

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Richland County

Honorable Diane Schafer Goodstein, Circuit Court Judge

JEROID J. PRICE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2021-001013

APPENDIX

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1 RIGHT AROUND THAT TIME BECAUSE IT WAS -- IT WAS SO QUICK AND
2 NOISY. I HAD -- NOR DID I KNOW I WAS GOING TO HAVE TO, YOU
3 KNOW, REPLAY THIS -- THIS WHOLE SCENE.

4 Q. I UNDERSTAND. IT WASN'T A LONG PERIOD OF TIME THEN?

5 A. NO, SIR.

6 Q. AND HOW MANY GUNSHOTS DID YOU HEAR, DERRICK?

7 A. IF I'M NOT MISTAKEN, I THINK I HEARD FOUR GUNSHOTS.

8 Q. DID YOU HEAR THEM ALL ONE AFTER ANOTHER?

9 A. NO, SIR.

10 Q. DESCRIBE FOR THE JURY HOW YOU HEARD THEM.

11 A. IT WAS A BANG, THEN A PAUSE FOR I'D SAY ABOUT A
12 SECOND OR TWO. THEN IT WAS BANG, BANG, BANG. AND, YOU KNOW,
13 BY THAT TIME, YOU KNOW, THE CROWD SCATTERED AND WE HIT
14 REVERSE AND PULLED OUT.

15 Q. SO HOW DID Y'ALL THEN GET AWAY FROM HERE?

16 A. WE WERE RIGHT HERE AND INSTEAD OF GOING THIS WAY WE
17 JUST HIT REVERSE RIGHT HERE AND JUST CAME OUT.

18 Q. NOW, WHEN THE FIRST GUNSHOT WENT OFF -- YOU HAD
19 INDICATED WHEN Y'ALL PULLED UP THERE WAS A BUNCH OF PEOPLE
20 OUT HERE SO YOU COULDN'T -- YOU COULDN'T PULL ALL THE WAY
21 THROUGH? IS THAT CORRECT?

22 A. CORRECT.

23 Q. WHEN THE FIRST GUNSHOT WENT OFF, WHAT DID ALL THOSE
24 PEOPLE DO?

25 A. THEY JUST TOOK OFF, YOU KNOW, DOWN TOWARDS THE

1 PARKING LOT AREA.

2 Q. A LOT OF PEOPLE OUT THERE?

3 A. YEAH.

4 Q. NOW, DID YOU SEE -- WHEN YOU HEARD THOSE GUNSHOTS,
5 DID YOU SEE ANYBODY SPECIFICALLY RUN OUT OF THE CLUB AT THAT
6 POINT IN TIME?

7 A. NO, SIR.

8 Q. WERE YOU LOOKING TO SEE?

9 A. NO, SIR.

10 Q. AND WHAT WERE YOU DOING WHEN YOU HEARD THOSE
11 GUNSHOTS?

12 A. I WAS TALKING -- I WAS TALKING WITH ANDREW WHEN I
13 HEARD THE FIRST GUNSHOT, AND I DUCKED MY HEAD. AND WHEN I
14 LOOKED UP, ANDREW WAS GONE, SO I -- YOU KNOW, THAT WAS PRETTY
15 MUCH THE KEY TO GET OUT OF THERE.

16 Q. YOU DIDN'T ACTUALLY SEE THE SHOOTING?

17 A. NO, SIR.

18 Q. DIDN'T SEE WHO GOT SHOT?

19 A. NO, SIR.

20 Q. SO WHEN YOU PULLED OUT OF THE CLUB THAT MORNING YOU
21 DIDN'T KNOW THAT WAS CARL SMALLS THAT HAD BEEN SHOT.

22 A. NOT AT ALL. I DIDN'T KNOW TILL THE NEXT MORNING.

23 MR. SORENSON: THANK YOU, DERRICK. THAT WOULD BE
24 ALL I HAVE. PLEASE ANSWER ANY QUESTIONS MS. RUSHING HAS.

25 THE COURT: THANK YOU.

1 MS. RUSHING: MAY IT PLEASE THE COURT?

2 THE COURT: YES, MA'AM. MS. RUSHING?

3 CROSS-EXAMINATION

4 BY MS. RUSHING:

5 Q. MR. WATSON, I'M AMYE RUSHING AND I REPRESENT JEROID
6 PRICE. YOU SAID YOU GOT TO THE CLUB AROUND 2?

7 A. YES, MA'AM.

8 Q. IS THAT RIGHT? OKAY. AND YOU STATED THAT YOU
9 ARRIVED IN AN EXPEDITION, SHAWN SMITH'S EXPEDITION?

10 A. YES.

11 Q. WHAT TYPE -- SIZE VEHICLE IS AN EXPEDITION?

12 A. IT'S ONE OF THE BIGGEST KIND OF S.U.V. I WOULD
13 THINK.

14 Q. IT'S ROOMY?

15 A. YEAH.

16 Q. HAVE A LOT OF ROOM? AND HOW MANY PEOPLE WERE IN THE
17 CAR, COUNTING YOURSELF?

18 A. THERE WAS THREE.

19 Q. OKAY. AND SO THAT WAS TWO IN THE FRONT, ONE IN THE
20 BACK; RIGHT?

21 A. YES, MA'AM.

22 Q. OKAY. ALL RIGHT. YOU ALSO STATED THAT YOU GUYS
23 PULLED UP FRONT. YOU SAID THERE WAS A LOT OF PEOPLE OUT
24 THERE?

