation that  
23 night?

24 A I don't know. I wasn't counting how many  
25 times he was getting in a confrontation with somebody.

Jason Wood - Redirect

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1           Q     Isn't it true you didn't even get there until  
2     like at least after 12:30 that evening?

3           A     How do you know that?

4           Q     Oh, I know because of the phone records. You  
5     want to take a look at them?

6           A     Phone records -- well.

7                     THE COURT: Before you even get to that  
8     part, Mr. Pascoe, let's help Mr. Wood understand  
9     something. Sir, you are a witness. You've been  
10    brought here to testify. The lawyers ask the  
11    questions, and you answer the questions, sir, okay?  
12    You don't ask them questions. Are we clear?

13                  MR. WOOD: Yes, Your Honor.

14                  THE COURT: Thank you, sir.

15                  MR. PASCOE: Thank you, Your Honor.

16           Q     You and your friends, Mr. Brooks and Mr.  
17     Patrick -- isn't it true that after midnight, at 12:34,  
18     12:35, 12:38 -- were attempting to call Jeroid Price to  
19     tell him you were on the way?

20           A     Who was -- I was? I don't have a phone. I  
21     wasn't calling nobody. And I told you I didn't know  
22     exactly what time we got there.

23           Q     That's my point. Would you agree now that it  
24     was sometime after 12:30?

25           A     I guess so.



1           Q     And it's amazing -- isn't it true in your  
2     statement you could talk about people wearing blue and  
3     blue rags, but you didn't see anybody wearing red get  
4     into any confrontations?

5           A     I seen them with blue rags. I did not see no  
6     red rags.

7           Q     Did you see anybody you thought might be a  
8     Blood?

9           A     I don't -- no, no.

10          Q     No -- and Jeroid Price isn't a Blood,  
11     correct?

12          A     Not that I know of.

13          Q     And let me ask you this. Did you ever see  
14     Jeroid Price tell someone he was going to fall like  
15     "The Matrix"?

16          A     No. I could not hear what he was saying or  
17     Smalls was saying. I could just see what was going on.  
18     I don't know what they said.

19          Q     Was Jeroid Price ever in Carl Smalls' face,  
20     squaring off with one another?

21          A     I mean, if Smalls walks into his face, is he  
22     in Smalls' face?

23          Q     Were they face-to-face that evening on the  
24     dance floor?

25          A     Maybe so. I can't say. They was arguing.

Jason Wood - Redirect

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1 It was a group. Maybe he was in his face and everybody  
2 else's face who was with him.

3 Q And, finally, Mr. Littlejohn asked you, "You  
4 didn't think you were doing anything wrong?" when you  
5 knew that the defendants may have been involved in a  
6 shooting on the 8th and on the 10th you put a telephone  
7 in your name because Jeroid Price asked you to?

8 A No, I did not.

9 Q And did you see Jeroid Price again on the  
10 11th?

11 A I did not see Jeroid after that, period.

12 Q The 12th, the 13th, anytime -- did you ever  
13 see him again?

14 A No.

15 Q Anytime in the month of December or January?

16 A No.

17 Q But you did talk to him by telephone?

18 A Yes.

19 Q Before you gave your second statement to  
20 Investigator Smith, to the Sheriff's Department?

21 A In between the two statements, you're saying  
22 I talked to him, right?

23 Q Right.

24 A Okay.

25 Q And, finally, Mr. Littlejohn asked you, "You

Jason Wood - Redirect

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1 did tell the police in your second statement that you  
2 got Jeroid Price a phone?"

3 A Yes.

4 Q But that was only because the police found  
5 out about it before you even told them, as you said in  
6 direct, isn't that true?

7 A Yes, they asked me about it, and I told them  
8 about it.

9 Q You never would have told them about it if  
10 they hadn't asked you about it, isn't that true?

11 A Maybe so.

12 Q Because you were protecting your friend,  
13 Jeroid Price. That's all I have.

14 THE COURT: Thank you.

15 MR. LITTLEJOHN: One final question,  
16 Your Honor.

17 THE COURT: Yes, sir.

18 **RE-CROSS EXAMINATION**

19 BY MR. LITTLEJOHN:

20 Q The first time you were interviewed, did they  
21 ask you about the telephone?

22 A No, they did not.

23 Q That's all I have, Your Honor.

24 THE COURT: Thank you.

25 THE COURT: Mr. Wood, you can step off

Jason Wood - Recross

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1 the stand, sir.

2 THE COURT: The State may call their  
3 next witness.

4 MR. SORENSON: Thank you, Honor. The  
5 State calls Investigator Anna Elsey Clemmons.

6 (The witness was sworn.)

7 CLERK OF COURT: Please have a seat and  
8 state your full name for the record.

9 MS. CLEMMONS: Anna Elsey Clemmons.

10 ANNA ELSEY CLEMMONS, having  
11 first been duly sworn, testified as follows:

12 **DIRECT EXAMINATION**

13 BY MR. SORENSON:

14 Q Good afternoon.

15 A Good afternoon.

16 Q If you would, please tell the jury where  
17 you're employed.

18 A The Richland County Sheriff's Department.

19 Q And what do you do with the Sheriff's  
20 Department?

21 A I am currently assigned to the Forensic Unit  
22 investigative unit.

23 Q Okay. And how long have you been employed in  
24 that capacity?

25 A Since October of '98.

Anna Clemmons - Direct

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1 Q And were you with the Sheriff's Department  
2 before that, also?

3 A I was. I was hired July of '96.

4 Q And were you a road deputy prior?

5 A I worked uniform patrol for a little over two  
6 years.

7 Q So from '98 until the present, you've been in  
8 the Forensic Unit?

9 A That's correct.

10 Q If you would, just tell the jury a little bit  
11 about what at the Forensic Unit at the Sheriff's  
12 Department your day-to-day activities are.

13 A Our main duties comprise working all crime  
14 scenes, whether that be a burglary, rape, assault,  
15 homicide. And in working those scenes, that involves  
16 photography, sketches, blood pattern analysis,  
17 fingerprints, and collecting any type of physical  
18 evidence that may be needed to solve the crime or to  
19 relate either a victim to the crime or a suspect to the  
20 crime.

21 Q And, specifically, Investigator Clemmons,  
22 when you respond to a crime scene -- specifically in  
23 this case, a homicide -- if you would, tell the jury  
24 what steps you go about when you arrive at that crime  
25 scene as far as making sure it's secure and then going

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1 about doing your job.

2 A When I first arrive on the scene, I try to  
3 make contact with the officers or the investigators  
4 that arrived there before I did, to determine what  
5 happened and what we need to do. I'll do an initial  
6 walk-through with them, and then I will start  
7 photographing and marking, collecting evidence that we  
8 think we may need.

9 Q Now, if I could, I'd like to turn your  
10 attention, Investigator, back to the early morning  
11 hours of Saturday, December the 7th, of last year. Did  
12 you have the opportunity to respond out to Club  
13 Voodoo's at 7351 Garners Ferry Road here in Richland  
14 County?

15 A I did. I was notified at 2:40 in the morning  
16 and arrived there at 3:00.

17 Q Okay. And, if you would, tell the jury, when  
18 you arrived out there, was the scene secured at that  
19 point in time?

20 A When I arrived, I observed crime scene tape  
21 across the front of the building and officers outside  
22 of the entrances.

23 Q Okay. And did they inform you at that point  
24 in time that they had secured the area inside the club  
25 where the shooting had occurred?

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1           A     They did.

2           Q     What did you then do at that point in time?

3           A     I would have then made contact with the  
4     deputies to find out what occurred prior to my arrival  
5     as far as any individuals in the scene, any EMS  
6     personnel that had been inside the scene. I would have  
7     then walked through the scene and began photographing,  
8     taking general photographs initially.

9           Q     And, as you came inside, would you describe  
10    for the jury the scene that you encountered?

11          A     There was one individual on the floor right  
12    at the entrance, and then the club was in kind of  
13    disarray, a lot of cups, trash on the floor, but it was  
14    empty.

15          Q     And you indicated that you photographed the  
16    scene at that point?

17          A     That's correct.

18                   MR. SORENSON: Beg the Court's  
19    indulgence.

20                   THE COURT: Yes, sir.

21                   MR. LITTLEJOHN: We have no objection.

22                   THE COURT: Without objection -- what  
23    numbers are those, Mr. Sorenson?

24                   MR. SORENSON: Your Honor, I just need  
25    for you to you bear with me one second.

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1 THE COURT: Yes, sir.

2 MR. SORENSON: This is going to be  
3 State's Exhibits 8, 9, 11 through 16, and then 18  
4 through 37.

5 THE COURT: Thank you, sir.

6 Q Ma'am, if I could, I'll show you these and  
7 let you kind of go through them initially. Do those  
8 all accurately depict the scene that you came upon in  
9 those early morning hours?

10 A Yes, sir.

11 Q And also let me show you State's Exhibit #17,  
12 which is already into evidence. Is that another  
13 photograph that was taken out there, also?

14 A Yes, sir.

15 Q Okay. Now, if you would, describe for the  
16 jury -- you indicated that you would have initially  
17 photographed the scene and then gone about attempting  
18 to find any evidence around the body, is that correct?

19 A Yes. I would have located the evidence right  
20 around the body where there may be some movement in  
21 removing the body. I would have photographed that  
22 evidence, marked it, and photographed again, and then  
23 collected that evidence.

24 Q Okay. And if you would, tell the jury what  
25 items were out there that you collected, specifically



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1 within the close vicinity of the victim, Mr. Smalls?

2 A I collected three shell casings, several  
3 fragments, and another large fragment, and a  
4 projectile.

5 Q And by "fragments," fragments of what?

6 A Of a bullet.

7 Q And then actually a projectile, so a bullet?

8 A Yes.

9 Q And then I believe you indicated three shell  
10 casings?

11 A Correct.

12 Q Okay. And those items were photographed  
13 before they were collected?

14 A Yes.

15 Q Also, were there any other items that were by  
16 the victim?

17 A There was a cell phone.

18 Q Okay. And, Your Honor, if I could get her to  
19 step down, with the Court's permission?

20 THE COURT: Certainly, yes, sir.

21 Q You had indicated, Investigator Elsey, that  
22 when you first got there, the sides of the victim being  
23 right inside kind of a hallway, is that correct?

24 A Yes.

25 Q And the rest of the club was kind of in

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1       disarray?

2             A     Yes.

3             Q     Okay. I'm showing you State's Exhibits 8, 9,  
4       11, 12, 13, and 14. Just kind of go through them for  
5       the jury to show them what you mean by that.

6             A     This is when you walk -- this is kind of  
7       through the entrance, looking out. There's a bar area  
8       here, here, and I believe what is a stage area,  
9       straight back here. And that's just another closer  
10      look, kind of on the left side of the room, looking  
11      straight back into the club.

12                   This is looking from that stage area back  
13      towards the entrance, back over here. Again, that's  
14      the bar area -- or one of them. And then that's the  
15      bar area on the right. And, again, this is the  
16      entrance here when you first walk in the club.

17             Q     I'm showing you State's Exhibit #15.

18             A     I just thought I'd show them this one. This  
19      is that crime scene tape. This is on the other side of  
20      the tape, back here at the entrance.

21             Q     And that's, I guess, an exit, right?

22             A     Well, that's where we entered, these two.  
23      But it's also an exit.

24             Q     Okay. And that would be Mr. Smalls laying on  
25      the floor there, is that correct?

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1           A     Yes, sir.

2           Q     And, now, I believe you had indicated before  
3     you had said that you found out there several bullet  
4     fragments, a projectile, three shell casings, and a  
5     cell phone?

6           A     Yes.

7           Q     Did you mark them in some way before you  
8     collected them?

9           A     I did, with one of our yellow evidence  
10    markers.

11          Q     Okay. I'm showing you -- looking at State's  
12    Exhibits #16 and #17, do those depict those evidence  
13    markers on the floor in those two photographs?

14          A     Yes, they do. They're here and there.

15          Q     And I guess one up here by Mr. Smalls, and  
16    two and three against the wall; four, five, and six, I  
17    believe, are depicted in those photographs?

18          A     Correct.

19          Q     Okay. Now, if I could, I'd like you to go  
20    through them and show number one, which is up here by  
21    Mr. Smalls, kind of right beside his waist area, is  
22    that correct?

23          A     Correct.

24          Q     I'm showing you State's Exhibit #18. What  
25    does that depict?

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1           A     That's a closer shot of number one. That's  
2     the large fragment I was speaking of, the bullet  
3     fragment.

4           Q     Okay. And I'm showing you State's Exhibit  
5     #48. And is that the actual fragment that you  
6     collected?

7           A     Yes.

8           Q     Your Honor, at this time, we'd offer State's  
9     Exhibit #48 into evidence.

10                   THE COURT: Any objection, Mr.  
11     Littlejohn?

12                   MR. LITTLEJOHN: No objection.

13                   THE COURT: Without objection.

14                                   (State's Exhibit 48 was  
15     received in evidence.)

16           Q     Again, that is a bullet fragment, and I guess  
17     it's flattened out after it hits the floor or something  
18     of that nature?

19           A     Correct.

20           Q     Okay. State's Exhibit #19, what's being  
21     depicted in that photograph?

22           A     That's the cell phone, number two, that was  
23     also beside Mr. Smalls.

24           Q     And that would be kind of right where you can  
25     see the very top of the evidence marker, is that

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1 correct?

2 A Correct.

3 Q And number three?

4 A Number three is a shell casing from a .380, I  
5 believe.

6 Q I'm showing you State's Exhibit #42. What  
7 does that appear to be?

8 A Casings.

9 Q Your Honor, the State would offer State's #42  
10 into evidence.

11 MR. LITTLEJOHN: No objection.

12 THE COURT: Without objection.

13 (State's Exhibit 42 was  
14 received in evidence.)

15 Q You had indicated that was a .380 shell  
16 casing, is that correct, with the caliber on the end of  
17 it?

18 A Correct. It's a .380.

19 Q Once again, for those of us who aren't as  
20 familiar with firearms, what is a shell casing?

21 A This is actually -- prior to being fired, you  
22 have this part and then the actual bullet that comes  
23 out. But the shell casing is released from the gun,  
24 and the bullet is ejected out.

25 Q And if I fire a semi-automatic handgun, what

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1 happens with the shell casing after the bullet is fired  
2 out --

3 A It's ejected --

4 Q -- out of the shell casing?

5 A -- ejected from the gun.

6 Q So it would be found possibly on the floor  
7 like this was found?

8 A Correct.

9 Q What's the difference between a semi-  
10 automatic pistol and a revolver? What happens with the  
11 shell casing in a revolver?

12 A A revolver has an actual cylinder, and it  
13 keeps the shell casing. It does not release it like  
14 the semi-automatic does.

15 Q Now I'm showing you State's Exhibit #21.  
16 What's depicted in that photograph?

17 A That's another shell casing, and it's a .40-  
18 caliber.

19 Q That was marked as four, is that correct?

20 A Correct.

21 Q And now I'm showing you State's Exhibit #43.  
22 Is that a shell casing?

23 A Correct.

24 Q Your Honor, at this time we'd offer State's  
25 43 into evidence.

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1 MR. LITTLEJOHN: No objection. If I  
2 might ask, what caliber is it?

3 MR. SORENSON: It's a .40-caliber.

4 THE COURT: Without objection.

5 (State's Exhibit 43 was  
6 received in evidence.)

7 Q And I'll let you hold that. A .40-caliber,  
8 is that a larger handgun than a .380-caliber handgun?

9 A That would be smaller than the .380.

10 Q Once again, that was found, I guess, kind of  
11 right at Mr. Smalls' foot, marker number four?

12 A Correct.

13 Q How about marker number five?

14 A Again, that's another shell casing, which is  
15 also .40.

16 Q And that's found almost right next to number  
17 four, right?

18 A Right, just in front of it here.

19 Q I'm showing you State's Exhibit #44. That's  
20 another .40-caliber shell casing?

21 A Yes.

22 Q Your Honor, at this time we'd offer State's  
23 44 into evidence.

24 MR. LITTLEJOHN: No objection.

25 THE COURT: Without objection, it's

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1 admitted.

2 (State's Exhibit 44 was  
3 received in evidence.)

4 Q Now I'm showing you State's Exhibit #23.  
5 It's marker number six?

6 A Yes. Again, that's one of the fragments that  
7 would have come off of the actual bullet when the gun  
8 was fired.

9 Q And that's, I guess, a little farther down  
10 the hallway kind of back in --

11 A Yes.

12 Q -- towards the club a little way?

13 A Right.

14 Q And that's in State's Exhibit #47?

15 A Yes, six.

16 Q Your Honor, at this time we'd offer State's  
17 47 into evidence.

18 MR. LITTLEJOHN: That corresponds with  
19 marker number six?

20 MR. SORENSON: That is marker number  
21 six, yes, sir.

22 MR. LITTLEJOHN: No objection, Your  
23 Honor.

24 THE COURT: Without objection. Thank  
25 you.



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1 (State's Exhibit 47 was  
2 received in evidence.)

3 Q Now, looking at these photographs, I don't  
4 see a marker number seven. Did there come a time when  
5 y'all were able to locate --

6 A Yes, once he was moved and we moved the cups.

7 Q Is that where Mr. Smalls was kind of tucked  
8 up in the corner at that time when you got there?

9 A Yes, sir.

10 Q Now, could you tell if he had been moved at  
11 all by the time you got to him, or do you have any  
12 idea?

13 A I was advised that he was, but that was based  
14 on --

15 MR. LITTLEJOHN: Your Honor, I'm going  
16 to object that it would be hearsay, unless she knows of  
17 her own knowledge.

18 THE COURT: Okay. Certainly, it's  
19 sustained.

20 A That's how he was found when I got there.

21 Q Okay. When you got there, that's where he  
22 was, in that position?

23 A Correct.

24 Q Okay. And this is kind of a close-up of his  
25 head. Did he appear to have had his head resting on

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1 any items?

2 A Yes. There's a sign right there in the  
3 corner, an exit sign.

4 Q An exit sign. And there are also some  
5 plastic cups up there, I guess?

6 A Yes.

7 Q Upon Mr. Smalls being moved, was there  
8 anything located --

9 A Later, once I moved the cups here, I located  
10 another projectile.

11 Q And is that actually depicted in State's  
12 Exhibit 27?

13 A Yes, it's right here in front of the plastic  
14 cups.

15 Q Okay. And what was it that you found there  
16 on that?

17 A It was a bullet.

18 Q I'm showing you State's Exhibit #45. Is that  
19 the bullet that you found?

20 A Yes.

21 Q Okay. And that bullet would then have come  
22 out of a shell casing?

23 A Correct.

24 Q One of those would have come out of?

25 A Yes.

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1           Q     At this time, Your Honor, we'd offer State's  
2     45 into evidence.

3                     MR. LITTLEJOHN: No objection.

4                     THE COURT: Without objection. Thank  
5     you.

6                                     (State's Exhibit 45 was  
7     received in evidence.)

8           Q     And I see in this picture a marker -- this is  
9     State's 28 -- a marker number eight on the floor?

10          A     Yes.

11          Q     What did you ultimately find there that you  
12     marked as number eight?

13          A     This corresponds with a hole in the carpet  
14     that was also located.

15          Q     In State's 29, is that shown up close?

16          A     It was actually near where marker one was  
17     located. This is marker one. I located this here,  
18     again, cutting the carpet to see if anything was  
19     possibly under the carpet itself.

20          Q     State's Exhibit 30, I guess that's to show  
21     where the red carpet has been pulled back?

22          A     Right.

23          Q     Number 31, is that the hole that was cut out  
24     of the carpet?

25          A     Yes, that was from the carpet being cut out.

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1           Q     When you cut that carpet away, did there  
2     appear to be anything underneath it?

3           A     I did locate several very small fragments and  
4     what appeared to be an indentation into the floor  
5     itself.

6           Q     As to the small fragments, I'm showing you  
7     State's Exhibit #46. Is that those fragments?

8           A     Appears to be, yes.

9           Q     And, Your Honor, at this time we'd offer  
10    State's 46 into evidence.

11                   THE COURT: Mr. Littlejohn.

12                   MR. LITTLEJOHN: That corresponds to  
13    what, please?

14                   INVESTIGATOR CLEMMONS: It's 2AC.

15                   MR. LITTLEJOHN: 2AC?

16                   MR. SORENSON: 2AC, and it's marker  
17    number eight.

18                   MR. LITTLEJOHN: No objection.

19                   THE COURT: Okay. Thank you, sir.

20                                 (State's Exhibit 46 was  
21    received in evidence.)

22           Q     Now, you had indicated that there was an  
23    indention --

24                   BAILIFF: Excuse me, Your Honor. We  
25    have a juror that's sick all of a sudden. I'm sorry.

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1 THE COURT: Okay, ladies and gentlemen,  
2 we'll let you all take a break and take care of this.  
3 Just don't discuss the testimony or evidence you've  
4 seen or heard thus far. Thank you.

5 (Jury out at 3:30 p.m.)

6 THE COURT: Okay. Thank you, sir.  
7 We'll stand down for a few minutes while we check on  
8 our juror. Investigator, you may step down. I just  
9 remind you you're still on the stand and still under  
10 oath. We'll be in recess for a few minutes.

11 THE COURT: Counsel, I understand we're  
12 ready to continue.

13 THE COURT: Investigator, if you'll just  
14 retake the stand. Thank you, ma'am.

15 THE COURT: We're ready for the jury.

16 (The jury returned to the  
17 courtroom at 3:47 p.m., after which the following  
18 proceedings were had:)

19 BAILIFF: The jury is all present, Your  
20 Honor.

21 THE COURT: Thank you, sir.

22 THE COURT: Thank you, ladies and  
23 gentleman. Do you all feel all right? Okay. If you  
24 need anything, just let us know, and we'll stop and  
25 accommodate you, ma'am. We're ready to continue.

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1 THE COURT: Mr. Sorenson, you can  
2 continue, sir.

3 MR. SORENSON: Thank you. Can she step  
4 back down?

5 THE COURT: Yes, sir.

6 Q I believe where we had left, Investigator  
7 Clemmons, was you indicated that you had dug some small  
8 fragments out of that kind of carpeting?

9 A This is the general area where they were  
10 collected.

11 Q You indicated, I believe, earlier that there  
12 was almost like a little indentation in the floor. I'm  
13 showing you State's Exhibit #32. Does that show that  
14 indentation?

15 A Yes, it does.

16 Q What did that appear to be consistent with?

17 A It appears to be consistent with a force  
18 going straight down to cause that indentation.

19 Q Such as a bullet?

20 COURT REPORTER: I can't hear her.

21 A Yes, that's possible.

22 THE COURT: You may need to speak up a  
23 little bit so the Court Reporter can hear.

24 Q You said it was consistent with a force going  
25 straight down, I believe?

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1 A Yes.

2 Q And that would be consistent with a bullet --

3 A Yes.

4 Q -- possibly striking it?

5 A It could be.

6 Q And the last few that I want to show. I  
7 believe you had indicated earlier that one of the  
8 things you also sometimes are faced with is collecting  
9 blood samples, or blood swabs, or stuff of that nature  
10 at a scene?

11 A Yes.

12 Q Okay. And is there some blood that you would  
13 have collected from this scene, also?

14 A I located a small amount of blood on one of  
15 the walls and photographed it.

16 Q I'm showing you State's Exhibit #33. Does  
17 that show where that blood was on the wall?

18 A It was on this back wall here, and you can  
19 see the four markers there.

20 Q And I'm showing you State's Exhibit #34.  
21 That's a close-up of the four markers?

22 A Correct.

23 Q So five, six, and seven, I guess, is just  
24 even a closer up of markers one and two, two and three,  
25 and then also two and four?

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1           A     Correct.

2           Q     And those just appear to be four little blood  
3     droplets on the wall, is that correct?

4           A     Yes.

5           Q     If I could, I'd like to show you State's  
6     Exhibit #1 and ask you to take a look at this. Does  
7     that appear to be a fair and accurate representation --  
8     I realize it's not to scale -- of the inside of the  
9     club?

10          A     It appears to be.

11          Q     Okay. And where would the victim's have been  
12     found?

13          A     In this hallway here.

14          Q     And this, I guess, would be the wall where  
15     the blood was, that back kind of wall --

16          A     Yes.

17          Q     -- with a door off to your left here? Your  
18     Honor, at this time we'd offer State's Exhibit #1 into  
19     evidence.

20                     MR. LITTLEJOHN: No objection.

21                     THE COURT: Without objection, it's  
22     admitted.

23                             (State's Exhibit 1 was  
24     received in evidence.)

25          Q     Real briefly, while I've got you down, I'll



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1 show you State's Exhibits #2 and #3. Do those appear  
2 to be accurate representations of, I guess, the parking  
3 lot outside of Club Voodoo's?

4 A It appears to be.

5 Q Okay. Your Honor, we'd also offer two and  
6 three into evidence.

7 THE COURT: Okay. Any objection, Mr.  
8 Littlejohn?

9 MR. LITTLEJOHN: Your Honor, can I look  
10 at the pictures?

11 THE COURT: Yes, sir.

12 MR. LITTLEJOHN: I don't think I have  
13 any objection. I just wanted to look.

14 MR. SORENSON: No objection to number  
15 two?

16 MR. LITTLEJOHN: I have no objection to  
17 number two.

18 MR. SORENSON: No objection.

19 THE COURT: Without objection, it's  
20 admitted.

21 (State's Exhibits 2 and 3 were  
22 received in evidence.)

23 Q Investigator, I believe you had indicated  
24 earlier that there were three shell casings that were  
25 found in that hallway area, is that correct?

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1           A     Yes.

2           Q     Did you have an opportunity to do anything  
3 with those three shell casings when you got back to the  
4 Sheriff's Department?

5           A     I processed them for fingerprints, using  
6 cyanoacrylate, which is a super glue, and black powder.

7           Q     Okay. And, if you would, just briefly tell  
8 the jury how that process works. What are you looking  
9 for?

10          A     Again, I would take them back to the office  
11 and cyanoacrylate. It releases a fume that would  
12 adhere to fingerprints, and then I would use the black  
13 powder over that. In this case, there were no  
14 fingerprints on any of the shell casings located. .

15          Q     On neither of those three shell casings?

16          A     No.

17          Q     Did you have an opportunity when the victim,  
18 Mr. Smalls, was still at the scene, before he was  
19 transported from the scene, to do something called a  
20 GSR kit, or a gunshot residue kit, on Mr. Smalls?

21          A     I did.

22          Q     Okay. When was that done?

23          A     That would have been prior to them removing  
24 him from the scene. It was done at --

25          Q     And, if you would, just describe for the jury

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1 briefly what a GSR kit is.

2 A I completed the GSR kit at 4:30. And the kit  
3 is a swab and tabs that we do on the, in this case,  
4 victim's hands, looking for gunpowder residue.

5 Q So it's done on the palms of both hands?

6 A Palms and the back of the hands.

7 Q And the backs of both hands?

8 A Uh-huh.

9 Q Okay. And then after those swabs and the  
10 little tabs -- is that what you --

11 A Correct. We do the sticky tabs, and then we  
12 do the swabs.

13 Q What was ultimately done with those swabs and  
14 sticky tabs that you took from Mr. Smalls' hands?

15 A They were sent to SLED for examination.

16 MR. SORENSON: Beg the Court's  
17 indulgence.

18 THE COURT: Yes, sir.

19 Q That's all I have, Your Honor.

20 THE COURT: Okay. Thank you, Mr.

21 Sorenson.

22 THE COURT: Mr. Littlejohn.

23 MR. LITTLEJOHN: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. LITTLEJOHN:

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1 Q Investigator Clemmons --

2 A Correct.

3 Q -- does your husband work for the Sheriff's  
4 Department, also?

5 A He does not.

6 Q Did he used to?

7 A He used to.

8 Q Okay. You've been in the Forensic Unit since  
9 1998?

10 A Correct.

11 A Okay. And, basically, your job is to go to a  
12 crime scene and collect evidence, is that right?

13 A That's correct.

14 Q And then, to a certain extent, you process  
15 evidence that you find?

16 A Some of it, yes.

17 Q Okay. For instance, I think you said the  
18 shell casings -- the three shell casings -- that were  
19 found there in the hallway, you processed those for  
20 prints?

21 A I did.

22 Q Which you're qualified to do?

23 A Correct.

24 Q And you found no prints?

25 A That's correct.

Anna Clemmons - Cross

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1 Q Okay. Now, Investigator Clemmons, when you  
2 arrived at the Voodoo Lounge there, what time was it?

3 A It was 3:00 in the morning.

4 Q Three o'clock, all right. You indicated that  
5 there were certain things -- shell casings and bullet  
6 fragments or projectiles -- that were found there in  
7 the hallway, right?

8 A Yes.

9 Q Okay. You don't know prior to 3:00 if any of  
10 that stuff was disturbed?

11 A No, I do not.

12 Q You don't know if there were people in there  
13 tipping around shell casings, anything of that nature?

14 A No, I do not.

15 Q Okay. That could have happened and does  
16 happen. Isn't that a safe statement?

17 A It's possible, yes.

18 Q Okay. Now, you indicated one of the first  
19 things you examined was the body of Carl Smalls, right?

20 A No, the first thing I would have done was to  
21 examine the whole area, just to do an initial walk-  
22 through, and then photograph the area where he was.

23 Q All right. But you saw Mr. Smalls laying  
24 there in that hallway?

25 A I did.

Anna Clemmons - Cross

392

1 Q And as the picture depicts, that's a pretty  
2 narrow hallway, is it not?

3 A Yes.

4 Q Okay. And did you look at his body?

5 A Eventually, we did a brief look prior to them  
6 removing him.

7 Q Okay. And you saw he was in a face-down  
8 position, was he not?

9 A He was.

10 Q Okay. And did you see any evidence that his  
11 body had been moved?

12 A I don't know whether it was or not. That's  
13 how it was when I saw it.

14 Q Well, my question is, did you see any  
15 evidence there, your crime scene analysis? Did you see  
16 any evidence that his body had been moved?

17 A I don't know whether it was or not.

18 Q Did you see any evidence that it had been  
19 moved? Did you see any blood or anything that would  
20 indicate that the body might have been moved from the  
21 point where it originally fell?

22 A Based on where he was, I don't know whether  
23 he was moved or not, based on the evidence present.

24 Q Okay. So I don't know that you answered my  
25 question. Is that a no, you didn't see any evidence

Anna Clemmons - Cross

393

1 that he had been moved?

2 A No, I did not.

3 Q You did not, okay. Now, so I understand,  
4 Investigator Clemmons, the pictures that Mr. Sorenson  
5 introduced show a number of markers that coincide with  
6 where you found various evidentiary items, is that  
7 right?

8 A That's correct.

9 Q Okay. And those markers were used in your  
10 collection, and I believe you gave them a corresponding  
11 number 1AC, for Anne Clemmons?

12 A Once I did the evidence log, that's how I did  
13 it.

14 Q Okay. Just so I understand and the jury  
15 understands, you number things like 1AC, 2AC, 3AC, on  
16 up?

17 A For the evidence log, yes.

18 Q For the evidence, okay. Then they were  
19 turned over to someone for analysis. I believe that  
20 was Mr. Collins?

21 A Some of them were, yes.

22 Q Okay. And then they were given another  
23 number --

24 A Yes.

25 Q -- by Mr. Collins?

Anna Clemmons - Cross

394

1 A Correct.

2 Q Okay. And then, of course, we're here in the  
3 courtroom and we've got another number, an exhibit  
4 number, is that right?

5 A Apparently, yes.

6 Q Okay. Now, there was from your examination  
7 found there in the hallway, inside the door, there were  
8 three spent cartridges, is that right?

9 A Three spent shell casings, yes.

10 Q Three spent shell casings. I'm going to get  
11 confused if I deal with all these numbers. Is it safe  
12 to say there were two .40's and a .380? Is that right?

13 A Right. There was one .380 and two .40's,  
14 correct.

15 Q Okay. And those were shell casings that were  
16 found there in the hallway?

17 A Yes.

18 Q Okay. And they weren't outside the door,  
19 they were inside the door?

20 A They were in the hallway.

21 Q In the hallway, okay. Now, you indicated you  
22 also found a fragmented bullet, which I believe you  
23 numbered number two on your exhibit, 2AC?

24 A 2AC is actually scene number eight, which are  
25 the fragments around and under the carpet.



Anna Clemmons - Cross

395

1           Q     Okay. And that's marked 2AC on the exhibit,  
2     is that right?

3           A     Which exhibit?

4           Q     That would be Exhibit 46.

5           A     I'd have to look at them to know.

6           Q     Certainly.

7           A     Yes.

8           Q     All right. And this is State's Exhibit 46,  
9     which is your 2AC, and it says four bullet fragments.

10          A     I'm not sure how many are in there. It just  
11     says "fragments." I believe there were four.

12          Q     You believe there were four. And part of one  
13     of those fragments is a bullet jacket, isn't that  
14     right?

15          A     I'm not positive. I would have to look at it  
16     and see.

17          Q     Okay, would you?

18          A     It appears to be.

19          Q     Okay. And, just for clarification, that  
20     would have been item number three when it was submitted  
21     for ballistics analysis, is that right?

22          A     That would be Collins' number?

23          Q     Yes.

24          A     Yes.

25          Q     Okay. Now, you also found a fired bullet, is

Anna Clemmons - Cross

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1 that right?

2 A That's 7AC?

3 Q Uh-huh.

4 A Yes.

5 Q Okay. Fired bullet, that was your number  
6 7AC, correct?

7 A Yes.

8 Q Okay. That would be Mr. Collins' item number  
9 eight?

10 A Yes.

11 Q And that would be our Exhibit #45? Let me  
12 show it to you, just so there's no --

13 A That's correct.

14 Q Okay. So we've got four bullet fragments and  
15 a bullet that were found there in the hallway by you?

16 A Correct.

17 Q Okay. Those were submitted for analysis by  
18 Mr. Collins?

19 A Correct.

20 Q Okay. Now, are you also aware that a bullet  
21 that was removed from Mr. Smalls' body was submitted to  
22 Mr. Collins?

23 A I am.

24 Q Okay. Now, you described for us a hole you  
25 found in the carpet, which I believe you marked number

Anna Clemmons - Cross

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1 eight on your markers?

2 A That's correct.

3 Q Okay. And you indicated to Mr. Sorenson that  
4 there was a hole in the floor that corresponded with  
5 that?

6 A It's possible that it did. The hole was  
7 located under that particular area of carpet.

8 Q And you don't know actually what caused that  
9 hole?

10 A No, I don't know.

11 Q You don't know when that hole was created?

12 A I do not.

13 Q Could have been that night, could have been a  
14 year before that --

15 A It's possible.

16 Q -- isn't that right?

17 A Yes.

18 Q Okay. And were you able to tell from the  
19 bullet fragments or the bullet projectile that you  
20 found whether either one of those made that hole in the  
21 floor?

22 A No, I do not do that type of analysis.

23 Q You didn't have any way of figuring that out?

24 A I do not know that.

25 Q Okay. I forgot to ask you about one. You've

Anna Clemmons - Cross

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1 got your item 6AC?

2 A Uh-huh.

3 Q That was a fired bullet jacket fragment?

4 A It was a fragment.

5 Q And then that was given Mr. Collins' number  
6 seven?

7 A Yes.

8 Q Okay. And if I haven't messed my numbers up,  
9 that would be State's Exhibit #47.

10 A Correct.

11 Q Okay. And that's a jacket fragment of the  
12 actual projectile that would have been fired by a  
13 bullet at some point?

14 A It appeared to be a fragment.

15 Q Okay. So we've got a bullet in the hallway,  
16 we've got a fired bullet jacket fragment, and then  
17 we've got four bullet fragments?

18 A And one other larger fragment.

19 Q Okay. Which exhibit?

20 A 1AC.

21 Q Okay, 1AC, all right. And that's Collins'  
22 number two?

23 A Correct.

24 Q Okay. Now, these bullets and bullet  
25 fragments, you don't know where they came from? I

Anna Clemmons - Cross

399

1 mean, you didn't do any sort of analysis to determine  
2 where they came from, did you?

3 A I did not personally.

4 Q You collected them and submitted them to Mr.  
5 Collins?

6 A That's correct.

7 Q Okay. Now, from my understanding, there were  
8 also some fired .380-caliber cartridge cases found in  
9 the parking lot. Did you have anything to do with the  
10 collection of that evidence?

11 A I did not collect those.

12 Q All right. Ms. Clemmons, you indicated that  
13 there was what appeared to you to be some blood that  
14 was on the wall?

15 A Yes, it appeared to be, correct --

16 Q Okay.

17 A -- that I photographed.

18 Q And I believe there are a number of  
19 photographs that show -- we'll use these two, and I'm  
20 look at State's Exhibit #33, if you could just show  
21 that to the jury. That indicates there was blood on  
22 the wall?

23 A Back here on this back wall.

24 Q Okay. And State's Exhibit 34, that's just a  
25 little closer picture?

Anna Clemmons - Cross

400

1           A     That's correct.

2           Q     Okay. You took pictures of these blood  
3 splatters. Did you do anything else with them?

4           A     No -- well, they were photographed, and they  
5 were swabbed.

6           Q     Photographed and swabbed. Were you able to  
7 compare the swabs with either the victim or anyone  
8 else?

9           A     They were not compared, no.

10          Q     They were not compared?

11          A     No.

12          Q     Was anything done to determine if those blood  
13 splatters by their angle could tell us anything about  
14 this case?

15          A     Not with the small amount that was present.

16          Q     Okay. So even though an angle may be shown  
17 by a blood spatter --

18          A     Spatter.

19          Q     -- nothing was done to determine if it would  
20 help us in this case any?

21          A     No, there was not enough there to do the  
22 spatter analysis.

23          Q     Investigator Clemmons, how long did y'all  
24 process this scene?

25          A     I arrived there at 3:00 on December 7th, and

Anna Clemmons - Cross

401

1 it was released on December 11th.

2 Q And y'all fingerprinted a number of items  
3 there, did you not?

4 A Yes, sir.

5 Q Okay. And do you know if any of those items  
6 were found to be relevant to this case at all?

7 A No, sir. Our initial reasoning for doing the  
8 fingerprinting we did was to try to identify any  
9 particular witnesses that may have been there that  
10 night.

11 Q Okay. Were you able to do that?

12 A No. They were all run through AFIS, with  
13 negative hits.

14 Q Okay. Now, one last thing, you indicated you  
15 did a gunshot residue kit on Mr. Smalls, is that right?

16 A Yes, sir.

17 Q You said you did that about 4:30 that  
18 morning?

19 A Yes, sir.

20 Q And he was still there in the hallway when  
21 you did that?

22 A Yes, sir.

23 Q Okay. And you did that on both hands?

24 A I did.

25 Q And that's a test for what?

Anna Clemmons - Cross

402

1           A     Gunpowder residue.

2           Q     Which would indicate if someone had fired a  
3     weapon or was in close --

4           A     Or been in the vicinity of.

5           Q     -- or been in close vicinity?

6           A     Correct.

7           Q     Okay. Are you aware that that test came back  
8     positive?

9           A     I am.

10          Q     Okay. From Mr. Smalls' left hand?

11          A     That's what the report indicated.

12                     MR. LITTLEJOHN: If you'd give me just a  
13     second, Your Honor.

14                     THE COURT: Yes, sir.

15          Q     That's all I have, Your Honor.

16                     THE COURT: Thank you, sir.

17                     THE COURT: Mr. Sorenson.

18                     MR. SORENSON: Just real briefly, Your  
19     Honor.

20                     THE COURT: Yes, sir.

21                     **REDIRECT EXAMINATION**

22     BY MR. SORENSON:

23           Q     Mr. Littlejohn had asked you, Investigator,  
24     if there was any evidence indicating whether the victim  
25     had been moved when you got there. Do you recall that



1 question?

2 A Correct.

3 Q Is it possible that the victim either rolled  
4 over or was moved after he was shot prior to your  
5 getting there?