25 A. YES, MA'AM.

1 Q. AND AS FAR -- WE GOT -- THE PARKING LOT IS OUT IN
2 FRONT. YOU GOT VOODOO'S PARKING LOT OUT FRONT. WHERE WERE
3 THE PEOPLE CONGREGATED?

4 A. RIGHT IN FRONT OF THE -- YOU KNOW, RIGHT THERE IN
5 FRONT OF THE DOOR BY THE CLUB.

6 Q. RIGHT IN FRONT OF THAT ENTRANCE? AND THE ENTRANCE
7 AND EXIT ARE RIGHT THERE TOGETHER?

8 A. UH-HUH.

9 Q. SO PEOPLE ARE CONGREGATED RIGHT THERE?

10 A. YES, MA'AM.

11 Q. OKAY. AND WHERE Y'ALL PULLED UP, YOU WERE RIGHT
12 THERE CLOSE BY TO THAT?

13 A. YES, MA'AM.

14 Q. OKAY. OKAY. THEN AT SOME POINT I GUESS YOU HADN'T
15 BEEN THERE VERY LONG AND MR. SMALLS CAME UP TO THE VEHICLE?

16 A. YES, MA'AM.

17 Q. OKAY. AND TELL ME AGAIN -- HE JUMPED IN THE BACK
18 SEAT; IS THAT CORRECT?

19 A. YES.

20 Q. OKAY. ALL RIGHT. YOU STATED THAT MR. SMALLS ASKED
21 YOU FOR A GUN? DID ANYONE ELSE IN THE CAR HEAR THAT?

22 A. YES.

23 Q. DID HE ASK ANYBODY ELSE IN THE CAR FOR A WEAPON OR
24 WAS THAT---

25 A. THAT WAS---

1 Q. ---JUST YOU?

2 A. ---JUST ME BECAUSE I WAS THE ONLY PERSON HE KNEW IN
3 THE CAR.

4 Q. OKAY. HE HAD NEVER MET SHAWN SMITH AS FAR AS YOU
5 KNOW?

6 A. I DON'T THINK. I DON'T THINK SO, AS FAR AS I KNOW.

7 Q. OKAY. ALL RIGHT. COULD HE HAVE ASKED YOU FOR A
8 RIDE?

9 A. YES.

10 Q. OKAY. WOULD YOU HAVE GIVEN HIM ONE?

11 A. YES.

12 Q. OKAY. DID CARL APPEAR UPSET OR WHAT WAS HIS
13 DEMEANOR?

14 A. I HAVEN'T REALLY SEEN HIM IN A LONG TIME, SO I
15 DIDN'T THINK TO EVEN TRY TO ANALYZE HIS DEMEANOR.

16 MS. RUSHING: OKAY. ALL RIGHT. COULD I HAVE ONE
17 SECOND, YOUR HONOR?

18 THE COURT: OF COURSE, MS. RUSHING.

19 MS. RUSHING: THAT'S ALL I HAVE, YOUR HONOR.
20 THANK YOU, MR. WATSON.

21 THE COURT: THANK YOU, MA'AM. MR. SORENSON?

22 MR. SORENSON: NOTHING FURTHER, YOUR HONOR.

23 THE COURT: SIR, YOU MAY STEP DOWN, MR. WATSON.
24 THANK YOU, SIR. MR. PASCOE?

25 MR. PASCOE: MAY I CALL THE NEXT WITNESS, YOUR

1 HONOR?

2 THE COURT: YES, SIR.

3 MR. PASCOE: LIEUTENANT STAN SMITH.

4 MR. SORENSON: IS HE FREE TO GO, YOUR HONOR?

5 THE COURT: NO REASON TO KEEP HIM. SIR, YOU'RE FREE
6 TO COME AND GO AS YOU PLEASE. THANK YOU.

7 JAMES STANDIN SMITH, AFTER BEING DULY SWORN,
8 TESTIFIED AS FOLLOWS:

9 THE CLERK: PLEASE HAVE A SEAT. STATE YOUR FULL
10 NAME FOR THE RECORD.

11 THE WITNESS: IT'S JAMES STANDIN SMITH. MIDDLE NAME
12 IS S-T-A-N-D-I-N.

13 DIRECT EXAMINATION

14 BY MR. PASCOE:

15 Q. GOOD MORNING, LIEUTENANT.

16 A. GOOD MORNING.

17 Q. WHERE DO YOU WORK, SIR?

18 A. RICHLAND COUNTY SHERIFF'S DEPARTMENT.

19 Q. AND HOW LONG HAVE YOU BEEN IN LAW ENFORCEMENT?

20 A. SINCE 1984.

21 Q. WHAT ARE YOUR CURRENT DUTIES WITH THE RICHLAND
22 COUNTY SHERIFF'S DEPARTMENT?