6 A Yes, it is possible.

7 MR. LITTLEJOHN: Your Honor, I'm going  
8 to object. I think that would be speculation. She  
9 said she saw no evidence that the body had been moved,  
10 and I don't see how she can arrive at any conclusion  
11 with no evidence.

12 MR. SORENSON: Okay, that goes to the  
13 opposite question.

14 THE COURT: I'm sorry, Mr. Sorenson, I  
15 think you asked her as to whether she saw any evidence,  
16 and I'll allow his question as to that. So I'll  
17 overrule your objection.

18 Q Investigator, was there any evidence there to  
19 indicate that he hadn't been moved?

20 A No, there was not. It's possible that he  
21 could have been moved prior to my arrival.

22 Q Either rolled over or been physically moved  
23 by somebody?

24 A That's correct.

25 Q You can't tell either way?

Anna Clemmons - Redirect

404

1           A     That's correct.

2           Q     That's what I'm trying to get at.

3           A     Right.

4           Q     And Mr. Littlejohn asked you, and, basically,  
5     if I do my math right, the scene wasn't released back  
6     to, I guess, the owner of the club for four days, is  
7     that correct?

8           A     Five.

9           Q     You've indicated five days?

10          A     Yes.

11          Q     Did y'all actually process for fingerprints  
12     pretty much every plastic cup inside that bar?

13          A     We did.

14          Q     And outside the bar, too?

15          A     And in the trash cans outside.

16          Q     And, once again, what was the purpose for  
17     doing that at the time?

18          A     We were trying to identify any additional  
19     witnesses that may have been there that night.

20          Q     And, of course, if you had gotten a  
21     fingerprint off of a plastic cup out of a trash can,  
22     that wouldn't have told you who killed Mr. Smalls,  
23     would it?

24          A     The fingerprint on the cup would not tell me  
25     that, no.

Anna Clemmons - Redirect

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1 Q Thank you, ma'am.

2 THE COURT: Thank you, sir.

3 THE COURT: Mr. Littlejohn, anything?

4 MR. LITTLEJOHN: Nothing further, Your  
5 Honor.

6 THE COURT: Okay. Investigator, you may  
7 step down. Thank you.

8 MR. SORENSON: May she be excused, Your  
9 Honor?

10 THE COURT: Without objection,  
11 Investigator, you're free to come and go as you please.  
12 Thank you.

13 THE COURT: The State may call their  
14 next witness.

15 MR. SORENSON: The State calls Lt. Joe  
16 Powell.

17 (The witness was sworn.)

18 CLERK OF COURT: Please have a seat,  
19 sir, and state your full name for the record.

20 LT. POWELL: Thank you, sir. My name is  
21 Joseph D. Powell -- P-O-W-E-L-L.

22 JOSEPH D. POWELL, having first  
23 been duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. SORENSON:

Joseph Powell - Direct

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1 Q Good afternoon, Lt. Powell.

2 A Good afternoon, sir.

3 Q If you would, please tell us where you're  
4 employed.

5 A I'm currently employed as supervisor of the  
6 Trace Evidence Section at the South Carolina Law  
7 Enforcement Division, commonly known as SLED.

8 Q Okay. And how long have you been with SLED?

9 A Twenty-one years.

10 Q Okay. And how long of that have you been in  
11 the Trace Evidence Department at SLED?

12 A I've been in the Trace Evidence Department  
13 ever since its inception. Trace at one time was part  
14 of the Drug Evidence, which is where I started out at  
15 SLED.

16 Q Okay. And, if you would, just tell us what  
17 training or background you have as far as trace  
18 evidence goes.

19 A I have a degree in Chemistry from the  
20 University of Southern Mississippi. After receiving my  
21 degree in Chemistry, I became employed at SLED and then  
22 began an in-house training program in the area of drugs  
23 as well as trace evidence. After completing that in-  
24 house training, I then took on a caseload.

25 And over the past years, I have attended

Joseph Powell - Direct

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1 numerous schools involved with specializing in the area  
2 of trace evidence and aspects of trace evidence.  
3 Recently, I've been involved with teaching areas of  
4 trace evidence where I've been invited to various  
5 symposiums put on by the FBI and other people, where I  
6 go and I lecture others on how to be able to analyze  
7 various types of evidence involved in trace evidence.

8 Q Okay. This may be a stupid question, but  
9 what is trace evidence? What are you talking about?

10 A Trace evidence is the area which deals with  
11 the analysis of things such as fibers, paints,  
12 explosives, gunshot residue, gunpowder residue, arson,  
13 and other types of materials that may be of interest in  
14 the case of a court.

15 Q You had indicated that you are currently  
16 supervisor over that department?

17 A I am.

18 Q How long have you been in that capacity?

19 A I've been in that capacity for eight years.

20 Q And you said that you'd been in the Trace  
21 Evidence Department since its inception. When was  
22 that?

23 A It was actually formed in 1989.

24 Q And, sir, have you had an opportunity to come  
25 and testify before?

Joseph Powell - Direct

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1           A     Yes, sir, I have.

2           Q     Okay. Are you aware of approximately how  
3 many times?

4           A     I've testified in total over 600 times. Of  
5 that, approximately 280 was in the area of trace  
6 evidence analysis.

7           Q     Okay. And you've been offered and qualified  
8 as an expert those 280 some-odd times in trace  
9 evidence?

10          A     Yes, sir, I have.

11          Q     Okay. Your Honor, at this time we'd offer  
12 Lt. Powell as an expert in the field of trace evidence.

13                   THE COURT: Okay. Mr. Littlejohn, any  
14 objection?

15                   MR. LITTLEJOHN: No, Your Honor.

16                   THE COURT: Without objection, he's so  
17 qualified.

18          Q     Now, Lt. Powell, if I could, I want to turn  
19 your attention to I think it's your case number  
20 L0214457?

21          A     Yes, sir.

22          Q     Did there come a time when there was a  
23 gunshot residue kit submitted to your agency for  
24 analysis that had been collected from one Carl Smalls?

25          A     Yes, sir. There was a kit that was submitted

Joseph Powell - Direct

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1 for the analysis of gunshot residue. It was submitted  
2 to our laboratory, and we did run analysis on that kit.

3 Q Okay. And who was the initial agent that ran  
4 that analysis on that kit?

5 A That would be Senior Agent Kimberly Black.

6 Q Okay. And would you have been Ms. Black's  
7 supervisor at the time?

8 A I am, and I was at that time, also.

9 Q And you had have been supervising, I guess,  
10 all of her work.

11 A Yes, sir.

12 Q And, before a report had been issued, you  
13 would have had to sign off on that report?

14 A In this case, I looked over the report after  
15 she had performed the analysis, and then she issued the  
16 report.

17 Q Okay. And Senior Agent Black, is she  
18 currently out on maternity leave at this time?

19 A That is correct. She's enjoying a handsome  
20 little baby boy.

21 Q Have you had an opportunity to go back and  
22 review her results and the tests that were run on this  
23 gunshot residue kit from Mr. Smalls?

24 A Yes, sir, I have.

25 Q If you would tell us briefly, what is gunshot

Joseph Powell - Direct

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1 residue?

2           A     Gunshot residue is the blue-gray material  
3 that is expelled by a weapon when it's discharged. You  
4 would see it as just the smoke that would come out the  
5 end of the barrel or maybe out from the sides if it's a  
6 revolver. Also, what you smell when you smell the  
7 gunpowder is actually gunshot residue.

8           The material, once it comes out, will tend to  
9 collect on any object or material which is nearby. If  
10 you're firing the weapon, it would tend to collect  
11 heaviest on your hands and then somewhat on the sleeves  
12 of your garment. There may be some deposited on your  
13 face.

14           If you're standing in front of the weapon,  
15 the weapon will push the material forward, and you will  
16 get the material from just being shot at. There,  
17 again, depending on where you're being shot at would  
18 depend on where the material would be deposited.

19           Q     Okay. So, if you were to do a test, have a  
20 gunshot residue test or kit that's submitted by an  
21 agency, and you were to test it for the presence of  
22 gunshot residue and would have a positive finding, what  
23 would that tell you, sir?

24           A     Well, that would tell me one of two possible  
25 things has occurred: (a) someone has either fired or



Joseph Powell - Direct

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1 handled that weapon with this material on it, so thus  
2 they've become contaminated. Normally, when someone  
3 just handles a weapon, they would get the material  
4 usually on the palm of their hands only.

5 If someone had the materials on the palm and  
6 back, that's usually indicated that they may have shot  
7 the weapon. Another possibility is that, in most cases  
8 where someone is involved in a case of the discharge of  
9 a weapon, the crime usually occurs within five feet,  
10 and so we tend to have -- a lot of times, the victims  
11 will have positive on their hands from just being the  
12 weapon when it's being shot at them.

13 Q And that's from that cloud coming out from  
14 the muzzle of the handgun?

15 A That is correct. That cloud can be projected  
16 out as far as five feet from the end of the barrel.

17 Q Okay. And did you have an opportunity, sir  
18 -- from the samples that were submitted from Carl  
19 Smalls, what were the results of his gunshot residue  
20 kit?

21 A The results were that metals that were  
22 consistent with gunshot residue was found on the palm  
23 and back of the left hand.

24 Q Okay. So what about the right hand?

25 A The right hand did not have sufficient

Joseph Powell - Direct

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1 material on it to be called gunshot residue.

2 Q So a negative result, then, on the palm and  
3 the back of his right hand?

4 A That is correct.

5 Q And a positive result on the palm and the  
6 back of his left hand?

7 A That is correct, with the highest levels  
8 being on the back of the left hand.

9 Q Once again, consistent with either him having  
10 handled and, since it's on the back, most likely fired  
11 a weapon with his left hand or been within five feet of  
12 a weapon being fired?

13 A Yes, sir. When looking at the record, I  
14 noticed that the levels on the back of the left hand  
15 are actually the highest levels, which is very high  
16 levels, not levels you normally get from firing a  
17 weapon. So it's most consistent with a defensive  
18 posture. However, I cannot rule out discharge of  
19 weapon, because it is a possibility that may have  
20 happened.

21 Q And would the fact that Mr. Smalls was  
22 actually shot and actually hit on his left back of his  
23 arm have any bearing on the results?

24 A Well, that would be consistent with the  
25 results that I found. By the fact that you're struck

Joseph Powell - Direct

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1 on the left hand or have some type of bullet passing  
2 through the left hand, that would indicate that the  
3 left hand was in the path of a bullet.

4 So, thus, if you're close enough, your hand  
5 would be contaminated with the material. And by having  
6 the hand somewhat bladed where the hand is not just  
7 back like this but turned, it would get on both the  
8 back, and there would be some that would get on the  
9 palm.

10 Q Let me show you State's Exhibit #70. Have  
11 you had an opportunity to see that photograph earlier?

12 A Yes, sir, I did.

13 Q Okay. Your Honor, at this time we'd offer  
14 State's #70 into evidence.

15 MR. LITTLEJOHN: No objection.

16 THE COURT: Without objection, it's  
17 admitted.

18 (State's Exhibit 70 was  
19 received in evidence.)

20 Q And, once again, if you could, just kind of  
21 illustrate for the jury what you're talking about. You  
22 may need to stand up so they can see that.

23 A What I'm holding is State's Exhibit #70, and  
24 on the arm there is an abrasion. This abrasion is  
25 consistent with a bullet track or passage of a bullet,

Joseph Powell - Direct

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1       which would be consistent with the bullet passing  
2       through the left hand.

3               And in this case, the levels that I found in  
4       the kit, the highest levels was on the back of the left  
5       hand, and small amounts on the palm of the left hand.

6               Q     Now, sir, in order to do a test for gunshot  
7       residue, I assume in this case it was collected from  
8       Mr. Smalls, who was deceased at the time. Could it  
9       also be collected off of a living person?

10              A     Yes, sir, it can, within certain  
11       restrictions. This material is very fragile, and if  
12       you are alive, just because of normal heartbeat,  
13       activity, other things, you couldn't remove this  
14       material. You can kind of think of it like flour,  
15       which is easily removed just by washing your hands or  
16       wiping your hands off. If someone is deceased, there's  
17       no activity, so the material would be retained unless  
18       some someone physically washes it off.

19              When someone is alive, we set a window of up  
20       to six hours. After six hours, we will not run the  
21       kit, because there will be no material left on the  
22       hands. From the time of the shooting till after six  
23       hours, there's nothing there.

24              Q     And so if the shooting had happened in this  
25       case sometime shortly after 2:00 in the morning,

Joseph Powell - Direct

415

1       shortly after 8:00 in the morning, any kit that was  
2       collected off of a living person or suspect, you  
3       wouldn't even attempt at that point?

4             A       We would not even have run the analysis.

5             Q       Thank you, sir.

6                     THE COURT: Thank you, Mr. Sorenson.

7                     THE COURT: Mr. Littlejohn.

8                     MR. LITTLEJOHN: Thank you, Your Honor.

9                     THE COURT: Yes, sir.

10                    **CROSS-EXAMINATION**

11       BY MR. LITTLEJOHN:

12             Q       Lt. Powell, I'm Cam Littlejohn. I represent  
13       Jeroid Price.

14             A       Yes, sir.

15             Q       I think we've met before.

16             A       I believe we have, sir.

17             Q       Lieutenant, what metals would have to be  
18       present before you could conclude that the GSR test was  
19       positive?

20             A       We principally look for three, which are  
21       barium, antimony, and lead. There are others that we  
22       also look at in a panel due to the fact that there are  
23       some specialized ammunitions. But those three I  
24       mentioned are the principal ones we look for in most  
25       ammunition.

Joseph Powell - Cross

416

1           Q     Okay. And what level is required to be  
2     positive?

3           A     Well, the levels that are required, for  
4     antimony, our first, if you will, threshold would be a  
5     10-parts-per-million level. Once we have reached the  
6     level of 10 ppm, we now have an indication that we have  
7     something going on. Once we reach the 20 ppm range,  
8     now we have a very true threshold for antimony.

9                     For barium and lead, both of them would be  
10    the threshold of 200 ppm, would be our first threshold  
11    for them. But they have to be in combination with each  
12    other to be able to make the final call. There are  
13    exceptions to this general rule from the point of view  
14    of if we have exceptionally high antimony and high  
15    lead, we may be able to call it with the barium not  
16    being looked at.

17                    One of the problems we run into a lot of  
18    times is barium is a contaminant that's found in many  
19    different sources. So we have to take allowances for  
20    that.

21           Q     Okay. In this particular instance, you got  
22    these positive measurements as to all three of these  
23    materials, is that right?

24           A     I believe so. Let me verify that.

25           Q     Okay.

Joseph Powell - Cross

417

1           A     Yes, sir. In this case, both the left palm  
2     and the left back had sufficient levels of all three of  
3     the metals we were interested in looking at.

4           Q     Okay. And what was the level on the left  
5     hand?

6           A     Left?

7           Q     Back of the hand.

8           A     The left back -- for antimony, we had 80  
9     parts per million; for lead, we had 2,458 parts per  
10    million; and for barium, we had 642 parts per million.

11          Q     Okay. Would you not agree that those are  
12    particularly high levels?

13          A     Yes, sir. Those are much higher than I  
14    normally find when someone discharges a weapon. It's  
15    normally consistent with coming out from the end of the  
16    barrel more than firing a weapon.

17          Q     That would indicate that his left hand was  
18    either in close proximity to the weapon or fired the  
19    weapon?

20          A     It would mean that the back of his hand was  
21    in the direct stream material coming out of the weapon.

22          Q     Okay.

23          A     It's possible that the hand was trying to act  
24    in a defensive posture. It could have been the hand  
25    was just up in the way.

Joseph Powell - Cross

418

1 Q Okay.

2 A But somehow or another the back of the hand  
3 was in such a way that it got the majority of the  
4 material.

5 Q Okay. So this was a particularly high level?

6 A Yes, sir.

7 Q Okay. Now, would that not be indicative of a  
8 close shot?

9 A Oh, yes, sir. Relatively speaking, it would  
10 be a close shot, meaning within five feet and probably  
11 closer than that -- somewhere in the neighborhood, I  
12 would guess, of four, maybe even three and a half feet.

13 Q Okay. It could be much closer than that,  
14 could it not?

15 A Without seeing the condition of the arm, I'm  
16 not comfortable saying how close it could be, because  
17 as you get close, you should start being able to see  
18 burning, singeing. You should be able to see some  
19 soot. And I don't know if that was noted on the wound  
20 or not.

21 Q Okay. Of course, you didn't examine the  
22 body, and you don't know -- I mean, you don't examine  
23 people's bodies, do you?

24 A Not normally. However, I am called out at  
25 times to do some physical examination. But in this



Joseph Powell - Cross

419

1 case, I did not.

2 Q Okay. So what you're telling us is this was  
3 probably three and a half feet or closer?

4 A Yes, sir.

5 Q And that closer could be anywhere from inches  
6 to three and a half feet?

7 A Yes, sir, depending upon the caliber weapon,  
8 which I don't know what the caliber weapon was. But  
9 the larger the caliber weapon, the further it will  
10 project out the soot and material. A large-caliber  
11 weapon probably would be limited to as close as maybe  
12 nine inches before you start seeing singeing, burning,  
13 and soot. With a smaller-caliber weapon, you'd get  
14 closer with that.

15 Q Okay. And so, of course, all your  
16 conclusions -- I mean, it could be that the actual left  
17 hand of Carl Smalls was on the weapon when it was  
18 fired?

19 A If his hands were on the weapon, I would  
20 expect to find the highest level along the palms if  
21 he's clutching the weapon. Now, if you put your hand  
22 against the weapon such as a backwards slap, that is a  
23 possibility. But, again, there should be physical  
24 evidence also, such as burning or singeing, on the  
25 hands.

Joseph Powell - Cross

420

1 Q Okay. But you don't know that from your  
2 examination?

3 A I do not know that from my examination.

4 Q Okay. So we can conclude that somewhere  
5 between three and a half feet or closer his hand was in  
6 proximity to that weapon?

7 A That would be most consistent with the data I  
8 have here.

9 MR. LITTLEJOHN: If you'd give me just a  
10 moment, Your Honor.

11 THE COURT: Certainly.

12 Q Those are all the questions I have, Your  
13 Honor.

14 THE COURT: Thank you, sir.

15 THE COURT: Mr. Sorenson.

16 MR. SORENSON: Thank you, Your Honor.

17 RE-DIRECT EXAMINATION

18 BY MR. SORENSON:

19 Q To make sure I understood that last line of  
20 questioning there, Lieutenant, a larger-caliber  
21 handgun, the closer you are, you'd expect to see some  
22 singeing, burning, or soot. Is right, the way I  
23 understood that? So the larger the caliber, I guess,  
24 the farther away he would have to be if there was no  
25 singeing, or burning, or soot?

Joseph Powell - Redirect

421

1           A     That is correct. The larger the weapon, the  
2 more it would project further, plus the amount of flame  
3 and energy that's there.

4           Q     Let me ask you, the .40-caliber handgun, is  
5 that a large-caliber handgun?

6           A     That is classified as a large-caliber weapon,  
7 yes, sir.

8           Q     And that's larger, I guess, than a .380?

9           A     Yes, sir.

10          Q     Obviously, larger than a 9-millimeter?

11          A     Yes, sir.

12          Q     Or a 25-caliber?

13          A     Definitely larger, yes, sir.

14          Q     22-caliber?

15          A     Yes, sir.

16          Q     Thank you, sir.

17                   THE COURT: Thank you, Mr. Sorenson.

18                   THE COURT: Mr. Littlejohn, do you have  
19 anything further?

20                   MR. LITTLEJOHN: Nothing further, Your  
21 Honor.

22                   THE COURT: Okay. Sir, you may step  
23 down. Thank you.

24                   LT. POWELL: Thank you, sir.

25                   MR. SORENSON: May he be excused, Your

Joseph Powell - Redirect

422

1 Honor?

2 THE COURT: Yes.

3 MR. SORENSON: Thank you.

4 MR. SORENSON: Thank you, sir.

5 THE COURT: The State may call their  
6 next witness.

7 MR. PASCOE: Anthony Patrick, Your  
8 Honor.

9 MR. PASCOE: Your Honor, can we approach  
10 while he's coming down here?

11 THE COURT: Yes, sir.

12 THE COURT: Thank you, counsel.

13 BAILIFF: Put your left hand on the  
14 Bible, raise your right hand, and face the Clerk. .

15 (The witness was sworn.)

16 CLERK OF COURT: Please have a seat up  
17 there, sir, and state your full name for the record.

18 MR. PATRICK: Anthony Patrick.

19 ANTHONY SHERMAN PATRICK,  
20 having first been duly sworn, testified as follows:

21 **DIRECT EXAMINATION**

22 BY MR. PASCOE:

23 Q Good afternoon, Mr. Patrick.

24 A How are you doing?

25 Q That was nothing about you, okay, other than

Anthony Patrick - Direct

423

1     you'll be the last one that we call for today, all  
2     right?

3             A     All right.

4             Q     Where do you live?

5             A     Right now, I live on --

6             Q     You can just tell me what city you live in.

7             A     Columbia, South Carolina.

8             Q     How old are you?

9             A     Twenty-one years old.

10            Q     And back in December of last year, were you  
11     friends with the defendant, Jeroid Price?

12            A     Yes, sir.

13            Q     And do you see him in the courtroom?

14            A     Yes, sir.

15            Q     He's seated with his attorneys on the end of  
16     that table. Were you also friends with Ryan Brooks?

17            A     Yes, sir.

18            Q     How long had you known the defendant, Jeroid  
19     Price?

20            A     About two or three years, off and on.

21            Q     And how long had you known Ryan Brooks?

22            A     About four or five years.

23            Q     Okay. Where was the defendant, Jeroid Price,  
24     living back in December of last year?

25            A     St. Andrews Commons.

Anthony Patrick - Direct

424

1 Q And had you been there before?

2 A Yes, sir.

3 Q Even prior to December of last year?

4 A Yes, sir.

5 Q Where did Ryan Brooks live back in December  
6 of last year?

7 A Crossroad Apartments.

8 Q Did he have a roommate?

9 A Yes, sir.

10 Q Who was that?

11 A Jamel Bryant.

12 Q Okay. And how often would you say that you  
13 hung out with the defendant, Jeroid Price, before  
14 December 6th and 7th of last year? How often did you  
15 guys hang out?

16 A Not often at all, maybe once on Sunday to  
17 play basketball.

18 Q Okay. And where would y'all play basketball  
19 at?

20 A The St. Andrews Gym.

21 Q And would you generally play there every  
22 Sunday?

23 A Yes, sir.

24 Q Okay. How often would you hang out with Ryan  
25 Brooks?

Anthony Patrick - Direct

425

1           A     Maybe a little more than a Sunday, maybe a  
2     Sunday and a Friday afternoon.

3           Q     So it's safe to say you were closer with Ryan  
4     Brooks than you were with Mr. Price?

5           A     Yes, sir.

6           Q     Okay. Let me draw your attention to the  
7     night of Friday, December the 6th, and the early  
8     morning hours of December the 7th. Where did you end  
9     up going?

10          A     That night?

11          Q     Yes, that night.

12          A     To the Voodoo's Club.

13          Q     Okay. And who did you end up going with?

14          A     I went with Jason Woods and Ryan Brooks.

15          Q     Okay. Who drove?

16          A     I drove.

17          Q     What kind of vehicle did you have?

18          A     A green Isuzu Rodeo.

19          Q     Okay. And what time approximately did you  
20     get to Club Voodoo's, do you know?

21          A     About 12:30, 1:00.

22          Q     And this is roughly, is that right, between  
23     12:30 and 1:00?

24          A     12:30.

25          Q     And let me ask you something. Let me show

Anthony Patrick - Direct

426

1 you State's Exhibit 56. You know whose phone records  
2 they are?

3 A Uh-huh.

4 Q What was your cell phone number back then?

5 A [REDACTED] 2619.

6 Q And these are actually your cell phone  
7 records for December the 7th?

8 A Uh-huh.

9 Q Okay. Any objection to State's Exhibit 56?

10 MR. LITTLEJOHN: No objection, Your  
11 Honor.

12 THE COURT: Without objection, they're  
13 admitted.

14 (State's Exhibit 56 was  
15 received in evidence.)

16 MR. PASCOE: Okay, thank you.

17 THE COURT: Is it just one that you're  
18 admitting?

19 MR. PATRICK: It's 56. That's the only  
20 one.

21 MR. PASCOE: Fifty-six, Your Honor. Let  
22 me make sure I'm reading it -- yes, State's Exhibit 56.

23 Q And just to refresh your memory, let me ask  
24 you this. Whose phone number was [REDACTED] 2619?

25 A That's mine.



Anthony Patrick - Direct

427

1 Q Okay. And who is [REDACTED] 4610?

2 A I can't remember.

3 Q You can't remember? You gave a number of  
4 statements in this case, didn't you?

5 A Yes, sir.

6 Q Would it refresh your memory if you looked at  
7 your statements to tell us whose phone number that was?  
8 You gave a statement specifically back on December the  
9 19th, which was not long after this. Whose phone  
10 number is [REDACTED] 4610?

11 A That was Jeroid.

12 Q The defendant, Jeroid Price?

13 A Uh-huh.

14 Q Okay. And according to State's Exhibit 56,  
15 let me ask you, it says that you had called Mr. Price's  
16 phone number at 12:34 a.m., 12:35 a.m., and again at  
17 12:38 a.m. Did you make those phone calls to Jeroid  
18 Price?

19 A I didn't make those phone calls. I assume  
20 Ryan Brooks was using my phone to make those phone  
21 calls.

22 Q And was somebody using your phone prior to  
23 you getting to Voodoo's that night?

24 A Yes.

25 Q And who was using your phone?

Anthony Patrick - Direct

428

1 A Ryan Brooks.

2 Q What was wrong with Mr. Brooks' phone that  
3 night?

4 A I think the battery was dead.

5 Q Do you remember, what did Mr. Brooks look  
6 like that night? What was his hair like?

7 A It was braided.

8 Q And did he have a hat on?

9 A No, sir.

10 Q Does he ever wear hats generally, Mr. Brooks?

11 A No.

12 Q How big is Mr. Brooks?

13 A 6'1", 6 feet.

14 Q Do you remember, what was Mr. Price wearing  
15 that night?

16 A A jersey and a hat.

17 Q What kind of hat, do you recall?

18 A I can't recall what kind of hat it was.

19 Q Okay. Do you remember what kind of jersey he  
20 had on?

21 A I can't recall.

22 Q And when you got to the party, who did you  
23 end up hanging out with?

24 A Jason Woods.

25 Q And where did you and Mr. Woods hang out at?

Anthony Patrick - Direct

429

1           A     The bar.

2           Q     Who was Ryan Brooks hanging out with?

3           A     Jeroid.

4           Q     The defendant, Jeroid Price?

5           A     Yes, sir.

6           Q     Did you see any confrontations take place  
7 with the defendant, and Mr. Brooks, and another group  
8 of people?

9           A     Yes, sir.

10          Q     Okay. Specifically, tell the jury what you  
11 saw happen.

12          A     Just a few scuffles here and there, every  
13 other ten minutes. I mean, that's about it, just a few  
14 scuffles and push-arounds.

15          Q     Involving the defendant and Mr. Ryan Brooks?

16          A     Yes, sir.

17          Q     Okay. And, again, would you like to look at  
18 one of your statements to refresh your memory? You  
19 gave three statements to the police, didn't you --

20          A     Yes, sir.

21          Q     -- which we'll talk about in a minute -- and  
22 one of them on January the 10th? Do you remember being  
23 asked, "What do you remember happening that night?"

24          A     Uh-huh.

25          Q     It was your answer that "After me, Jason, and

Anthony Patrick - Direct

430

1 Ryan" --

2 MR. LITTLEJOHN: Your Honor, I'm going  
3 to object. If he wants to show it to him to refresh  
4 his memory, I think that's one thing. But to publish  
5 that document, I don't think that's proper.

6 MR. PASCOE: He's right. He's right.

7 THE COURT: I'll let him do that.

8 MR. PASCOE: Thank you. Can I go ahead  
9 and do it?

10 THE COURT: I'll let you show it to him.  
11 Does he need it to refresh --

12 Q I'm going to let you just read from there,  
13 okay, and then I'm going to ask you questions.

14 A Read which one -- read the question?

15 Q No, your answer.

16 A "Me and Jason" --

17 Q To yourself. Who did you tell the police was  
18 getting loud that night?

19 A Jeroid Price.

20 Q Okay, the defendant. And when they asked  
21 you, "What do you mean by getting loud?" what did you  
22 tell them? What were they doing by getting loud?

23 A I mean just shouting. Everybody was just --  
24 the whole party was shouting, like chanting and stuff  
25 like that.

Anthony Patrick - Direct

431

1 Q Were they showing hand signs?

2 A Everybody was throwing hand signs that night.

3 Q Could you tell whether they were gang signs  
4 or not?

5 A I couldn't tell.

6 Q Are you a gang member?

7 A No, sir.

8 Q Is Mr. Price a gang member?

9 A I'm not sure, to tell you the honest truth.

10 Q Do you remember telling the police that they  
11 were waving handkerchiefs?

12 A No, I can't remember telling them that.

13 Q You want me to show it to you, then? This is  
14 your statement, right?

15 A Yes. Remember, I told you I didn't recall if  
16 there were any or not?

17 Q You don't recall handkerchiefs?

18 A No.

19 Q Do you recall telling them that Mr. Price and  
20 Mr. Brooks were throwing up hand signs and acting loud?  
21 Well, let me ask you, what kind of hand signs were they  
22 throwing up?

23 A I couldn't tell.

24 Q Were they in a fraternity back in December of  
25 last year?

Anthony Patrick - Direct

432

1 A No, sir.

2 Q But you don't know whether they were gang  
3 members or not, correct?

4 A No, sir.

5 Q And, specifically, did you see the victim,  
6 Carl Smalls, that night?

7 A That night I didn't see him, but when I seen  
8 him on TV, I remembered his face.

9 Q And do you remember him and Mr. Price  
10 actually confronting one another?

11 A Yes, sir.

12 Q What were they doing at that time?

13 A They were just shoving and tussling, I guess.

14 Q Let me ask you this. The party ended at  
15 approximately 2:00 that night. Where did you go?

16 A I went to my car.

17 Q Okay. And what did you end up doing when you  
18 went to your car?

19 A Well, right before I went to my car, I was  
20 talking. I spoke to a female, and I got in the car.  
21 And on my way out, that's when I heard shots.

22 Q Okay. I'll let you use this pointer. Okay,  
23 you hold that. Just real quickly, looking at State's  
24 Exhibit 3, this is the front and the exit/entrance of  
25 Voodoo's. Where were you parked in your green SUV?

Anthony Patrick - Direct

433

1           A     Where is this?

2           Q     Let's say that's the front right up there of  
3     Voodoo's, and this is the parking lot.

4           A     I was parked over here.

5           Q     Okay.

6           A     Right in this area.

7           Q     When you heard the shots, who was with you?

8           A     Jason Woods.

9           Q     Okay. Where was Ryan Brooks?

10          A     I have no idea.

11          Q     Where was Jeroid Price?

12          A     I have no idea.

13          Q     Tell the jury what happened after you heard  
14     the shots.

15          A     I heard the shots, started to go, couldn't  
16     really go anywhere because there was so much traffic.  
17     Then out of nowhere, Ryan Brooks came in the car.

18          Q     Did you actually see Mr. Brooks running  
19     towards the truck?

20          A     No.

21          Q     Just getting in it?

22          A     He just got in the back.

23          Q     Was anything said in the heat of the moment  
24     at that time?

25          A     Just, "Everybody get out. They're shooting."

Anthony Patrick - Direct

434

1 Q Did you hear any more shots after Mr. Brooks  
2 got into the green SUV, your vehicle?

3 A Yes, sir.

4 Q Do you remember how many shots you heard?

5 A About two or three, maybe four -- I'm not  
6 sure.

7 Q So anywhere between two and four shots?

8 A Yes, sir.

9 Q Okay. And let me ask you, how many shots did  
10 you hear before you saw Brooks get into the vehicle?

11 A Before Brooks got in the vehicle?

12 Q Yes.

13 A It sounded like three. It was more than one  
14 shot.

15 Q Okay. What did Brooks do when he got in the  
16 Rodeo? What did y'all do then?

17 A I was just trying to get out, still. I don't  
18 know what he did. He was in the back seat.

19 Q He was in the back seat. What did Mr. Woods  
20 do?

21 A He was on the side -- passenger side.

22 Q And you were obviously the driver?

23 A Yes, sir.

24 Q And nobody inquired as to what happened?

25 A No.



Anthony Patrick - Direct

435

1 Q Did you see a gun in Mr. Brooks' hand?

2 A No, sir.

3 Q How soon did you get out of the parking lot?

4 A About 45 seconds to a minute.

5 Q Now, you testified that these are your cell  
6 phone records. Mr. Brooks' phone was not working that  
7 night?

8 A I don't think so.

9 Q Do you remember getting a phone call at  
10 exactly 2:18 and 41 seconds from the defendant, Jeroid  
11 Price?

12 A Yes, sir..

13 Q Okay. And you talked to him for about 60  
14 seconds?

15 A But I didn't speak to him.

16 Q Who spoke to him?

17 A Ryan Brooks.

18 Q So you don't have any idea what they were  
19 talking about at 2:18 and 41 seconds?

20 A No. He just asked to speak to him, and I  
21 gave him the telephone.

22 Q Do you also remember getting a phone call at  
23 exactly 2:27 and 56 seconds from the defendant, Jeroid  
24 Price?

25 A Yes, sir.

Anthony Patrick - Direct

436

1 Q Did you talk to Mr. Price then?

2 A No.

3 Q Who did?

4 A Ryan Brooks.

5 Q And that was about a 66-second phone call?

6 THE COURT: Sir, we just need you to  
7 answer affirmatively --

8 Q You need to answer.

9 A Yes.

10 THE COURT: -- or negatively.

11 A Yes, sir.

12 Q And did you also, though, get a phone call at  
13 exactly 2:53 a.m. and 40 seconds from Mr. Jeroid Price?  
14 Did you talk to him at that time for only 15 seconds?

15 A No, I didn't talk to the man. No, I didn't  
16 even know it was that many times the phone actually  
17 rung.

18 Q Now, where were you and Mr. Brooks at 2:18  
19 and 2:27 when the defendant was talking to him on the  
20 telephone?

21 A We were just on Highway 20.

22 Q But still in your vehicle?

23 A Uh-huh.

24 Q And who was the first person you took home  
25 that night?

Anthony Patrick - Direct

437

1           A     I took him Jason Woods.

2           Q     And when did you take Mr. Brooks home?

3           A     I took him home right after I took Jason  
4 home.

5           Q     Did you ever see Jeroid Price again that  
6 night?

7           A     No, sir.

8           Q     And you had testified earlier that generally  
9 you would see him every Sunday playing basketball. Did  
10 you see him that Sunday playing basketball?

11          A     No, we didn't play. No one went to play  
12 basketball that Sunday.

13          Q     Did you see him the following Sunday playing  
14 basketball?

15          A     No, sir.

16          Q     Or the following one after that?

17          A     No, sir.

18          Q     Had you ever seen him after that night or the  
19 early morning hours of December the 7th?

20          A     No, sir.

21          Q     Did you ever talk to him on the telephone  
22 again after the early morning hours of December the  
23 7th?

24          A     No.

25          Q     When was the last time you saw Ryan Brooks

Anthony Patrick - Direct

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1 after December the 7th?

2 A He came over that Sunday to watch a football  
3 game.

4 Q Let me ask you this, when did you first learn  
5 that at least Mr. Brooks may have been involved in a  
6 shooting?

7 A By seeing something on the news.

8 Q So your testimony is he never confided in you  
9 either by telling you about the shooting?

10 A He didn't tell me anything at all.

11 Q Are you friends with Jeroid Price?

12 A No.

13 Q Well, let me ask you this. You knew that  
14 Jeroid Price was wanted as of December the 13th.  
15 That's when it started hitting the news, right?

16 A Yes.

17 Q And that his apartment had been searched by  
18 the police then?

19 A Yes.

20 Q Why did you go the following week to Mr.  
21 Price's apartment?

22 A One of my friends, Corey Lawrence, came to my  
23 job and told me that he needed some help getting some  
24 things out. He wanted to get some stuff out before  
25 they trashed the apartment. He said like baby clothes

Anthony Patrick - Direct

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1 and things like that.

2 Q So you weren't trying to protect Mr. Price  
3 and try to take any items out --

4 A No, sir.

5 Q -- hoping the police hadn't found anything?

6 A No, sir.

7 Q Well, let me ask, then why is one of the  
8 items that the police found on you and Mr. Lawrence a  
9 book about a .40-caliber handgun that was taken from  
10 the defendant's apartment?

11 A They didn't find it on me. I don't know  
12 anything about that one.

13 Q You can see that has nothing to do with the  
14 baby clothes that you allegedly went over there to get?

15 A No, I had the baby clothes.

16 Q Nobody fronted to protect Mr. Price?

17 A No.

18 Q And, sir, you're actually charged with  
19 accessory after the fact of murder, isn't that correct?

20 A Yes.

21 Q Okay. And you have an attorney, Mr. Hans?

22 A Yes, sir.

23 Q -- appointed by the Court?

24 A Uh-huh.

25 Q And that carries zero to 15 years, right?

Anthony Patrick - Direct

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1 A Yes, sir.

2 Q And have I not told you, regardless of your  
3 testimony, you're going to have to plead to obstruction  
4 of justice?

5 A Yes, sir.

6 Q And you know that carries zero to five years?

7 A Yes, sir.

8 Q And the reason for that is because of the  
9 many inconsistent statements you gave to the police.

10 A Yes, sir.

11 Q You admit that, right?

12 A Yes, sir.

13 Q You gave three separate statements, one on  
14 December the 19th, you remember that?

15 A Yes, sir.

16 Q Did you tell the police on December the 19th  
17 that Mr. Brooks left the party with you?

18 A Was that the first one?

19 Q Yes, your first statement.

20 A I didn't tell them that.

21 Q And you admit that, but you didn't tell them.  
22 Were you trying to protect yourself?

23 A Yes, I was just scared and nervous.

24 Q You did tell them, however, or did you tell  
25 them, that you had seen Jeroid and Ryan get into the

Anthony Patrick - Direct

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1 scuffle that night --

2 A Yes.

3 Q -- at the party?

4 A Uh-huh.

5 Q You just didn't tell them if Brooks had left  
6 with you. You gave a second statement on January the  
7 10th, isn't that right?

8 A Yes, sir.

9 Q And this time, though, the police read you  
10 your rights, didn't they?

11 A Yes, sir.

12 Q Told you you had the right to remain silent?

13 A Yes, sir.

14 Q But did you freely and voluntarily give them  
15 a statement?

16 A Yes, sir.

17 Q Cooperate with them and give them a  
18 statement?

19 A Yes, sir.

20 Q And did you tell the police that you had  
21 located in your -- I'm talking about your second  
22 statement, we'll get to the third one -- that you  
23 located any items in your Rodeo in your second  
24 statement?

25 A Yes, they asked me, and I voluntarily told

Anthony Patrick - Direct

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1       them.

2               Q     What were you asked?

3               A     They asked me did I ever see a weapon in my  
4       car.

5               Q     After the event at Club Voodoo's, correct?

6               A     Yes.

7               Q     And what did you tell them?

8               A     I told them the only weapon that was in my  
9       car was a BB gun.

10              Q     And now let's talk about your second  
11     statement.

12              A     The second statement?

13              Q     You didn't say anything about a BB pistol in  
14     your second statement, did you?

15              A     I don't even think they asked me on the  
16     second statement. I put it in my last one.

17              Q     On January the 10th, didn't you tell them  
18     that you had found a semi-automatic pistol?

19              A     I can't recall that.

20              Q     Or better yet -- let me get it right -- you  
21     said you found a small silver gun that was not a  
22     revolver --

23              A     Yes, sir.

24              Q     -- and that it was wrapped up in a white  
25     plastic bag?



Anthony Patrick - Direct

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1           A     Uh-huh.