23 A. I'M THE LIEUTENANT OVER THE MAJOR CRIME SECTION

24 AND---

25 Q. AND HOW LONG---

1 A. ---THE VIOLENT CRIMES, ARMED ROBBERIES, HOMICIDES,
2 SEXUAL ASSAULTS.

3 Q. AND HOW LONG HAVE YOU BEEN A MAJOR CRIMES
4 INVESTIGATOR?

5 A. I'VE BEEN A MAJOR CRIMES INVESTIGATOR SOLELY NOW FOR
6 FOUR YEARS.

7 Q. AND, OF COURSE, AS A LIEUTENANT YOU'RE ACTUALLY A
8 SUPERVISOR?

9 A. YES.

10 Q. OKAY. WHAT'S YOUR PRIMARY JOB AS A SUPERVISOR IN
11 THE MAJOR CRIMES DIVISION?

12 A. I HAVE THREE SERGEANTS UNDER MY SUPERVISION. I HAVE
13 A SERGEANT OVER SEX CRIMES, A SERGEANT OVER ROBBERY, AND A
14 SERGEANT OVER GENERAL MAJOR CRIMES LIKE ASSAULTS AND THAT
15 KIND OF THING, AND I SUPERVISE THE UNIT, MAKE SURE THINGS ARE
16 FUNCTIONING LIKE THEY'RE SUPPOSED TO BE, MAKE SURE THE CASES
17 ARE ASSIGNED PROPERLY. AS A SPECIAL FOCUS, I DO INVOLVE
18 MYSELF DIRECTLY IN MOST OF THE HOMICIDES.

19 Q. OKAY. AND AS THE -- AS THE SUPERVISOR, THEY HAVE TO
20 REPORT TO YOU WITH REGARDS TO ALL MAJOR CRIMES?

21 A. YES.

22 Q. AND, SIR, WERE YOU ON DUTY DURING THE EARLY MORNING
23 HOURS OF DECEMBER 7TH OF LAST YEAR?

24 A. I WAS NOT ON DUTY AT THE TIME, NO.

25 Q. OKAY. DID YOU GET CALLED UPON TO DO ANYTHING THAT

1 MORNING?

2 A. I WAS CALLED OUT FROM MY RESIDENCE AFTER 2:30 THAT
3 MORNING.

4 Q. OKAY. APPROXIMATELY WHEN DID YOU GET THE CALL? DO
5 YOU REMEMBER?

6 A. I GOT THE CALL AT 2:37.

7 Q. AND WHERE DID YOU GO?

8 A. I PROCEEDED TO THE SCENE IMMEDIATELY FROM MY
9 RESIDENCE.

10 Q. CLUB VODOO'S?

11 A. YES.

12 Q. AND THAT'S IN RICHLAND COUNTY, SIR?

13 A. YES, ON GARNERS FERRY ROAD IN RICHLAND COUNTY.

14 Q. AND, IN FACT, ALTHOUGH YOU ARE THE SUPERVISOR, YOU
15 ARE ALSO THE LEAD INVESTIGATOR ON THIS CASE; CORRECT?

16 A. YES, SIR. I BECAME THE LEAD INVESTIGATOR AT THAT
17 POINT IN TIME.

18 Q. AND AS THE LEAD INVESTIGATOR YOU MADE REPORTS AND
19 NOTES THROUGHOUT THE INVESTIGATION?

20 A. YES.

21 Q. AND YOU'RE USING THOSE NOTES AND REPORTS TO ASSIST
22 YOU IN YOUR MEMORY TODAY?

23 A. YES.

24 Q. AND WHAT TIME DID YOU ARRIVE AT CLUB VODOO'S?

25 A. I ARRIVED AT ABOUT 3:40 A.M.

1 Q. WHAT, IF ANY, INFORMATION DID YOU RECEIVE AS PART OF
2 YOUR INVESTIGATION AS SOON AS YOU GOT TO THE SCENE, JUST WITH
3 REGARDS TO YOUR INVESTIGATION?

4 A. WELL, I LEARNED THAT THERE HAD BEEN A MALE VICTIM
5 WHO HAD DIED AS A RESULT OF GUNSHOT WOUNDS. I LEARNED
6 IMMEDIATELY THAT IT OCCURRED IN THE FRONT OF THE CLUB NEAR AN
7 EXIT DOOR ACTUALLY, AND I LEARNED THAT THERE HAD BEEN A LARGE
8 NUMBER OF PEOPLE AT THIS GATHERING WHICH I LATER LEARNED WAS
9 A FRATERNITY PARTY, AND I LEARNED THAT THERE WEREN'T A LOT OF
10 WITNESSES READILY AVAILABLE AT THAT POINT IN TIME.