2           Q     And what did you tell the police you did with  
3     it?

4           A     I told them I was cleaning out my car. They  
5     asked me for it. I said, "I'm not sure if I still have  
6     it. Possibly, I may have thrown it in the trash can."

7           Q     And you allegedly would have thrown that away  
8     in the trash can even after your first statement to the  
9     police, isn't that true, on December the 19th?

10          A     Yes, sir.

11          Q     Okay. And when the police asked you whether  
12     you thought it was important for them to know that you  
13     had found potentially a gun in your car, do you  
14     remember what your answer was?

15          A     I'm not even sure.

16          Q     Do you remember telling them that you were  
17     worried about Christmas shopping?

18          A     Yes, I was -- yes.

19          Q     So there had been a murder at Club Voodoo's,  
20     right?

21          A     Uh-huh.

22          Q     You found what you thought at the time might  
23     have been a gun in the back of your car?

24          A     Yes, sir.

25          Q     You knew that Brooks had been involved in

Anthony Patrick - Direct

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1 that shooting?

2 A Uh-huh.

3 Q And you told the police that you threw it  
4 away because you were worried about Christmas shopping  
5 at the time?

6 A I didn't say I threw it away because I was  
7 worried about Christmas shopping. I told them I might  
8 have thrown it away. They asked me, well, why haven't  
9 I told them? I said, "Because I was busy doing  
10 Christmas shopping."

11 Q You said, "I wasn't really thinking. I was  
12 cleaning out my car, and my mind was on Christmas  
13 shopping"?

14 A Uh-huh.

15 Q And then, when you were told that you were  
16 charged with accessory after the fact because you may  
17 have thrown away the murder weapon, then you, lo and  
18 behold, discovered that you didn't throw it away, isn't  
19 that true?

20 A Uh-huh.

21 Q And on January the 16th -- can I get this  
22 marked? Do you recognize State's Exhibit 71?

23 A Yes.

24 Q What do you recognize that to be?

25 A The BB gun that I said.

Anthony Patrick - Direct

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1 MR. PASCOE: Your Honor, that's 71.

2 MR. SORENSON: David, that's a six.

3 MR. PASCOE: It should be 71. .

4 MR. SORENSON: Put a seven on there.

5 MR. PASCOE: My eyes aren't that bad.

6 Q Do you recognize this? This is 71. Is that  
7 the gun you turned in to the police on January the  
8 16th?

9 A Yes.

10 MR. PASCOE: I'd ask that State's  
11 Exhibit 71 be admitted into evidence, Your Honor.

12 THE COURT: Any objection?

13 MR. LITTLEJOHN: Your Honor, I would  
14 object on the grounds of irrelevancy. Whatever  
15 happened then in regard to this gentleman's charges  
16 don't have anything to do with the events of December  
17 7th.

18 THE COURT: All right. Let me ask  
19 counsel a sidebar.

20 MR. PASCOE: Thank you, Your Honor.

21 THE COURT: Your objection is overruled.

22 Q So you're trying to tell the jury you didn't  
23 find a real gun in your car when you took it to get  
24 cleaned after the early morning hours of December the  
25 7th? What's your answer?

Anthony Patrick - Direct

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1 A Yes, sir.

2 Q And that when you told the police in your  
3 second statement on January the 10th that you had found  
4 a silver gun and threw it away that it was actually a  
5 BB pistol?

6 A Yes.

7 Q You know the difference between a BB pistol  
8 and a real gun, don't you?

9 A I don't handle guns too many.

10 Q Had you ever seen Ryan Brooks with a gun  
11 before?

12 A Yes.

13 Q What kind of gun?

14 A I can't even remember. It was a small gun.

15 MR. PASCOE: Beg the Court's indulgence.

16 THE COURT: Yes, sir.

17 Q Let me ask you just one more question. Whose  
18 cell phone number back in December was [REDACTED]-5071? Do  
19 you recall?

20 A No, I can't remember whose number that was.

21 Q Would it refresh your memory to look at your  
22 statement?

23 A Okay, it was Ryan's number.

24 Q So whose phone number was [REDACTED]-5071?

25 A Ryan Brooks.

Anthony Patrick - Direct

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1 Q That's all I have. Thank you, Mr. Patrick.

2 Answer any questions Mr. Littlejohn has for you.

3 THE COURT: Thank you, sir.

4 THE COURT: Mr. Littlejohn.

5 CROSS-EXAMINATION

6 BY MR. LITTLEJOHN:

7 Q Mr. Patrick, my name is Cam Littlejohn. I  
8 represent Jeroid Price.

9 A How are you doing?

10 Q I just have a few questions for you. Mr.  
11 Pascoe asked you about a .40-caliber pistol box. Do  
12 you remember him asking you about that?

13 MR. PASCOE: It wasn't a box, Your  
14 Honor.

15 THE COURT: I'll let him answer. I  
16 think he probably remembers what he was asking.

17 Q Do you remember what you were asked about a  
18 .40-caliber box or some papers or something?

19 A He didn't ask me anything about any papers.

20 Q You don't remember that, okay. You don't  
21 know anything about that?

22 A No, sir.

23 Q Okay. The phone calls he asked you about --

24 A Yes, sir.

25 Q -- the ones on the night of December 6th, or

Anthony Patrick - Cross

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1 actually the early morning hours of December 7th --

2 A Uh-huh.

3 Q -- he asked you about a number of phone  
4 calls. Do you know anything about those phone calls?

5 A The phone calls that night?

6 Q Yes.

7 A I received the phone call.

8 Q Okay. Did you talk on the phone?

9 A I didn't speak on the phone.

10 Q Okay. Brooks talked on the phone?

11 A Yes, sir.

12 Q Okay. Now, that night, so I understand, did  
13 you know Carl Smalls?

14 A I didn't know him at all.

15 Q Okay. So you don't know who we're talking  
16 about when we talk about Carl Smalls?

17 A I know who he is now, through research on the  
18 Internet. I don't know him personally or anything at  
19 all.

20 Q Do you remember seeing him at the club that  
21 night?

22 A When I first seen his face on the Internet,  
23 flashbacks came and I recall seeing his face.

24 Q Okay. Do you recall whether he was in any of  
25 these confrontations or shouting that you were talking

Anthony Patrick - Cross

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1 about?

2 A Yes.

3 Q He was?

4 A Yes.

5 Q Okay. And I believe you said everybody was  
6 shouting, a lot of people were throwing signs?

7 A Yes, sir.

8 Q Okay. You were out in the parking lot when  
9 you heard the shots?

10 A Yes, sir.

11 Q You didn't see anybody shoot anybody?

12 A No, sir.

13 Q And, Mr. Patrick, Mr. Pascoe asked you about  
14 your charges. You've got charges pending?

15 A I don't have any charges pending except for  
16 the one he just explained.

17 Q Yes, that's what I'm talking about. You've  
18 got that charge pending?

19 A Yes, sir.

20 Q And you're basically charged with trying to  
21 help Ryan Brooks?

22 A Yes, I was accused of doing that.

23 Q Okay. You saw Jeroid Price that night,  
24 didn't you?

25 A That night at the party, yes.

Anthony Patrick - Cross

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1 Q He had on a red baseball hat, didn't he?

2 A Yes, sir.

3 Q Okay. A lot of people had on hats that  
4 night, didn't they?

5 A Yes, sir.

6 Q Did you have a hat on?

7 A I had one on.

8 Q Okay. That's all I have, Your Honor.

9 THE COURT: Okay. Thank you, sir.

10 THE COURT: Mr. Pascoe.

11 RE-DIRECT EXAMINATION

12 BY MR. PASCOE:

13 Q Who called and asked for Ryan Brooks at 2:18  
14 in the morning? Who called your cell phone and asked  
15 for Ryan Brooks?

16 A Jeroid Price.

17 Q That's all I have.

18 THE COURT: Okay. Thank you.

19 THE COURT: Sir, you may step down.

20 Thank you. Yes, sir, you're free to come and go as you  
21 please, sir. You can have a seat out there if you want  
22 to, or you can leave.

23 THE COURT: Okay, ladies and gentlemen,  
24 we're going to break for the day and let you all go. I  
25 just ask, once again, do not talk about the testimony



1 or any of the evidence that you've seen or heard here  
2 in the courtroom so far. And we'll get started again  
3 at 9:30 in the morning. You all have a good night.

4 And I'll probably appoint a foreperson at  
5 some point tomorrow, so we'll try and do that maybe  
6 before lunch. I may draw straws, I don't know. But  
7 you all have a good night, and we'll see you all  
8 tomorrow. Thank you.

9 (Jury out at 4:59 p.m.)

10 THE COURT: Thank you, sir.

11 THE COURT: All right, counsel, anything  
12 we need to take up before we recess?

13 MR. PASCOE: I don't think so, Your  
14 Honor, not from the State.

15 THE COURT: Okay.

16 MR. LITTLEJOHN: We don't have anything  
17 at this time.

18 THE COURT: Okay. We talked at the  
19 sidebar a little bit about this, and I'm not certainly  
20 not asking at this point that you submit all of your  
21 requests for charge or anything like that. But what I  
22 wanted to do is at some point, if you can give me a  
23 heads-up about any special issues that you would like  
24 charged, I can go ahead and start taking a look at  
25 that.

1                   What I'd like to be able to do is at  
2                   some time shortly before we close the case, I'd like to  
3                   be able to give you all a hard copy of my charge so you  
4                   can work that into your closing arguments if you need  
5                   to or want to. So the earlier you can give me a little  
6                   bit of heads-up, the quicker we can get that sort of  
7                   pulled together and I can make sure Ms. Walker gives  
8                   you all a copy of the charge. So we'll take a look at  
9                   that in the morning, as well.

10 Anything else? If nothing else, then  
11 we'll break for the day. We'll get started again at  
12 9:30 in the morning. Thank you.

13 --End of Day--

14 --End of Requested Partial Transcript--

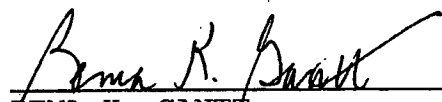
STATE OF SOUTH CAROLINA     )  
COUNTY OF LEXINGTON         )

**COURT REPORTER'S CERTIFICATION**

I, REMA K. GANTT, OFFICIAL COURT REPORTER AND  
NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA,  
DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE,  
ACCURATE, PARTIAL TRANSCRIPT OF RECORD OF THE  
PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE ABOVE-  
CAPTIONED CASE ON DECEMBER 15-16, 2003, IN RICHLAND  
COUNTY, SOUTH CAROLINA.

I FURTHER CERTIFY THAT I AM NEITHER OF  
COUNSEL NOR KIN TO ANY OF THE PARTIES TO THIS CAUSE OF  
ACTION, NOR AM I INTERESTED IN ANY MANNER IN ITS  
OUTCOME.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY  
HAND AND SEAL AT CHAPIN, SOUTH CAROLINA, THIS THE  
TWENTIETH DAY OF MARCH, 2004.

  
\_\_\_\_\_  
REMA K. GANTT  
OFFICIAL COURT REPORTER  
NOTARY PUBLIC FOR SOUTH CAROLINA  
MY COMMISSION EXPIRES 12/13/2003

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

COURT OF GENERAL SESSIONS  
03-GS-40-2295

THE STATE OF SOUTH CAROLINA

-VS-

JEROID JOHN PRICE

:  
:  
: TRANSCRIPT OF RECORD  
:  
:

DECEMBER 17 - 19, 2003  
COLUMBIA, SOUTH CAROLINA

B E F O R E:

THE HONORABLE REGINALD I. LLOYD, JUDGE, AND JURY.

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

DAVID M. PASCOE, JR., ESQUIRE  
DONALD N. SORENSON, ESQUIRE  
BRYAN JEFFRIES, ESQUIRE  
ATTORNEYS FOR THE STATE

CAMERON B. LITTLEJOHN, JR., ESQUIRE  
AMYE RUSHING, ESQUIRE  
ATTORNEYS FOR THE DEFENDANT

DAPHNE D. HELMS  
CIRCUIT COURT REPORTER

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| 10 | S-54       | (EXHIBIT NEVER EXISTED)             |            |            |
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E X H I B I T S

|    | <u>NO.</u> | <u>DESCRIPTION</u>                 | <u>ID.</u> | <u>EV.</u> |
|----|------------|------------------------------------|------------|------------|
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| 2  |            |                                    |            |            |
| 3  | S-69       | JANUARY STATEMENT OF<br>JASON WOOD |            | 9          |
| 4  |            |                                    |            |            |
| 5  | S-70       | PHOTOGRAPH                         |            | 9          |
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| 7  | S-71       | BB PISTOL                          |            | 9          |
| 8  |            |                                    |            |            |
| 9  | S-72       | 32 CALIBER AMMUNITION              |            | 71         |
| 10 |            |                                    |            |            |
| 11 | S-73       | RUGER 9MM GUN BOX                  |            | 251        |
| 12 |            |                                    |            |            |
| 13 | S-74       | 40 CALIBER AMMUNITION BOX          |            | 73         |
| 14 |            |                                    |            |            |
| 15 | S-75       | 9MM AMMUNITION                     |            | 250        |
| 16 |            |                                    |            |            |
| 17 | S-76       | 357 AMMUNITION                     |            | 145        |
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| 19 | S-77       | CLIP                               |            | 75         |
| 20 |            |                                    |            |            |
| 21 | S-78       | 380 BOX                            |            | 74         |
| 22 |            |                                    |            |            |
| 23 | S-79       | LARGE CLIP                         |            | ***        |
| 24 |            |                                    |            |            |
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| 39 | S-87       | PHOTOGRAPH                         |            | ***        |
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E X H I B I T S

|    | <u>NO.</u> | <u>DESCRIPTION</u>                          | <u>ID.</u> | <u>EV.</u> |
|----|------------|---------------------------------------------|------------|------------|
| 1  |            |                                             |            |            |
| 2  |            |                                             |            |            |
| 3  | S-92       | AMMUNITION                                  |            | 251        |
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| 5  | D-1        | NOTES OF INVESTIGATOR<br>ROBINSON, 12/15/02 | 9          |            |
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COURT REPORTER'S NOTE: ALL EXHIBITS WITH THE NOTATION  
OF \*\*\* ARE EXHIBITS THAT WERE NEVER HANDLED BY REPORTER  
DAPHNE HELMS AND NO EXPLANATION OR NOTATION WAS MADE  
ABOUT THEM BY REPORTER REMA GANTT.

## COLLOQUY

9

1 (COURT REPORTER'S NOTE: THE FIRST TWO DAYS OF THE  
2 TRIAL WERE REPORTED BY COURT REPORTER REMA GANTT WITH STATE'S  
3 EXHIBITS 1, 2, 6 THROUGH 37, 40 THROUGH 48, 50 THROUGH 52,  
4 56, 58 THROUGH 59, 61, 68 THROUGH 71 BEING RECEIVED IN  
5 EVIDENCE AND DEFENDANT'S EXHIBIT 1 BEING MARKED FOR  
6 IDENTIFICATION ONLY. COURT REPORTER DAPHNE HELMS REPORTED  
7 THE REMAINDER OF THE TRIAL AS FOLLOWS:)

8 THE COURT: COUNSEL, WE'RE READY TO GET STARTED?  
9 DID Y'ALL HAVE A CHANCE TO -- OH.

10 MS. RUSHING: YOUR HONOR, I DON'T KNOW WHERE CAM  
11 WENT. IF YOU DON'T MIND, I'LL STICK MY HEAD OUT. THERE HE  
12 IS. THERE HE IS.

13 THE COURT: WE'RE -- WE HAVE EVERYBODY. WE'RE READY  
14 TO START. DID Y'ALL WANT TO TAKE UP THOSE PRETRIAL MATTERS  
15 OR HAVE Y'ALL BEEN ABLE TO WORK THOSE OUT?

16 MR. PASCOE: I DON'T THINK WE HAVE ANY.

17 MR. LITTLEJOHN: JUDGE, WE DON'T HAVE ANYTHING.

18 THE COURT: GOOD. WE'RE READY FOR THE JURY THEN.

19 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT  
20 10:25 A.M.)

21 THE COURT: THANK YOU, LADIES AND GENTLEMEN, FOR  
22 YOUR PATIENCE THIS MORNING. WE'RE READY TO CONTINUE, AND I  
23 HOPE YOU ALL HAD A GOOD NIGHT. WE'LL SEE IF THE STATE'S  
24 READY TO CALL THEIR FIRST WITNESS.

25 MR. SORENSON: YES, SIR.

1 THE COURT: OKAY. MR. SORENSON?

2 MR. PASCOE: THANK YOU, YOUR HONOR. MAY IT PLEASE  
3 THE COURT?

4 THE COURT: YES, SIR.

5 MR. SORENSON: THE STATE CALLS DR. RONALD BURNS.

6 DR. RONALD G. BURNS, AFTER BEING DULY SWORN,  
7 TESTIFIED AS FOLLOWS:

8 THE CLERK: PLEASE HAVE A SEAT, SIR. STATE YOUR  
9 FULL NAME FOR THE RECORD.

10 THE WITNESS: MY NAME IS RONALD GIBSON BURNS.

11 DIRECT EXAMINATION

12 BY MR. SORENSON:

13 Q. DR. BURNS, IF YOU WOULD PLEASE TELL US WHERE IT IS  
14 THAT YOU'RE EMPLOYED.

15 A. YES, AT PALMETTO RICHLAND HOSPITAL.

16 Q. AND WHAT DO YOU DO AT PALMETTO RICHLAND HOSPITAL?

17 A. I'M A PATHOLOGIST.

18 Q. AND IF YOU WOULD BRIEFLY TELL US A LITTLE BIT ABOUT  
19 YOUR EDUCATIONAL BACKGROUND IF YOU WOULD, SIR.

20 A. OKAY. PATHOLOGY IS THE BRANCH OF MEDICINE THAT  
21 STUDIES THE EFFECT OF DISEASE ON THE BODY AND THE TISSUES IN  
22 THE BODY. I GOT MY MEDICAL DEGREE AT M.U.S.C. DOWN IN  
23 CHARLESTON. I COMPLETED THAT IN 1972 - I'M SORRY - 1975 AND  
24 THEN DID POSTGRADUATE TRAINING IN PATHOLOGY, PART OF IT AT  
25 M.U.S.C. AND THE REMAINDER WITH THE MILITARY.

DR. RONALD BURNS - DIRECT EXAM BY MR. SORENSON

11

1 Q. AND BRIEFLY THEN WOULD YOU PLEASE TELL US YOUR  
2 EMPLOYMENT BACKGROUND THEN AFTER -- AFTER MEDICAL SCHOOL?

3 A. YES. AFTER MEDICAL SCHOOL I WAS THEN EMPLOYED BY  
4 THE MILITARY FOR SIX AND A HALF YEARS AND AGAIN COMPLETED MY  
5 TRAINING THERE AND THEN HAVE WORKED AT RICHLAND FOR I GUESS  
6 21 YEARS NOW, SINCE THE BEGINNING OF 1983.

7 Q. AS A PATHOLOGIST THAT ENTIRE TIME?

8 A. AS A PATHOLOGIST, YES.

9 Q. AND AS PART OF YOUR DUTIES AS A PATHOLOGIST WITH  
10 RICHLAND MEMORIAL HOSPITAL, SIR, DO YOU PERFORM AUTOPSIES?

11 A. YES, I DO.

12 Q. AND APPROXIMATELY HOW MANY AUTOPSIES DO YOU THINK  
13 YOU'VE PERFORMED IN THOSE 21 YEARS?

14 A. IN THE NEIGHBORHOOD OF 800 TO A THOUSAND.

15 Q. HAVE YOU HAD AN OPPORTUNITY TO THEN COME INTO COURT  
16 AND TESTIFY ABOUT THOSE AUTOPSIES THAT YOU PERFORMED BEFORE?

17 A. QUITE A FEW TIMES, YES.

18 Q. ARE YOU AWARE OF APPROXIMATELY HOW MANY TIMES YOU  
19 TESTIFIED?

20 A. PROBABLY TWO TO THREE DOZEN.

21 Q. AND HAVE YOU BEEN QUALIFIED AS AN EXPERT THOSE TIMES  
22 THAT YOU'VE TESTIFIED, SIR?

23 A. YES, I HAVE.

24 MR. SORENSON: YOUR HONOR, AT THIS TIME WE WOULD  
25 OFFER DR. BURNS AS AN EXPERT IN THE FIELD OF FORENSIC

1 PATHOLOGY.

2 MR. LITTLEJOHN: NO OBJECTION.

3 THE COURT: WITHOUT OBJECTION HE'S SO QUALIFIED.

4 THANK YOU, SIR.

5 BY MR. SORENSON:

6 Q. THANK YOU. NOW, YOU TOUCHED ON THIS JUST BRIEFLY A  
7 MOMENT AGO, DR. BURNS. WOULD YOU TELL US ONCE AGAIN WHAT IS  
8 PATHOLOGY?

9 A. OKAY. IT'S THE STUDY OF DISEASE AND IT'S THE EFFECT  
10 OF THE DISEASE ON THE BODY OR THE ORGANS AND TISSUES OF THE  
11 BODY. SO FOR MY ASPECT, IT INCLUDES BOTH AN EXTERNAL  
12 EXAMINATION AS WELL AS INTERNAL EXAMINATION AND USING A  
13 MICROSCOPE TO FINISH UP.

14 Q. OKAY. AND IS A SUB BRANCH OF PATHOLOGY SOMETHING  
15 CALLED FORENSIC PATHOLOGY?

16 A. YES. YES.

17 Q. WOULD YOU TELL US WHAT FORENSIC PATHOLOGY IS?

18 A. FORENSIC PATHOLOGY FOCUSES PREDOMINANTLY ON THE  
19 EFFECTS OF TRAUMA OR SIMILAR CHANGES ON THE BODY.

20 Q. AND YOU HAD INDICATED IN YOUR 21 YEARS THAT YOU  
21 PERFORMED 800 TO A THOUSAND AUTOPSIES. WILL YOU TELL US WHAT  
22 AN AUTOPSY IS?

23 A. WELL, AUTOPSY MEANS AN EXAMINATION OF AN INDIVIDUAL  
24 AFTER THEY'VE DIED, AND IT INCLUDES AN EXAMINATION OF THEIR  
25 INTERNAL APPEARANCE AS WE RECEIVE THEM AT THE HOSPITAL,

1 FOLLOWING WHICH THEY'RE UNCLOTHED AND WE EXAMINE THE EXTERNAL  
2 SURFACES OF THE BODIES FOR WOUNDS OR OTHER MARKS. THEN WE  
3 WILL EXAMINE THE INTERNAL ORGANS ALSO WEIGHING, NOTING THEIR  
4 SIZE, MEASURING THEM, SOMETIMES PHOTOGRAPHING THEM, AND THEN  
5 TAKING MICROSCOPIC SECTIONS AND EXAMINING THOSE AND PUTTING  
6 THAT INFORMATION TOGETHER INTO A REPORT CALLED AN AUTOPSY  
7 REPORT WHICH INDICATES OUR FINDINGS.

8 Q. AND OFTEN ARE YOU THEN ABLE TO RENDER AN OPINION AS  
9 TO THE CAUSE OF DEATH---

10 A. YES.

11 Q. ---IN THE CASE? I WILL TURN YOUR ATTENTION, SIR, IF  
12 I COULD BACK TO DECEMBER OF LAST YEAR. DID YOU HAVE AN  
13 OPPORTUNITY TO PERFORM AN AUTOPSY ON 21-YEAR-OLD CARL SMALLS?

14 A. YES, I DID.

15 Q. OKAY. AND WHEN AND WHERE WAS THAT PERFORMED, SIR?

16 A. THAT WOULD HAVE BEEN AT RICHLAND AND IT WAS ON THE  
17 7TH OF DECEMBER.

18 Q. AND WERE YOU -- PRIOR TO BEGINNING THE AUTOPSY OF  
19 MR. SMALLS, WERE YOU PROVIDED ANY HISTORY?

20 A. WE OFTEN RECEIVE A SMALL AMOUNT OF HISTORY FROM THE  
21 CORONER'S OFFICE AND THAT'S WHAT WE DID THIS TIME, A SMALL  
22 AMOUNT OF HISTORY.

23 Q. IS THAT TYPICALLY -- I MEANT TO ASK YOU THAT BEFORE.  
24 WHO TYPICALLY REQUESTS YOU TO PERFORM AN AUTOPSY?

25 A. WELL, THE CORONER I BELIEVE LEGALLY HAS THE POWER TO



1 ORDER OR REQUEST AN AUTOPSY, AND THAT WAS THE CASE HERE.

2 Q. AND WHAT WAS THAT HISTORY THAT YOU WERE PROVIDED BY  
3 -- I GUESS IT WAS ONE OF THE DEPUTY CORONERS THAT PROVIDED  
4 YOU THAT HISTORY?

5 A. YES, AND IT WAS SIMPLY THE IN -- THE HISTORY THAT  
6 THIS INDIVIDUAL HAD BEEN FOUND I THINK IN A NIGHTCLUB,  
7 SOMETHING LIKE THAT, AND HAD BEEN SHOT MANY TIMES. THAT'S  
8 ALL I'D BEEN TOLD.

9 Q. WERE YOU GIVEN AN APPROXIMATE TIME OF DEATH ALSO?

10 A. I WAS TOLD 2 A.M.

11 Q. WAS THAT THEREABOUTS, I MEAN, I GUESS?

12 A. YEAH.

13 Q. NOW, I BELIEVE YOU INDICATED THAT THE FIRST STEP  
14 THAT YOU THEN TAKE WHEN CONDUCTING AN AUTOPSY WOULD BE TO DO  
15 AN EXTERNAL EXAMINATION?

16 A. YES.

17 Q. AND WAS THAT DONE IN MR. SMALLS' CASE?

18 A. YES, IT IS.

19 Q. AND WOULD YOU PLEASE TELL THE JURY WHAT YOUR  
20 FINDINGS WERE WHEN YOU DID YOUR EXTERNAL EXAMINATION?

21 A. OKAY. THE CLOTHING THAT HE HAD HAD MANY  
22 BLOODSTAINS, AND THE CLOTHING WAS REMOVED AND THEN GIVEN TO  
23 THE DEPUTY WHO WAS PRESENT. AND THEN ON THE SURFACE OF HIS  
24 BODY WE SAW ON THE FRONT SURFACES WHAT APPEARED TO BE THREE  
25 GUNSHOT ENTRY-TYPE WOUNDS. ON THE BACK SURFACE WE SAW TWO

1 GUNSHOT EXIT-TYPE WOUNDS. ON HIS UPPER LEFT FOREARM HE HAD  
2 WHAT I'D CALL A GRAZING WOUND.

3 MR. SORENSON: AND, YOUR HONOR, COULD I HAVE DR.  
4 BURNS STEP DOWN, YOUR HONOR?

5 THE COURT: YES, SIR.

6 BY MR. SORENSON:

7 Q. IF I COULD, DR. BURNS, I'D LIKE YOU TO KIND OF  
8 ILLUSTRATE FOR THE JURY ON ME IF YOU WOULD THE JURIES THAT  
9 YOU NOTED ON MR. SMALLS.

10 A. ALL RIGHT. ONE OF THE FIRST THINGS WE NOTED WAS ONE  
11 LOCATED---

12 COURT REPORTER: EXCUSE ME. IF Y'ALL COULD SWITCH  
13 PLACES---

14 THE WITNESS: ALL RIGHT. ONE OF THE FIRST THINGS WE  
15 NOTED WAS LOCATED IN THE RIGHT LOWER CHEST AREA APPROXIMATELY  
16 HERE A GUNSHOT ENTRY WOUND. THERE WAS ALSO LOWER AND MORE TO  
17 THE RIGHT OF THAT ANOTHER GUNSHOT ENTRY WOUND IN THE FLANK  
18 AREA, AND THEN SLIGHTLY BELOW THE BELT LEVEL ON THE LEFT  
19 THERE WAS A GUNSHOT ENTRY WOUND. ON THE UPPER SURFACE OF HIS  
20 LEFT ARM ROUGHLY HERE THERE WAS ALSO A GRAZING-TYPE WOUND  
21 WHERE THE SKIN AND SOME OF THE SUBCUTANEOUS TISSUES WERE  
22 SCRAPPED BUT THE BULLET DID NOT ACTUALLY ENTER.

23 BY MR. SORENSON:

24 Q. LET ME SHOW WHILE WE'RE AT THAT, SIR, STATE'S  
25 EXHIBIT NUMBER 70. DOES THAT ACTUALLY DEPICT THAT -- THAT

1 WOUND?

2 A. YES.

3 Q. ALL RIGHT. AND YOU INDICATED THAT THOSE THREE  
4 WOUNDS ON THE FRONTAL PART OF MR. SMALLS WERE ALL ENTRANCE  
5 WOUNDS?

6 A. YES.

7 Q. OKAY. AND THEN DID YOU FIND ANY CORRESPONDING EXIT  
8 WOUNDS?

9 A. RIGHT. ON THE BACK SURFACES THERE WAS AN EXIT WOUND  
10 LOCATED HERE WHICH CLEARLY WAS THE EXIT WOUND FOR THE GUNSHOT  
11 THAT ENTERED DOWN HERE ON THE LOWER RIGHT, AND THEN THERE WAS  
12 ANOTHER EXIT WOUND IN THE LOWER LEFT PORTION OF THE BACK THAT  
13 WE FOUND WAS THE EXIT PATH FOR THE BULLET THAT ENTERED INTO  
14 THE RIGHT FRONT CHEST.

15 Q. OKAY. THEN YOU HAD INDICATED THAT THERE WAS A THIRD  
16 ENTRANCE WOUND DOWN HERE RIGHT BELOW THE BELT LINE ON THE  
17 LEFT SIDE OF MR. SMALLS'---

18 A. RIGHT.

19 Q. ---BODY?

20 A. YES.

21 Q. DID YOU FIND A CORRESPONDING EXIT WOUND TO THAT  
22 GUNSHOT WOUND?

23 A. NO, THERE WAS NO EXIT WOUND ON THAT ONE.

24 Q. THANK YOU, AND I'M GOING TO GET TO THAT IN A MOMENT.  
25 LET ME -- IF I COULD KEEP YOU DOWN FOR ONE MINUTE. LET ME

1 SHOW YOU STATE'S EXHIBIT NUMBER 4. I SHOW YOU STATE'S  
2 EXHIBIT NUMBER 4. DO YOU RECOGNIZE THIS DIAGRAM?

3 A. YES.

4 Q. AND DOES THAT PRETTY MUCH ILLUSTRATE THE ENTRY AND  
5 EXIT WOUNDS THAT YOU JUST ILLUSTRATED TO THE JURY ON ME?

6 A. IT'S ACCURATE WITH THE EXCEPTION OF THE EXIT WOUND  
7 LOCATION SHOWN HERE. IT'S SUPPOSED TO CORRESPOND TO THAT;  
8 IT'S REALLY TOO LOW.

9 Q. OKAY. SO THIS EXIT WOUND SHOWN HERE IS ACTUALLY THE  
10 SAME, SO THAT COULD KIND OF... COULD YOU HOLD THAT FOR A  
11 SECOND?

12 A. UH-HUH.

13 Q. IF I CAN KIND OF JUST CROSS THAT OUT BECAUSE THAT'S  
14 ILLUSTRATED OVER HERE, ONCE AGAIN YOU SAID A LITTLE HIGHER?

15 A. YES, SIR.

16 Q. AND I GUESS A LITTLE MORE AROUND IN THE BACK?  
17 OTHERWISE, THAT'S PRETTY ACCURATE?

18 A. YES.

19 Q. ONCE AGAIN, THAT ENTRY AND THAT EXIT CORRESPOND?

20 A. YES.

21 Q. AND I GUESS THAT ENTRY AND THIS EXIT?

22 A. YES.

23 MR. SORENSON: OKAY. YOUR HONOR, AT THIS TIME WE'D  
24 OFFER STATE'S NUMBER 4 INTO EVIDENCE.

25 MR. LITTLEJOHN: NO OBJECTION, YOUR HONOR.

1 THE COURT: WITHOUT OBJECTION IT'S ADMITTED.

2 (STATE'S EXHIBIT 4 WAS RECEIVED IN EVIDENCE.)

3 BY MR. SORENSON:

4 Q. IF YOU COULD HAVE A SEAT, DOCTOR. AS TO THE -- DR.  
5 BURNS, THAT GRAZING WOUND THAT YOU TESTIFIED ABOUT ON THE  
6 LEFT FOREARM OF MR. SMALLS---

7 A. YES, SIR.

8 Q. ---WERE YOU ABLE TO ATTRIBUTE OR TO LINK THAT WOUND  
9 UP WITH ANY OF THE OTHER WOUNDS TO MR. SMALLS?

10 A. YES. IT WOULD APPEAR THAT IT WOULD BE CONSISTENT  
11 WITH A GRAZING WOUND ASSOCIATED WITH THE ENTRY WOUND OF THE  
12 RIGHT CHEST. IN OTHER WORDS, BY SIMPLY TAKING THE ARM AND  
13 BENDING IT FORWARD AND MOVING IT, THE WOUNDS LINED UP  
14 PERFECTLY.

15 Q. TAKING HIS LEFT ARM AND PUTTING IT ACROSS HIS  
16 CHEST---

17 A. YES.

18 Q. ---THAT WOULD -- WOULD LINE UP WITH THIS ENTRY WOUND  
19 UP HERE?

20 A. YES.

21 Q. AND WOULD THAT BE CONSISTENT WITH POSSIBLY A  
22 DEFENSIVE WOUND?

23 A. I DON'T KNOW IF IT WAS DEFENSIVE BUT CERTAINLY---

24 Q. COULD HAVE BEEN CONSISTENT.

25 A. COULD HAVE OCCURRED WITH A SINGLE PROJECTILE AT THE

1 SAME TIME, YES.

2 Q. NOW, SIR, HAVE YOU HAD AN OPPORTUNITY TO -- TO  
3 FURTHER EXAMINE THOSE GUNSHOT WOUNDS FOR THE PRESENCE OF ANY  
4 -- OF ANY SINGEING OR BURNING OR SOOT OR ANYTHING OF THAT  
5 NATURE?

6 A. RIGHT. WE LOOKED FOR POWDER RESIDUE, AND THAT WOULD  
7 BE A STANDARD PART OF THE EXAMINATION, AND WE DID NOT SEE ANY  
8 ASSOCIATED WITH ANY OF THE WOUNDS.

9 Q. FURTHERMORE, YOU TESTIFIED THAT AFTER -- AFTER  
10 PERFORMING THAT EXTERNAL EXAMINATION THAT YOU THEN WOULD HAVE  
11 PERFORMED AN INTERNAL EXAMINATION OF MR. SMALLS?

12 A. YES.

13 Q. WAS THAT DONE IN THIS CASE?

14 A. YES, IT WAS.

15 Q. OKAY. AND YOU TESTIFIED ALREADY ABOUT THE PATHS OF  
16 AT LEAST TWO OF THE BULLETS THAT HAD EXIT WOUNDS,  
17 CORRESPONDING EXIT WOUNDS. IF YOU WOULD, DESCRIBE FOR THE  
18 JURY THE DAMAGE THAT THOSE -- AT LEAST FOR THE TIME BEING  
19 THOSE TWO WOUNDS WOULD HAVE DONE TO MR. SMALLS.

20 A. OKAY. THE ONE THAT ENTERED THE FRONT, THE CHEST  
21 AREA, PASSED SUBSEQUENTLY THROUGH THE LIVER AND TORE A  
22 PORTION OF THAT. THEN IT ENTERED THE HEART CHAMBER AND  
23 CAUSED BLEEDING THERE. THEN IT ENTERED THE LEFT LUNG CAUSING  
24 THE LUNG TO COLLAPSE AND BLEEDING IN THAT SPACE, AND THEN IT  
25 EXITED THE BODY.

1 Q. OKAY. AND HOW ABOUT THE OTHER ONE THAT WAS I GUESS  
2 IN THE RIGHT LOWER ABDOMEN?

3 A. YEAH. THE ONE IN THE RIGHT LOWER ABDOMEN OR THE  
4 FLANK AREA JUST PASSED THROUGH SKIN AND SOFT TISSUE AND DID  
5 NOT CONTACT ANY VITAL ORGANS.

6 Q. NOW, THE THIRD -- THE THIRD GUNSHOT WOUND TO THE  
7 LEFT -- BELOW THE LEFT BELT LINE, WERE YOU ABLE TO RECOVER  
8 THAT PROJECTILE SINCE YOU COULD NOT LOCATE AN EXIT WOUND FOR  
9 THAT GUNSHOT?

10 A. YES. WE TOOK RADIOGRAPHS, X-RAYS, AT THE TIME OF  
11 THE AUTOPSY AND SAW THAT THERE WAS A BULLET THAT APPEARED TO  
12 BE SOMEWHERE IN THE SOFT TISSUE AND THE RIGHT BACK AREA AND  
13 WE THEN LOCATED THAT.

14 Q. WAS THAT BULLET THEN RETRIEVED?

15 A. YES, RETRIEVED AND GIVEN TO DEPUTY LIVINGSTON, RAY  
16 LIVINGSTON I BELIEVE.

17 Q. OKAY. AND SHOWING YOU STATE'S EXHIBIT NUMBER 5,  
18 DOES THAT APPEAR TO BE THAT BULLET?

19 A. IT CERTAINLY APPEARS TO BE, YES.

20 MR. SORENSON: YOUR HONOR, I BELIEVE WE'D OFFER  
21 NUMBER 5 WITHOUT OBJECTION.

22 MR. LITTLEJOHN: NO OBJECTION.

23 THE COURT: WITHOUT OBJECTION IT'S ADMITTED.

24 (STATE'S EXHIBIT 5 WAS RECEIVED IN EVIDENCE.)

25 MR. LITTLEJOHN: WHAT'S THE EXHIBIT NUMBER?

1 MR. SORENSON: IT'S 5.

2 BY MR. SORENSON:

3 Q. IF YOU WOULD DESCRIBE FOR THE JURY THEN THAT BULLET  
4 THAT WAS RECOVERED. FIRST OF ALL, WHERE EXACTLY WAS IT  
5 RECOVERED IN MR. SMALLS?

6 A. IT WAS IN THE MUSCULAR TISSUE BEHIND THE VITAL  
7 ORGANS IN THE RIGHT PELVIC AREA. YES. TO USE THIS CHART, IT  
8 WOULD HAVE BEEN IN THE -- FOUND IN THE AREAS OR THE MUSCLE IN  
9 THE BACK PART OF THE BODY IN THIS REGION HERE.

10 Q. ONCE AGAIN, THAT'S CORRESPONDING THEN WITH THIS  
11 ENTRY WOUND OVER HERE?

12 A. YES.

13 Q. AND DESCRIBE FOR THE JURY THE DAMAGE THAT THAT  
14 BULLET WOULD HAVE DONE IN ITS PATH.

15 A. OKAY. IT PASSED PREDOMINANTLY THROUGH THE SOFT  
16 TISSUE AND MUSCLE. IT DID AT ONE POINT SEVER A PORTION OF  
17 THE VASCULAR TISSUE THAT SUPPORTS THE BOWEL AND THEN ENTERED  
18 BACK INTO THE MUSCLE AND STOPPED THERE.

19 Q. OKAY. NOW, SIR, IN LOOKING BACK NOW AT THE THREE  
20 GUNSHOT WOUNDS SPECIFICALLY TO MR. SMALLS' BODY, WERE YOU  
21 ABLE TO DETERMINE ANYTHING AS FAR AS WHETHER MR. SMALLS WAS  
22 STANDING UP OR LYING DOWN WHEN HE WAS SHOT ANY OF THOSE THREE  
23 TIMES?