11 Q. DID ANYBODY SHOW UP AT THE SCENE THAT YOU TALKED TO
12 TO IDENTIFY THE VICTIM?

13 A. YES. THE VICTIM'S GIRLFRIEND, MS. ELLINGTON,
14 ACTUALLY CALLED THE VICTIM'S CELL PHONE. I THINK SHE HAD
15 GOTTEN WORD OF SOMETHING HAPPENING. SHE WAS PANICKING THAT
16 IT MIGHT BE HIM, MIGHT NOT BE HIM. SHE CALLED THE CELL PHONE
17 AND DEPUTY CHIEF WILSON WHO WAS PRESENT ACTUALLY ANSWERED
18 THAT PHONE AND SPOKE TO HER AND TOLD HER SHE NEEDED TO COME
19 BACK TO THE SCENE.

20 Q. AND WHO WAS IT THAT HAD TO TELL HER THAT CARL HAD
21 DIED?

22 A. I'M THE ONE THAT TOLD HER.

23 Q. WERE YOU IMMEDIATELY ABLE TO TELL, AS AN
24 INVESTIGATOR FOR 24 YEARS, WHAT TYPES OF WEAPONS MAY HAVE
25 BEEN INVOLVED IN THIS CRIME?

1 A. YES. WE KNEW THAT AT LEAST SEMIAUTOMATIC PISTOLS
2 WERE INVOLVED. WE KNEW RIGHT AWAY THAT THERE WERE 40 AND 380
3 SHELL CASINGS THAT WERE INVOLVED.

4 Q. SO AT THE VERY LEAST TWO GUNS, A 380 AND A 40.

5 A. RIGHT. WE KNEW THEY WERE SEMIAUTOMATIC BECAUSE
6 SHELL CASINGS WERE RECOVERED. A SEMIAUTOMATIC PISTOL, AS
7 OPPOSED TO A REVOLVER, EJECTS A SHELL CASING WHEN IT'S FIRED.
8 A REVOLVER MAINTAINS THE SHELLS IN THE CYLINDER.

9 Q. AND HOW LONG DID YOU END UP STAYING AT THE SCENE?

10 A. I STAYED AT THE SCENE PROBABLY FOR ABOUT AN HOUR,
11 APPROXIMATELY AN HOUR. BY -- BY 5:00 I WAS AT MY OFFICE
12 ACTUALLY TAKING A STATEMENT FROM MS. ELLINGTON.

13 Q. OKAY. DID YOU TRY TO INTERVIEW PEOPLE AT THE SCENE?

14 A. THERE WASN'T A -- THERE WEREN'T MUCH OF A CHANCE TO
15 DO THAT AT THE SCENE.

16 Q. OKAY. WERE YOU ABLE TO INTERVIEW ANYBODY THAT
17 MORNING AS OF DECEMBER 7TH?

18 A. YES. AGAIN, I INTERVIEWED MS. ELLINGTON. I
19 INTERVIEWED A YOUNG LADY BY THE NAME OF ANGELICA BURGESS. I
20 INTERVIEWED A GIRL NAMED SHAMIKA WRIGHT. THESE ARE
21 ACQUAINTANCES OF I BELIEVE MS. ELLINGTON.

22 Q. LET ME ASK YOU THIS: AS OF DECEMBER 7TH AND BEING
23 THE LEAD INVESTIGATOR, HAD DEANDRE EILAND BEEN INTERVIEWED BY
24 THE POLICE DEPARTMENT?

25 A. YES. DEANDRE EILAND WAS A WITNESS THAT HAD BEEN

1 LOCATED THAT MORNING. HE WAS AN ACQUAINTANCE OF THE VICTIM.

2 Q. AND DID HE PROVIDE A STATEMENT?

3 A. HE DID PROVIDE A STATEMENT.

4 Q. AND LET ME ASK YOU THIS: AS OF DECEMBER 7TH, THE
5 MORNING OF THE SHOOTING, ESPECIALLY LATER ON THAT DAY AS YOU
6 WERE INVESTIGATING IT, WAS THERE ONE SPECIFIC WITNESS YOU
7 NEEDED TO TALK TO?

8 A. YES. OTHER STATEMENTS TO INCLUDE MR. EILAND'S
9 STATEMENT INDICATED THAT THERE WAS A LARGE LIGHTER-SKINNED
10 BLACK MALE WITH DREADS---

11 MR. LITTLEJOHN: YOUR HONOR, I'M GOING TO OBJECT TO
12 ANY HEARSAY.

13 THE COURT: ANY EXCEPTION, SIR---

14 MR. PASCOE: IT'S NOT OFFERED AS TO THE TRUTH OF THE
15 MATTER ASSERTED. IT GOES TO HIS INVESTIGATION AS TO WHO HE
16 WANTED TO TALK TO AND WHY.

17 MR. LITTLEJOHN: YOUR HONOR, HE CERTAINLY CAN SAY --
18 EXCUSE ME.

19 THE COURT: YES, SIR.

20 MR. LITTLEJOHN: AS A RESULT OF HIS INVESTIGATION HE
21 WENT TO INTERVIEW ANYBODY.

22 MR. PASCOE: I CAN -- THAT WOULD BE...

23 THE COURT: I'LL SUSTAIN THAT OBJECTION.

24 BY MR. PASCOE:

25 Q. AS A RESULT OF THE INVESTIGATION AND YOUR

1 INTERVIEWS, ON DECEMBER THE 7TH WHO DID YOU NEED TO FIND AND
2 TALK TO?

3 A. A LIGHT-SKINNED BLACK MALE WITH DREADS WHO WAS
4 SUPPOSED TO BE INVOLVED AS A BOUNCER IN THIS PARTY.

5 Q. AND YOU LATER KNEW WHAT HIS NAME WAS.

6 A. LATER LEARNED HIS NAME TO BE JEFFREY LEWIS.

7 Q. OKAY. AND DID HE HAVE A NICKNAME?

8 A. J-LEW.

9 Q. WHEN WERE YOU ABLE TO ACTUALLY LEARN -- AND YOU
10 ALREADY HAD THE DESCRIPTION OF WHO YOU NEEDED TO TALK TO ON
11 DECEMBER THE 7TH.

12 A. THAT'S CORRECT.

13 Q. CORRECT? AND WHEN DID YOU KNOW THAT THE PERSON'S
14 NAME WAS J-LEW, JEFFREY LEWIS?

15 A. ON THAT FOLLOWING MONDAY. THIS INCIDENT OCCURRED ON
16 A FRIDAY NIGHT, SATURDAY MORNING. ON THE FOLLOWING MONDAY, I
17 BELIEVE IT WAS THE 9TH, WE WERE ABLE TO LEARN HIS TRUE
18 IDENTITY.

19 Q. AND WHEN YOU LEARNED HIS TRUE IDENTITY, WHAT DID YOU
20 DO IMMEDIATELY?

21 A. WE SOUGHT TO LOCATE HIM TO INTERVIEW HIM.

22 Q. AND DID YOU -- DID YOU FIND MR. JEFFREY LEWIS?

23 A. YES, WE WERE ABLE TO FIND MR. LEWIS.

24 Q. ON THAT MONDAY, DECEMBER THE 9TH? AND DID YOU TAKE
25 A STATEMENT FROM MR. LEWIS?

1 A. YES, WE DID LOCATE HIM LATER THAT AFTERNOON AND WE
2 DID SECURE AN INITIAL STATEMENT FROM HIM ON THAT AFTERNOON.

3 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
4 EXHIBIT 1. IS JEFFREY LEWIS IN THAT PICTURE?

5 A. YES, HE IS.

6 Q. AND WHICH ONE IS HE?

7 A. HE'S THE ONE ON THE END.

8 Q. OKAY. AND WHO DOES MR. LEWIS HAVE HIS ARM AROUND IN
9 THAT PICTURE?

10 A. THE DEFENDANT, JEROID PRICE.

11 Q. IN FACT, WHERE WAS THIS PICTURE FOUND?

12 A. IT WAS FOUND IN THE DEFENDANT'S RESIDENCE DURING THE
13 COURSE OF A SEARCH THERE.

14 Q. OKAY. NOW, YOU'RE AWARE, OF COURSE, THAT MR. LEWIS
15 HAD BEEN SUBPOENAED TO BE HERE THIS WEEK?

16 A. I AM.

17 Q. HAS HE HONORED THAT SUBPOENA?

18 A. HE HAS NOT.

19 Q. IN FACT, IS THERE A WARRANT FOR HIS ARREST FOR NOT
20 HONORING THAT SUBPOENA?

21 A. THERE IS AN ACTIVE WARRANT FOR HIS ARREST AS WE
22 SPEAK.

23 Q. AND JUST TO MAKE IT CLEAR, DO YOU HAVE FIRSTHAND
24 KNOWLEDGE -- YOU KNOW HE'S NOT INJURED OR HURT OR ANYTHING
25 LIKE THAT.