24 A. I WOULD NOT BE ABLE TO DETERMINE THAT FROM THESE  
25 WOUNDS, NO.



1 Q. LET ME ASK YOU THOUGH SPECIFICALLY, SIR, AS TO THE  
2 THIRD WOUND, THE ONE TO HIS RIGHT LOWER CHEST AREA HERE,  
3 WOULD THAT WOUND BE CONSISTENT COUPLED WITH -- COUPLED WITH  
4 THE GRAZING WOUND TO HIS FOREARM WITH MR. SMALLS LYING ON THE  
5 GROUND WITH SOMEONE STANDING OVER SHOOTING HIM INTO THE RIGHT  
6 SIDE AND THEN EXITING FROM THE LEFT BACK?

7 A. IT CERTAINLY COULD BE, YES.

8 Q. INTO THE FLOOR BELOW HIM?

9 A. COULD BE, YES.

10 Q. HOW BIG WAS MR. SMALLS?

11 A. I THINK WE RECORDED HIM AS SIX FEET TWO INCHES IN  
12 HEIGHT AND WE ESTIMATED HIS WEIGHT AS 275 POUNDS.

13 Q. NOW, AFTER RECEIVING THESE AT LEAST THREE GUNSHOT  
14 WOUNDS, ASSUMING THIS IS NOT A FOURTH GUNSHOT WOUND, EITHER  
15 THREE OR FOUR GUNSHOT WOUNDS, IF MR. SMALLS WAS ON THE GROUND  
16 WHEN HE RECEIVED ANY OF THOSE WOUNDS, WOULD HE HAVE BEEN ABLE  
17 TO GET UP?

18 A. YES. I WOULD EXPECT THAT HE WOULD HAVE BEEN ABLE TO  
19 MOVE SOMEWHAT FOR A SHORT PERIOD OF TIME. THE WOUND THAT  
20 PASSED THROUGH THE PORTION OF THE HEART WOULD HAVE MOST  
21 PROMINENTLY INITIALLY CAUSED ITS PROBLEMS BECAUSE BLOOD  
22 ACCUMULATES IN THE CHAMBER AROUND THE HEART AND PREVENTS THE  
23 HEART FROM REFILLING AND THUS PUMPING BLOOD TO THE REST OF  
24 THE BODY.

25 Q. COULD HE---

1 A. SO POTENTIALLY HE COULD HAVE MOVED FOR THE SPACE OF  
2 ONE OR TWO MINUTES. THEN I THINK HE WOULD HAVE BEEN TOTALLY  
3 DISABLED.

4 Q. COULD HAVE GOTTEN UP AND THEN COLLAPSED?

5 A. IT WOULD BE POSSIBLE, YES.

6 Q. AS PART OF YOUR AUTOPSY, DR. BURNS, DID YOU -- DID  
7 YOU COLLECT BLOOD FOR TOXICOLOGY TESTS?

8 A. YES, WE DID.

9 Q. AND WERE THOSE -- THOSE TESTS PERFORMED OUT AT THE  
10 STATE LAW ENFORCEMENT DIVISION?

11 A. YES.

12 Q. AND YOU'RE AWARE OF THE RESULTS OF THOSE TOXICOLOGY  
13 TESTS?

14 A. YES.

15 Q. AND WHAT WERE THE RESULTS OF MR. SMALLS' TOXICOLOGY  
16 TESTS?

17 A. THE SCREEN FOR TYPICAL DRUGS OF ABUSE WAS NEGATIVE.  
18 THEY ALSO MEASURE BLOOD ALCOHOL, AND THAT LEVEL WAS 0.052  
19 PERCENT.

20 Q. THAT'S I GUESS BELOW THE LEGAL LIMIT?

21 A. THAT'S CORRECT, BELOW THE LEGAL DRIVING LIMIT.

22 Q. .05 I GUESS IS NOW .08. I THINK THEY'VE CHANGED  
23 IT---

24 A. I BELIEVE THAT'S CORRECT, YES.

25 Q. AND YOU INDICATED THAT THE DRUG SCREEN WAS NEGATIVE?

1 A. YES.

2 MR. SORENSON: BEG THE COURT'S INDULGENCE.

3 THE COURT: YES, SIR.

4 BY MR. SORENSON:

5 Q. THE LAST QUESTION I HAVE, DR. BURNS: WITHIN A  
6 REASONABLE DEGREE OF MEDICAL CERTAINTY WERE YOU ABLE TO  
7 DETERMINE THE CAUSE OF DEATH FOR MR. SMALLS?

8 A. YES.

9 Q. AND WHAT WAS THAT CAUSE OF DEATH?

10 A. DEATH WOULD HAVE BEEN FROM THE GUNSHOT RECEIVED TO  
11 THE CHEST AREA.

12 Q. HE ESSENTIALLY EVENTUALLY JUST KIND OF BLED OUT  
13 INTERNALLY?

14 A. YES.

15 MR. SORENSON: THANK YOU, DR. BURNS.

16 THE COURT: THANK YOU, SIR. MR. LITTLEJOHN?

17 MR. LITTLEJOHN: THANK YOU, YOUR HONOR.

18 CROSS-EXAMINATION

19 BY MR. LITTLEJOHN:

20 Q. GOOD MORNING, DR. BURNS.

21 A. GOOD MORNING.

22 Q. I'M CAM LITTLEJOHN. I REPRESENT THE DEFENDANT IN  
23 THIS CASE. DR. BURNS, MR. SORENSON ASKED YOU A NUMBER OF  
24 KIND OF HYPOTHETICAL QUESTIONS ABOUT THE POSITION OF MR.  
25 SMALLS, AND I BELIEVE YOU SAID THAT IT WAS POSSIBLE THAT HE

1 COULD HAVE BEEN LAYING DOWN. IS IT NOT TRUE IT IS EQUALLY AS  
2 POSSIBLE HE COULD HAVE BEEN STANDING UP?

3 A. THAT'S TRUE.

4 Q. OKAY. AND IT IS EQUALLY AS POSSIBLE THAT AFTER HE  
5 WAS SHOT HE COULD HAVE FALLEN AND STAYED IN ONE POSITION.

6 A. YES.

7 Q. OKAY. LET ME ASK YOU ABOUT YOUR INITIAL EXAMINATION  
8 WHEN MR. SMALLS CAME THERE. AND I BELIEVE THE AUTOPSY WAS  
9 PERFORMED AT RICHLAND MEMORIAL?

10 A. YES.

11 Q. YOU SAID YOU DID AN EXAMINATION OF HIS EXTERIOR OF  
12 HIS CLOTHING?

13 A. YES. WELL, WE LOOK AT THE CLOTHING. WE DON'T DO  
14 FURTHER EXAMINATION. THAT'S TURNED OVER TO THE SHERIFF'S  
15 OFFICE.

16 Q. ALL RIGHT. SO YOU DIDN'T DO ANY EXAM ON THE  
17 CLOTHING.

18 A. NO.

19 Q. OKAY. THAT WAS JUST TURNED OVER TO ONE OF THE  
20 SHERIFF'S DEPARTMENT PEOPLE.

21 A. CORRECT.

22 Q. ALL RIGHT. DID YOU NOTICE IN TAKING MR. SMALLS'  
23 CLOTHING -- DID YOU EXAMINE HIS PANTS AT ALL?

24 A. NO.

25 Q. YOU DIDN'T?

1 A. NO.

2 Q. DID YOU SEE URINE ON HIS PANTS?

3 A. MAYBE A NOTE OF IT. I DON'T KNOW.

4 Q. YOU DON'T RECALL THAT?

5 A. NO.

6 MR. LITTLEJOHN: OKAY. LET ME SHOW YOU THIS AND,  
7 YOUR HONOR, I'LL MARK IT FOR IDENTIFICATION PURPOSES---

8 THE COURT: YES, SIR.

9 MR. LITTLEJOHN: ---DEFENDANT'S 2.

10 (DEFENDANT'S EXHIBIT 2 WAS MARKED FOR IDENTIFICATION  
11 ONLY.)

12 BY MR. LITTLEJOHN:

13 Q. DR. BURNS, LET ME SHOW YOU THIS, WHAT'S BEEN MARKED  
14 DEFENDANT'S EXHIBIT 2 FOR IDENTIFICATION PURPOSES ONLY.

15 A. OKAY.

16 Q. DOES THAT APPEAR TO BE A PHOTOGRAPH TAKEN DURING THE  
17 AUTOPSY?

18 A. YES, IT DOES.

19 Q. DOES THAT REFRESH YOUR MEMORY AS TO THE CONDITION OF  
20 HIS PANTS WHEN YOU SAW HIM?

21 A. CERTAINLY THERE APPEARS TO BE SOME WETTING AROUND  
22 THE WAIST AREA.

23 Q. OKAY. AND THAT IS IN THE FRONT?

24 A. YES. UH-HUH.

25 Q. OKAY. ALL RIGHT. DR. BURNS, AFTER REMOVING MR.

1 SMALLS' CLOTHING, DID YOU EXAMINE HIS BODY TO SEE IF THERE  
2 WERE ANY TATTOOS OR ANY NOTICEABLE---

3 A. YES.

4 Q. ---OTHER THINGS? WHAT DID YOU FIND? DID YOU FIND  
5 ANY TATTOOS?

6 A. YES, WE FOUND AT LEAST THREE AS I RECALL.

7 Q. WOULD YOU DESCRIBE THOSE, PLEASE?

8 A. I'LL HAVE TO CHECK MY NOTES; YES.

9 Q. ALL RIGHT.

10 A. OKAY. ON THE RIGHT UPPER CHEST THERE WAS A FIVE  
11 CENTIMETER BLUE/GRAY SOMEWHAT CIRCULAR TATTOO PATTERN. I  
12 COULDN'T DESCRIBE IT FURTHER THAN THAT.

13 Q. WHAT DO YOU MEAN CIRCULAR?

14 A. JUST ROUNDED, WHETHER IT WAS SIMPLY A CIRCLE OR  
15 SOMETHING ELSE.

16 Q. WAS THE CIRCLE---

17 A. AS I RECALL, IT WAS SOMEWHAT FADED. I DON'T KNOW.

18 Q. DID IT APPEAR TO BE A C.?

19 A. I COULDN'T TELL YOU.

20 Q. OKAY.

21 A. YEAH.

22 Q. WHAT ELSE?

23 A. AND THEN ON HIS LEFT HIP THERE WAS A TATTOO OF THE  
24 WORD DASH AND NEXT TO THAT SOME SORT OF CURVE OR LINEAR  
25 SYMBOL, A WAVY SIGN, AND THEN THE WORD CUZ (PHONETIC).

1 Q. ALL RIGHT, SIR. NOW, YOU INDICATED THAT YOU TOOK A  
2 BLOOD SAMPLE?

3 A. YES.

4 Q. ALL RIGHT. AND DID YOU -- DID YOU PERFORM ANY SORT  
5 OF ANALYSIS ON THAT BLOOD YOURSELF?

6 A. NO. WE TURN THAT OVER TO THE CORONER'S OFFICE WHO  
7 TAKES IT TO S.L.E.D.

8 Q. OKAY. SO YOU DON'T KNOW WHAT ANALYSIS WAS DONE AND  
9 WHAT DRUGS OR ANYTHING ELSE MAY HAVE BEEN IN HIS SYSTEM.

10 A. OTHER THAN THEY REPORTED THE SCREEN THAT THEY DO WAS  
11 NEGATIVE. THAT'S -- THAT'S ALL I WOULD KNOW.

12 Q. DO YOU KNOW WHAT SCREEN THEY DID?

13 A. TECHNICALLY? NO.

14 Q. DO YOU KNOW IF THEY CHECK FOR, SAY, ECSTASY OR .  
15 AMPHETAMINES OR P.C.P.?

16 A. THEY USUALLY NOTE THE THINGS THAT THEY CONSIDER  
17 NEGATIVE, AND I DON'T SEE THOSE AS LISTED.

18 Q. OKAY. SO THAT WOULD LEAD YOU TO BELIEVE THERE WAS  
19 NO SUCH TEST DONE ON HIS BLOOD.

20 A. I WOULD HAVE NO DOCUMENTATION THAT SUCH A TEST WAS  
21 DONE.

22 Q. OKAY. AND YOU INDICATED HE HAD A B.A. LEVEL OF .05?

23 A. YES.

24 Q. AND YOU UNDERSTAND THE LEGAL LIMIT IN SOUTH CAROLINA  
25 IS NOW .08?

1 A. CORRECT. YES, SIR.

2 Q. SO THAT WOULD BE FIVE-EIGHTHS---

3 A. YES.

4 Q. ---OF THE LEGAL LIMIT.

5 A. UH-HUH.

6 Q. ALL RIGHT. NOW, DR. BURNS, YOU INDICATED THAT ALL  
7 THREE OF THESE WOUNDS YOU DESCRIBED CAME FROM -- WERE FRONTAL  
8 ENTRY WOUNDS.

9 A. YES.

10 Q. THEY ALL CAME FROM THE FRONT.

11 A. YES.

12 Q. OKAY. LET'S TALK ABOUT THESE WOUNDS INDIVIDUALLY IF  
13 I MAY. THE WOUND YOU HAVE -- REFERRING TO DEFENDANT'S (SIC)  
14 EXHIBIT 4, YOU HAVE AN ENTRY WOUND INDICATED HERE.

15 A. YES.

16 Q. WHICH WOULD BE ON THE RIGHT LOWER ABDOMEN.

17 A. YES.

18 Q. IS THAT CORRECT? AND I NOTICE THE ORIGINAL DRAWING  
19 HAD AN EXIT WOUND DOWN HERE.

20 A. YES, WHOEVER DREW THAT.

21 Q. WHICH YOU MARKED IT OFF.

22 A. RIGHT.

23 Q. AND YOU HAVE OVER HERE AN EXIT WOUND UP HERE.

24 A. THAT WOULD BE THE ACCURATE LOCATION; CORRECT.

25 Q. OKAY. ACTUALLY THIS ENTRY WOUND WAS HIGHER ON THE



1 MAN'S BODY THAN THE EXIT WOUND, WAS IT NOT?

2 A. IT WAS SOMEWHAT, YES.

3 Q. OKAY. I BELIEVE YOU INDICATED THAT THIS WAS SOME 41  
4 CENTIMETERS---

5 A. YES.

6 Q. ---FROM THE RIGHT SHOULDER. THIS ONE WAS 49?

7 A. YES.

8 Q. OKAY. SO THERE WAS -- THAT WAS SOMEWHAT OF A  
9 DOWNWARD ANGLE.

10 A. SOMEWHAT OF A DOWNWARD ANGLE; CORRECT.

11 Q. OKAY. SO ACTUALLY THIS EXIT WOUND WHERE IT'S DRAWN  
12 WOULD NOT BE COMPLETELY ACCURATE, WOULD IT?

13 A. IT WAS MORE SO THAN THE OTHER. THAT'S...

14 Q. MORE SO?

15 A. RIGHT.

16 Q. BUT IT'S STILL A DOWNWARD PATH.

17 A. IT'S A DOWNWARD PATH; RIGHT.

18 Q. OKAY. NOW, THIS WOUND YOU INDICATED WENT THROUGH  
19 SOFT TISSUE.

20 A. RIGHT.

21 Q. OKAY. DID NOT HIT ANY BONES.

22 A. CORRECT.

23 Q. DIDN'T HIT ANY VITAL ORGANS.

24 A. CORRECT.

25 Q. OKAY. I BELIEVE YOU DESCRIBED IT IN YOUR AUTOPSY --

1 IT WENT THROUGH THE FLESHY PART OF THE MAN'S HIP.

2 A. YES.

3 Q. OKAY. THAT WOULD NOT BE AN INCAPACITATING WOUND,  
4 WOULD IT?

5 A. NO.

6 Q. NOW, DR. BURNS, YOU DESCRIBED FOR US WOUND -- THE  
7 WOUND THAT ENTERED THE RIGHT CHEST, AND THAT'S DEPICTED ON  
8 THE DRAWING THERE. YOU SAID THIS WOUND WENT THROUGH THE --  
9 CORRECT ME ON THE ORDER. IT WENT THROUGH THE LIVER?

10 A. YES.

11 Q. THEN THE HEART?

12 A. YES.

13 Q. THEN THE LUNG.

14 A. YES.

15 Q. THROUGH ALL THREE OF THOSE VITAL ORGANS.

16 A. RIGHT.

17 Q. OKAY. AND IT ACTUALLY PERFORATED THE HEART?

18 A. YES.

19 Q. THAT WAS THE FATAL WOUND.

20 A. YES.

21 Q. THAT WOUND COULD HAVE BEEN INCAPACITATING, COULD IT?  
22 COULD IT NOT?

23 A. VERY RAPIDLY, YES.

24 Q. VERY RAPIDLY.

25 A. UH-HUH.

1 Q. BECAUSE IT WOULD HAVE -- IT COULD HAVE CAUSED THE  
2 MAN'S HEART TO VIRTUALLY STOP. IT WOULD HAVE---

3 A. THAT IS POSSIBLE. RIGHT. IT COULD HAVE STOPPED  
4 INSTANTANEOUSLY.

5 Q. OKAY. NOW, IF A MAN'S HEART STOPPED INSTANTANEOUSLY  
6 AND LET'S SAY, FOR EXAMPLE, HE FELL FORWARD, OKAY, THAT WAS A  
7 THROUGH-AND-THROUGH WOUND, WAS IT NOT?

8 A. YES. YES.

9 Q. OKAY. THERE WAS AN EXIT WOUND IN HIS BACK.

10 A. YES.

11 Q. ALL RIGHT. IF HE FELL FORWARD, BASED ON THE LAW OF  
12 GRAVITY, THE BLOOD WOULD GO -- DESCEND TO THE FRONT OF HIS  
13 BODY. ISN'T THAT RIGHT?

14 A. MUCH OF THE BLEEDING WOULD.

15 Q. YEAH.

16 A. RIGHT.

17 Q. THE BLOOD WOULD GO FORWARD INTO THE FRONT IF HE WAS  
18 LAYING ON HIS STOMACH.

19 A. I'M NOT SURE WHEN YOU SAY GO FORWARD. FROM -- FROM  
20 WHAT ASPECT?

21 Q. GO FORWARD FROM HIS BACK TO HIS FRONT.

22 A. OKAY.

23 Q. IT WOULD GO DOWN.

24 A. YEAH, GRAVITY WOULD PULL THE BLOOD DOWN, BUT ARE WE  
25 TALKING ABOUT THE BLOOD THAT WAS PRESENT ON THE BACK OF HIS

1 BODY OR THE FRONT OF HIS BODY OR---

2 Q. NO, I'M TALKING ABOUT THE BLOOD THAT WAS IN HIS BODY

3 IF HE---

4 A. INTERNALLY.

5 Q. YES, SIR.

6 A. YES, THERE COULD BE SOME LEAKAGE.

7 Q. GRAVITY WOULD PULL IT DOWN.

8 A. (WITNESS NODDED HEAD UP AND DOWN.)

9 Q. OKAY. NOW, WHEN A PERSON DIES, WHAT HAPPENS TO  
10 THEIR BLADDER? IT RELAXES?

11 A. TYPICALLY, RIGHT.

12 Q. AND IF THERE IS URINE IN THEIR BLADDER IT'S  
13 DISPELLED. IS THAT NOT RIGHT?

14 A. THIS WOULD BE TRUE.

15 Q. GRAVITY WOULD HAVE THE SAME EFFECT ON THAT, WOULD IT  
16 NOT?

17 A. CERTAINLY CAN. THERE CAN ALSO BE A SUBSEQUENT  
18 CONTRACTION OF THE BLADDER. RELEASE BASICALLY IS A TERMINAL  
19 EVENT. AND SO WITHOUT GRAVITY AT ALL ONE COULD URINATE---

20 Q. ALL RIGHT.

21 A. ---AS A FINAL EVENT.

22 Q. OKAY. LET ME -- MAYBE MY QUESTION -- IF THAT SAME  
23 PERSON WAS LAYING ON THEIR STOMACH---

24 A. RIGHT.

25 Q. ---AND THEIR BLADDER CONTROL LEFT THEM, THE URINE

1 WOULD, BECAUSE OF GRAVITY, ALSO GO TO THE FRONT OF THEIR BODY  
2 OR DOWN TO THE FLOOR. ISN'T THAT RIGHT?

3 A. THAT WOULD BE TRUE; YES.

4 Q. OKAY. NOW, DR. BURNS, LET'S TALK ABOUT THE THIRD  
5 WOUND. AND ONCE AGAIN USING STATE'S EXHIBIT NUMBER 4, YOU  
6 INDICATED THE THIRD WOUND WENT IN HERE, AND I'M POINTING TO A  
7 LOCATION ON THE LEFT LOWER ABDOMEN.