1 A. THAT'S CORRECT.

2 Q. HE JUST IS REFUSING TO COME TO COURT.

3 A. HE IS REFUSING TO COME TO COURT; YES, SIR.

4 Q. NOW, YOU TOOK A STATEMENT FROM HIM ON MONDAY,
5 DECEMBER THE 9TH.

6 A. YES, I DID.

7 Q. AS A RESULT OF THAT, WHAT DID YOU THEN DO,
8 SPECIFICALLY ON TUESDAY, THE 10TH?

9 A. WE INTERVIEWED OTHER INDIVIDUALS AS A RESULT OF THAT
10 STATEMENT.

11 Q. OKAY. ON THE 10TH?

12 A. ACTUALLY, YES, WE LOCATED ONE OF THE INDIVIDUALS IN
13 THE -- FROM THE STATEMENT ON THE 10TH.

14 Q. OKAY. WHO DID YOU INTERVIEW ON THE 10TH?

15 A. JERMAINE EVANS.

16 Q. AND DID HE COOPERATE?

17 A. YES.

18 Q. FULLY?

19 A. YES.

20 Q. OKAY. NOW, AS A RESULT OF DECEMBER THE 9TH AND 10TH
21 WHAT DID YOU THEN DO ON WEDNESDAY, DECEMBER THE 11TH?

22 A. WENT BACK AND FOUND MR. LEWIS A SECOND TIME.

23 Q. AND WHY DID YOU WANT TO GET WITH MR. LEWIS A SECOND
24 TIME?

25 A. BECAUSE WE---

1 MR. LITTLEJOHN: YOUR HONOR, I'M GOING TO OBJECT IF
2 HE'S GOING INTO THE SUBSTANCE OF ANY STATEMENTS. THAT'S
3 APPARENTLY WHERE HE'S HEADED.

4 MR. PASCOE: NO, WE'RE NOT, YOUR HONOR.

5 THE COURT: OKAY. I'LL SUSTAIN THAT OBJECTION, BUT
6 I'LL LET YOU CONTINUE.

7 BY MR. PASCOE:

8 Q. WHY DID YOU GO TO SEE MR. LEWIS?

9 A. BECAUSE IT WAS APPARENT THAT THERE WERE SOME
10 FALSIFICATIONS---

11 MR. LITTLEJOHN: YOUR HONOR, I'M GOING TO OBJECT. I
12 MEAN, HE'S JUST---

13 MR. PASCOE: IT'S NOT OFFERED---

14 MR. LITTLEJOHN: THAT'S JUST INDIRECTLY DOING
15 WHAT...

16 MR. PASCOE: IT'S NOT OFFERED FOR THE TRUTH OF THE
17 MATTER ASSERTED. IT'S WHY HE WENT TO SEE JEFFREY LEWIS.
18 IT'S NOT -- IT'S NOT HEARSAY.

19 THE COURT: LET ME HEAR YOUR QUESTION AGAIN,
20 COUNSELOR.

21 MR. PASCOE: WHY DID YOU GO SEE JEFFREY LEWIS ON
22 WEDNESDAY THE 11TH?

23 THE COURT: OKAY. YOU CAN ANSWER THAT ONE.

24 THE WITNESS: WE LEARNED THAT THE STATEMENTS THAT HE
25 HAD MADE WERE -- WERE NOT TRUE.

1 MR. LITTLEJOHN: YOUR HONOR, THAT'S -- THAT'S MY
2 OBJECTION.

3 THE COURT: THAT'S THE OBJECTION. I'M GOING TO
4 SUSTAIN THAT OBJECTION.
5 BY MR. PASCOE:

6 Q. SO WHEN DID YOU MEET WITH MR. LEWIS?

7 A. ON THE 10TH.

8 Q. AND WHERE DID YOU MEET WITH MR. LEWIS?

9 A. AT THE RICHLAND COUNTY SHERIFF'S DEPARTMENT.

10 Q. OKAY. NOW, LET ME ASK YOU THIS: BEFORE -- WHAT
11 TIME DID YOU MEET WITH HIM AT THE SHERIFF'S DEPARTMENT?

12 A. THE INITIAL -- THE SECOND---

13 Q. ON WEDNESDAY. ON WEDNESDAY, DECEMBER THE 11TH.

14 A. I APOLOGIZE. AT ABOUT 2:00 THAT AFTERNOON.

15 Q. AS OF 2:00 WEDNESDAY AFTERNOON WITH REGARDS TO YOUR
16 INVESTIGATION, DID YOU HAVE ANY INFORMATION THAT RYAN BROOKS
17 OR JEROID PRICE WERE INVOLVED IN THE SHOOTING?

18 MR. LITTLEJOHN: YOUR HONOR, I'M GOING TO OBJECT.
19 THIS IS---

20 MR. PASCOE: YOUR HONOR, WE HAVE TO APPROACH ON
21 THIS.

22 THE COURT: YES, SIR. COME ON UP. NOT IN FRONT OF
23 THE JURY, SIR.

24 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

25 THE COURT: OBJECTION SUSTAINED.

1 BY MR. PASCOE:

2 Q. AS OF DECEMBER THE 11TH, THAT WEDNESDAY, DID YOU
3 HAVE RYAN BROOKS OR JEROID PRICE'S NAMES AT ALL WITH REGARDS
4 TO YOUR INVESTIGATION AS SUSPECTS IN THE SHOOTING?

5 A. NO, SIR.

6 Q. AND WHO DID YOU INTERVIEW ON DECEMBER THE 11TH AT
7 2:00?

8 A. JEFFREY LEWIS.

9 Q. AND IMMEDIATELY AFTER YOU INTERVIEWED JEFFREY LEWIS
10 WHO DID YOU LOOK FOR?

11 A. RYAN BROOKS AND JEROID PRICE.

12 Q. AND AS A RESULT OF THAT, WHAT DID YOU END UP DOING?

13 A. WE ACTUALLY SECURED WARRANTS.

14 Q. WHAT KIND OF WARRANTS?

15 A. MURDER WARRANTS.

16 Q. AND YOU -- DID YOU SEARCH FOR THE DEFENDANTS, MR.
17 PRICE AND MR. BROOKS?

18 A. YES.

19 Q. DID YOU GET ANOTHER TYPE OF WARRANT AS WELL?

20 A. WE ALSO GOT SEARCH WARRANTS FOR RESIDENCES,
21 RESPECTIVE RESIDENCES FOR EACH ONE OF THEM.

22 Q. AND WHAT WERE AT LEAST TWO OF THE TYPES OF WEAPONS
23 THAT YOU WERE LOOKING FOR?

24 A. WE WERE LOOKING FOR 380 AND A 40.

25 Q. AND THE TWO PEOPLE YOU WERE LOOKING FOR WERE WHO?

1 A. RYAN BROOKS AND JEROID PRICE.

2 Q. OKAY. AND WHEN DID YOU SERVE THOSE SEARCH WARRANTS
3 OR EXECUTE THOSE SEARCH WARRANTS?

4 A. THE SEARCH WARRANTS WERE ACTUALLY EXECUTED ON THE
5 MORNING OF THE 13TH.

6 Q. OKAY. AND WHERE DID YOU END UP GOING ON THE MORNING
7 OF THE 13TH, FRIDAY THE 13TH?

8 A. WE HAD TWO DIFFERENT TEAMS, AND I ACTUALLY WENT ON
9 THE TEAM THAT WENT TO MR. PRICE'S APARTMENT AT [REDACTED] SAINT
10 ANDREWS ROAD IN RICHLAND COUNTY.

11 Q. WHOSE APARTMENT WAS THAT?

12 A. JEROID PRICE'S.

13 Q. AND WERE YOU ABLE TO JUST GO RIGHT ON INSIDE WITHOUT
14 ANYTHING?

15 A. NO, WE HAD TO HAVE THE SEARCH WARRANT IN HAND.

16 Q. AND YOU GOT A SEARCH WARRANT?

17 A. YES.

18 Q. SIGNED BY A MAGISTRATE?

19 A. YES.

20 Q. OKAY. AND APPROXIMATELY WHAT TIME DID YOU GO INTO
21 THE DEFENDANT'S APARTMENT?

22 A. IT WAS I BELIEVE AROUND 7:00 THAT MORNING.

23 Q. WHERE EXACTLY WAS IT LOCATED?

24 A. [REDACTED] SAINT ANDREWS ROAD NEAR -- IT'S NEAR THE
25 INTERSECTION OF SAINT ANDREWS AND BROAD RIVER.

1 Q. WAS THE DEFENDANT THERE WHEN YOU GOT THERE AT 7:00
2 FRIDAY MORNING?

3 A. NO, HE WAS NOT.

4 Q. WHAT DID YOU DO WHEN YOU WENT INSIDE THE APARTMENT?

5 A. WE SECURED THE DWELLING. THERE WAS NO ONE IN THE
6 APARTMENT, AND WE INITIATED AN ORGANIZED SEARCH.

7 Q. AND WHO ALL WAS WITH YOU DURING THE SEARCH?

8 A. THERE WERE A NUMBER OF DETECTIVES: INVESTIGATOR
9 ROBERTSON, LIEUTENANT HOWARD HUGHES, AGENT JOHN LUTZ,
10 SERGEANT LANCIE (PHONETIC) WEEKS, MAYBE A COUPLE OF OTHERS.

11 Q. AND YOU SUPERVISED THE ENTIRE SEARCH?

12 A. YES, I PARTICIPATED IN THE SEARCH.

13 Q. WERE ANY ITEMS TAKEN FROM THE DEFENDANT, JEROID
14 PRICE'S, APARTMENT?

15 A. A NUMBER OF ITEMS WERE, YES, SIR.

16 Q. OKAY. I THINK YOU'VE ALREADY TESTIFIED STATE'S
17 EXHIBIT 1 WAS TAKEN FROM THE DEFENDANT'S APARTMENT?

18 A. THAT'S CORRECT.

19 Q. A PHOTOGRAPH OF THE DEFENDANT AND J-LEW, JEFFREY
20 LEWIS?

21 A. THAT'S CORRECT.

22 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
23 EXHIBIT 52. DO YOU RECOGNIZE THAT THAT'S ALREADY IN
24 EVIDENCE?