8 A. CORRECT.

9 Q. IS THAT RIGHT?

10 A. YES.

11 Q. AND I BELIEVE YOU TOLD MR. SORENSON AND THE JURY  
12 THAT THE BULLET, AFTER ENTERING THE MAN'S BODY AT THIS  
13 LOCATION, ENDED UP IN THE MAN'S RIGHT HIP OR RIGHT HIP AREA.

14 A. WELL, A LITTLE HIGHER THAN THAT BUT---

15 Q. A LITTLE HIGHER THAN THAT?

16 A. YEAH, IN THE MUSCULAR TISSUES OF THE ABDOMINAL WALL.

17 Q. OKAY. I THINK YOU INDICATED THAT THAT -- THAT  
18 BULLET PERFORATED THE MAN'S BLADDER OR BLADDER TUBE?

19 A. NO, IT PASSED THROUGH A PORTION OF THE MESENTERY  
20 WHICH IS THE VASCULAR SUPPORT FOR THE BOWEL---

21 Q. OKAY. ALL RIGHT.

22 A. NOT THE BLADDER.

23 Q. OKAY. BUT THE BULLET WENT FROM THIS SIDE OF HIS  
24 BODY OVER TO THIS SIDE OF THE BODY.

25 A. YES.

1 Q. OKAY. SO THE ANGLE OF THE BULLET WOULD HAVE HAD TO  
2 COME IN FROM THIS SIDE IN ORDER TO TRAVERSE AT SUCH AN ANGLE.  
3 WOULDN'T THAT BE CORRECT?

4 A. WHEN ONE ESTABLISHES BULLET PATHS, ONE REALIZES THAT  
5 THERE ARE MANY REPORTS OF BULLETS THAT SEEM TO NOT TRAVEL IN  
6 THE DIRECTION THAT THEY FIRST ENTERED THE BODY. THEY CAN BE  
7 DEFLECTED. IN GENERAL A BULLET -- ITS MOMENTUM IS GOING TO  
8 CAUSE IT TO TRAVEL IN THE DIRECTION FROM WHICH IT CAME.

9 Q. OKAY.

10 A. SO BASED ON MOMENTUM IT WOULD APPEAR TO HAVE COME  
11 FROM THE LEFT SIDE HEADING TOWARDS THE RIGHT.

12 Q. OKAY. ON THAT ANGLE. AND I BELIEVE YOU SAID IT  
13 WENT THROUGH TISSUE. IT DIDN'T HIT ANY BONE.

14 A. NOT THAT WE COULD SEE, RIGHT.

15 Q. OKAY. SO GENERALLY YOU WOULD EXPECT THE BULLET THAT  
16 WENT IN HERE AND ENDED UP HERE TO TRAVERSE A BODY AT THAT  
17 ANGLE.

18 A. YES.

19 Q. ALL RIGHT. DR. BURNS, YOU INDICATED THAT YOU HAD  
20 EXAMINED THE LEFT ARM?

21 A. YES.

22 Q. WHERE THERE WAS A -- YOU SAY A GRAZING WOUND ACROSS  
23 THE LEFT ARM?

24 A. YES.

25 Q. OKAY. DID YOU DO ANY G.S.R. TESTS ON THAT?

1 A. NO.

2 Q. DID NOT. YOUR HONOR, IF YOU WOULD GIVE ME JUST A  
3 MOMENT, PLEASE.

4 THE COURT: CERTAINLY.

5 MR. LITTLEJOHN: THAT'S ALL I HAVE. THANK YOU, YOUR  
6 HONOR.

7 THE COURT: THANK YOU, MR. LITTLEJOHN. MR.  
8 SORENSON?

9 MR. SORENSON: NOTHING FURTHER, YOUR HONOR.

10 THE COURT: DOCTOR, YOU MAY STEP DOWN. THANK YOU,  
11 SIR.

12 THE WITNESS: THANK YOU.

13 MR. SORENSON: MAY HE BE EXCUSED, YOUR HONOR?

14 THE COURT: ANY REASON TO KEEP HIM, MR. LITTLEJOHN?

15 MR. LITTLEJOHN: NO, YOUR HONOR.

16 THE COURT: OKAY. SIR, YOU MAY COME AND GO AS YOU  
17 PLEASE. SIR, THANK YOU, DOCTOR. THE STATE MAY CALL THEIR  
18 NEXT WITNESS.

19 MR. SORENSON: THE STATE CALLS DERRICK WATSON.

20 DERRICK J. A. WATSON, AFTER BEING DULY SWORN,  
21 TESTIFIED AS FOLLOWS:

22 THE CLERK: PLEASE HAVE A SEAT THERE, SIR. STATE  
23 YOUR FULL NAME FOR THE RECORD.

24 THE WITNESS: DERRICK JAMAR ANTONIO WATSON.

25

DIRECT EXAMINATION

BY MR. SORENSON:

Q. GOOD MORNING, DERRICK.

A. GOOD MORNING.

Q. IF YOU WOULD TELL US HOW OLD YOU ARE.

A. TWENTY-TWO.

Q. AND WHERE ARE YOU FROM?

A. ANDERSON, SOUTH CAROLINA.

Q. ALL RIGHT. AND YOU PLAY FOOTBALL HERE AT THE  
UNIVERSITY OF SOUTH CAROLINA?

A. YES, SIR.

Q. IS THAT CORRECT? WHAT YEARS DID YOU PLAY HERE?

A. '99 THROUGH '02, 2002.

Q. ALL RIGHT. FOR THE 2002 SEASON YOU HAD TRANSFERRED  
TO SOUTH CAROLINA STATE?

A. YES, SIR.

Q. IS THAT CORRECT? THAT WAS YOUR SENIOR YEAR?

A. UH-HUH.

Q. YOU PLAYED FOOTBALL THERE THAT YEAR?

A. YES, SIR.

Q. OKAY. WHAT ARE YOU CURRENTLY DOING NOW, SIR?

A. IN CANADA PLAY WITH A TEAM IN EDMUNTON, EDMUNTON  
COUNTY WITH THE ESKIMOS.

Q. AND I WANT TO TURN YOUR ATTENTION IF I COULD BACK TO  
DECEMBER OF LAST YEAR. WERE YOU HERE IN COLUMBIA AT THE



1 TIME?

2 A. YES, SIR.

3 Q. OKAY. TELL ME: WERE YOU IN SCHOOL AT SOUTH  
4 CAROLINA---

5 A. YES, SIR, I WAS IN SCHOOL---

6 Q. ---STATE IN ORANGEBURG?

7 A. I WAS IN SCHOOL, BUT I WAS TRAVELING BACK -- BACK  
8 AND FORTH. I WAS LIVING IN COLUMBIA.

9 Q. AND I WANT TO TURN YOU SPECIFICALLY TO THE EVENING  
10 OF FRIDAY, DECEMBER 6TH OF 2002, INTO THE EARLY MORNING HOURS  
11 OF SATURDAY, DECEMBER 7TH. DO YOU REMEMBER THAT EVENING?

12 A. YES, SIR.

13 Q. OKAY. AND AT SOME POINT IN TIME, DERRICK, DID YOU  
14 BECOME AWARE THAT THERE WAS A PARTY OVER AT CLUB VODOO'S OR  
15 IN AT LEAST THAT -- THAT SHOPPING CENTER THERE ON GARNERS  
16 FERRY ROAD?

17 A. YES, SIR, AROUND ABOUT 1 OR 1:30 THAT NIGHT.

18 Q. OKAY. AND HOW DID YOU FIND OUT ABOUT IT?

19 A. A GUY CALLED ME FROM THE CLUB.

20 Q. OKAY. AND AT THAT POINT IN TIME DID YOU MAKE PLANS  
21 TO GO OVER TO THAT CLUB?

22 A. YES, SIR.

23 Q. AND YOU SAID IT WAS ABOUT 1:30 IN THE MORNING THAT  
24 SATURDAY MORNING THEN?

25 A. YES, SIR.

1 Q. AND WHERE WERE YOU WHEN YOU GOT THAT CALL?

2 A. I WAS ON -- EXCUSE ME. I WAS ON ROSEWOOD RIGHT BY  
3 THE ROSEWOOD DAIRY BAR.

4 Q. OKAY. WHO WERE YOU WITH?

5 A. I WAS WITH A GUY NAMED SHAWN SMITH AND ONE OF MY  
6 FRIENDS FROM ANDERSON, TRAVIS HOWARD.

7 Q. AND SHAWN SMITH WAS A FOOTBALL PLAYER ALSO AT THE  
8 TIME?

9 A. YES, SIR.

10 Q. AND Y'ALL -- THE THREE OF YOU ULTIMATELY THEN GO  
11 OVER TO -- TO CLUB VOODOO'S?

12 A. YES, SIR.

13 Q. OKAY. AND HOW DID YOU GO?

14 A. WE DROVE. WELL, I RODE IN THE PASSENGER SEAT, BUT  
15 SHAWN SMITH DROVE.

16 Q. OKAY. AND WHAT KIND OF VEHICLE WAS SHAWN DRIVING?

17 A. AN EXPEDITION. (

18 Q. AND TRAVIS WAS WITH YOU ALSO?

19 A. YES, SIR, IN THE BACK SEAT---

20 Q. AND WHERE WAS TRAVIS SEATED?

21 A. HE WAS IN THE BACK SEAT BEHIND ME.

22 Q. AND DID YOU ULTIMATELY GET OVER TO THE CLUB?

23 A. YES, SIR.

24 Q. ABOUT APPROXIMATELY WHAT TIME WAS THAT THAT Y'ALL  
25 GOT THERE?

1 A. I THINK IT WAS AROUND ABOUT 2:00 OR SO.

2 Q. ALL RIGHT. AND IF YOU WOULD DESCRIBE FOR THE JURY  
3 WHAT THE -- WHAT THE SCENE WAS LIKE WHEN YOU GOT THERE THAT  
4 MORNING AROUND 2:00.

5 A. WELL, A GUY CALLED ME FROM THE CLUB AND TOLD ME THE  
6 CLUB WAS PRETTY PACKED. YOU KNOW, IT WAS KIND OF ONE OF THE  
7 -- A NICE PARTY. AND I MADE MY WAY OUT THERE. BY THE TIME I  
8 GOT OUT THERE THE PARTY WAS OVER AND, YOU KNOW, PRETTY MUCH  
9 THE WHOLE -- THE WHOLE CROWD WAS CONGREGATED RIGHT IN FRONT  
10 OF THE CLUB.

11 Q. DERRICK, I WANT TO SHOW YOU STATE'S EXHIBIT NUMBER  
12 2. I'M NOT SURE IF YOU HAVE SEEN THIS BEFORE OR NOT; I DON'T  
13 THINK YOU HAVE. BUT THIS IS CLUB VOODOO'S UP HERE. THIS IS  
14 GARNERS FERRY ROAD. OUT HERE THIS IS THE PARKING AREA. IF  
15 YOU WOULD KIND OF SHOW THE JURY -- POINT OUT TO THE JURY  
16 WHERE -- WHERE Y'ALL PULLED IN AND WHERE Y'ALL WENT.

17 A. WE PULLED IN ABOUT RIGHT HERE AND WE DROVE UP AND A  
18 LOT OF CROWD -- THERE WAS A CROWD OF PEOPLE RIGHT HERE. WE  
19 COULDN'T GET TO THE OTHER SIDE, SO WE JUST PULLED RIGHT HERE  
20 IN FRONT OF THE DOOR.

21 Q. YOU JUST KIND OF STOPPED RIGHT THERE?

22 A. YEAH. WE -- YOU KNOW, EVERYBODY -- THE CLUB WAS  
23 JUST LETTING OUT. EVERYBODY WAS CONGREGATING, SO WE WERE THE  
24 ONLY CAR RIGHT THERE.

25 Q. SO PEOPLE ARE ALL IN THIS AREA HERE?

1 A. YES, SIR.

2 Q. LET ME ASK YOU: DO YOU KNOW THE VICTIM, CARL  
3 SMALLS?

4 A. YES, SIR.

5 Q. HOW DID YOU KNOW CARL?

6 A. I PLAYED FOOTBALL WITH HIM AT THE UNIVERSITY OF  
7 SOUTH CAROLINA.

8 Q. SO HIS FRESHMAN YEAR WHEN HE WAS AT -- WHEN HE WAS  
9 HERE AT U.S.C., YOU WERE HERE AT THAT TIME ALSO?

10 A. YES, SIR.

11 Q. I GUESS YOU WERE AWARE THAT HE HAD TRANSFERRED TO  
12 NORTH CAROLINA?

13 A. YES, SIR.

14 Q. NOW, DO YOU KNOW WHETHER SHAWN SMITH KNEW CARL  
15 SMALLS?

16 A. I DON'T THINK HE KNEW -- KNEW WHO HE WAS BECAUSE HE  
17 ASKED ME AFTERWARDS WHO WAS THE GUY.

18 Q. NOW, WHEN CARL WAS AT U.S.C. THAT ONE YEAR, WAS  
19 SHAWN HERE AT THAT TIME?

20 A. NO, SIR.

21 Q. AND WHERE WAS HE AT THAT TIME?

22 A. HE WAS IN JUNIOR COLLEGE IN MISSISSIPPI.

23 Q. HOW ABOUT TRAVIS HOWARD, YOUR FRIEND TRAVIS FROM  
24 BACK HOME? DID HE -- TO YOUR KNOWLEDGE, DID HE KNOW CARL  
25 SMALLS?

1       A.    NO, HE DIDN'T KNOW CARL EITHER.  HE WAS IN SCHOOL IN  
2 NORTH DAKOTA AT THE TIME.

3       Q.    NOW, THAT MORNING WHEN YOU PULLED UP IN FRONT OF --  
4 IN FRONT OF THE CLUB, DID YOU HAVE AN OPPORTUNITY TO SEE CARL  
5 THAT MORNING?

6       A.    YES, SIR.

7       Q.    TELL THE JURY HOW THAT CAME ABOUT.

8       A.    WE WERE SITTING -- LIKE I SAY, THE CROWD WAS  
9 CONGREGATED RIGHT IN FRONT AND WE COULDN'T GET TO THE OTHER  
10 SIDE TO GO THROUGH.  SO WE JUST KIND OF, YOU KNOW, CLOGGED  
11 THE AREA UP RIGHT THERE AND, YOU KNOW, WE WAS JUST TALKING TO  
12 A COUPLE OF FRIENDS AND CARL JUMPED IN THE BACK SEAT.  AND I  
13 HADN'T SEEN -- AT THAT POINT I HADN'T SEEN CARL IN ABOUT TWO  
14 OR THREE YEARS EVER SINCE WE WAS AT THE UNIVERSITY OF SOUTH  
15 CAROLINA, YOU KNOW.

16       Q.    DID THAT KIND OF SURPRISE YOU WHEN HE HOPPED IN THE  
17 BACK OF YOUR VEHICLE?

18       A.    YEAH, IT SURPRISED ME BECAUSE IT WASN'T MY VEHICLE.  
19 I GUESS HE SEEN ME THROUGH THE FRONT WINDOW, I GUESS.

20       Q.    DID CARL ASK YOU FOR ANYTHING AT THAT POINT IN TIME?

21       A.    HE JUST SAID HELLO AND, YOU KNOW, WE HAD A BRIEF  
22 REUNION AND, YOU KNOW, HE ASKED ME IF I HAD A GUN.

23       Q.    SO CARL ASKED YOU IF YOU HAD A GUN?

24       A.    YES, SIR.

25       Q.    THIS IS I GUESS A LITTLE AFTER 2:00 IN THE MORNING?

1 A. YES, SIR.

2 Q. WHAT WAS YOUR RESPONSE WHEN HE ASKED YOU THAT?

3 A. I JUST LOOKED BACK AND I -- YOU KNOW, I JUST  
4 BASICALLY TOLD HIM, "HELL NO." YOU KNOW, THAT WAS MY  
5 STATEMENT TO HIM.

6 Q. WHAT WAS -- WHAT WAS CARL'S RESPONSE WHEN YOU SAID  
7 -- SAID THAT?

8 A. HIS RESPONSE WAS BASICALLY -- YOU KNOW, HE PUT HIS  
9 HEAD DOWN AND TOOK A DEEP BREATH AND SAID, "DAMN."

10 Q. DID ANYBODY IN THE VEHICLE GIVE HIM A GUN THAT --  
11 THAT MORNING?

12 A. NO, SIR.

13 Q. NOW, DID SOMETHING HAPPEN AT THAT POINT IN TIME THAT  
14 -- THAT DREW YOUR ATTENTION AWAY FROM CARL IN THE BACK SEAT?

15 A. YEAH. LIKE I SAID, WHEN HE JUMPED IN AND, YOU KNOW,  
16 WE HAD A BRIEF REUNION, YOU KNOW, LIKE I HAVEN'T SEEN YOU IN  
17 A WHILE, HOW IS EVERYTHING GOING, AND I WAS TALKING TO HIM  
18 AND A GUY -- MY WINDOW WAS DOWN AND A GUY WALKED UP AND  
19 SCARED HIM, YOU KNOW, JUST SAID, "RAH," YOU KNOW, ANDREW  
20 PINNOCK, AND I -- AND I JUMPED AND JUST -- JUST THAT QUICK,  
21 YOU KNOW, MY ATTENTION WAS ON HIM.

22 Q. ALL RIGHT. AND ANDREW PINNOCK - HE WAS ANOTHER  
23 FOOTBALL PLAYER AT U.S.C. AT THE TIME?

24 A. YES, SIR.

25 Q. SO THAT -- THAT TURNED YOUR ATTENTION TO HIM AT THE

1 WINDOW?

2 A. YES, SIR.

3 Q. AND WHAT HAPPENED THEN? DID CARL STAY IN YOUR --  
4 STAY IN THE VEHICLE?

5 A. YOU KNOW, AFTER I HEARD HIM SAY, "DAMN," YOU KNOW, I  
6 WAS JUST TALKING -- TALKING TO ANDREW AND I HEARD THE DOOR  
7 CLOSE, AND I TURNED BACK TO SEE IF HE WAS GONE, YOU KNOW,  
8 BECAUSE HE HAD JUST ASKED ME FOR A GUN. I WAS GOING TO TELL  
9 HIM TO BE CAREFUL, YOU KNOW, BUT, YOU KNOW, BY THE TIME HE  
10 CLOSED THE DOOR THAT WAS THE LAST I -- THAT WAS THE LAST TIME  
11 I SEEN HIM.

12 Q. DID YOU SEE WHERE HE WENT?

13 A. NO, SIR.

14 Q. DID YOU SEE IF HE WENT BACK IN THE CLUB OR HAVE ANY  
15 IDEA WHERE HE WANDERED TO AT THAT POINT IN TIME?

16 A. I HAVE NO IDEA.

17 Q. WHAT HAPPENED NEXT, DERRICK? DO YOU KEEP TALKING TO  
18 ANDREW PINNOCK AT THAT TIME?

19 A. YEAH, I'M TALKING TO ANDREW PINNOCK AND IT WASN'T  
20 LONG AFTER, YOU KNOW, I HEARD A GUN FIRE.

21 Q. BY NOT LONG AFTER DO YOU KNOW HOW LONG AFTER?

22 A. IT WAS NO MORE THAN A COUPLE OF MINUTES.

23 Q. NO MORE THAN A COUPLE OF MINUTES YOU HEARD THE GUN  
24 -- GUNSHOT?

25 A. YES, SIR. IT GETS A LITTLE -- LITTLE BLURRY TO ME