25 A. YES. IT WAS A PHOTOGRAPH THAT WAS TAKEN IN THE

1 SEARCH.

2 Q. WHO IS IN THAT PHOTOGRAPH?

3 A. JASON WOOD I BELIEVE IS IN THE PHOTOGRAPH, RYAN
4 BROOKS MAYBE. I'M NOT SURE OF SOME OF THE OTHERS.

5 Q. OKAY. AND YOU WERE HERE WHEN RYAN BROOKS EVEN
6 TESTIFIED THAT WAS HIM.

7 A. YES.

8 Q. AND YOU TOOK THAT FROM WHOSE APARTMENT?

9 A. JEROID PRICE.

10 Q. AND LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
11 EXHIBIT 62. DO YOU RECOGNIZE THESE ITEMS?

12 A. YES.

13 Q. WHAT DO YOU RECOGNIZE THESE TO BE?

14 A. THEY'RE BLOOD-RED CLOTHES PRIMARILY THAT WE SECURED
15 FROM THAT DWELLING.

16 Q. WHOSE DWELLING?

17 A. JEROID PRICE'S.

18 Q. THE MORNING OF FRIDAY THE 13TH?

19 A. THAT'S CORRECT.

20 MR. PASCOE: I'D ASK THAT STATE'S EXHIBIT 62 BE
21 ADMITTED INTO EVIDENCE, YOUR HONOR.

22 THE COURT: ANY OBJECTION, MR. LITTLEJOHN?

23 MR. LITTLEJOHN: YOUR HONOR, I WOULD -- I WOULD
24 OBJECT ON THE GROUNDS OF RELEVANCY. IT'S JUST RED CLOTHES.
25 THAT DOESN'T INDICATE ANYTHING. EVERYBODY HAS GOT RED

1 CLOTHES. I HAD ON A RED TIE YESTERDAY.

2 THE COURT: IT WAS A GOOD-LOOKING TIE, TOO.

3 MR. LITTLEJOHN: THANK YOU.

4 MR. PASCOE: YOU DIDN'T SAY ANYTHING ABOUT MINE.

5 THE COURT: YOURS IS A GOOD-LOOKING TIE, TOO, SIR.

6 I'LL LET IT IN---

7 MR. PASCOE: THANK YOU, YOUR HONOR.

8 THE COURT: ---FOR WHAT IT'S WORTH.

9 (STATE'S EXHIBIT 62 WAS RECEIVED IN EVIDENCE.)

10 BY MR. PASCOE:

11 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
12 EXHIBITS 63, 64, AND 65. IN YOUR EXPERIENCE DOES EVERYBODY
13 HAVE AT LEAST ONE OF THESE IN THEIR HOUSEHOLD?

14 MR. LITTLEJOHN: YOUR HONOR, I'M GOING TO OBJECT. I
15 DON'T THINK HE CAN EXAMINE THE WITNESS ABOUT AN EXHIBIT THAT
16 -- I OBJECT TO THE EXHIBITS ON THE GROUNDS OF RELEVANCY.

17 THE COURT: I'M GOING TO SUSTAIN THAT.

18 BY MR. PASCOE:

19 Q. DO YOU RECOGNIZE STATE'S EXHIBIT 63, 64, AND 65?

20 A. I DO.

21 Q. WHAT DO YOU RECOGNIZE THOSE TO BE?

22 A. THE BLUE ITEM AND THIS ALL-GREEN ITEM ARE
23 BULLETPROOF VESTS. THIS IS CAMOUFLAGE---

24 MR. LITTLEJOHN: YOUR HONOR, I -- EXCUSE ME. I KNOW
25 WHERE HE'S GOING. OBVIOUSLY I OBJECT TO THESE ITEMS GOING

1 INTO EVIDENCE AND ANY EXAMINATION CONCERNING THEM ON THE
2 GROUNDS OF RELEVANCY.

3 THE COURT: OKAY. RELEVANCY.

4 MR. LITTLEJOHN: THEY DON'T HAVE ANYTHING TO DO WITH
5 DECEMBER 7TH.

6 THE COURT: OKAY. THIS WAS THE -- AS I UNDERSTOOD
7 THE TESTIMONY, THIS WAS THE SAME THING AS THE RED CLOTHING,
8 WHAT THEY PICKED UP FROM---

9 MR. PASCOE: WHAT THEY GOT IN THE APARTMENT, YES,
10 SIR.

11 THE COURT: I'M GOING TO -- RESPECTFULLY I NOTE YOUR
12 EXCEPTION. I'M GOING TO OVERRULE THE OBJECTION AND ALLOW IT
13 IN.

14 MR. PASCOE: THANK YOU, YOUR HONOR.

15 THE WITNESS: I SEIZED THESE ITEMS BECAUSE THIS IS A
16 SIMILAR STYLE VEST THAT THE POLICE OFFICERS WEAR. THIS ITEM
17 -- THE CAMOUFLAGED ITEM IS A FLACK JACKET WHICH WOULD BE MORE
18 OF A MILITARY STYLE... IT'S A BULLETPROOF VEST. IT'S FOR
19 HEAVIER PROTECTION.

20 BY MR. PASCOE:

21 Q. OKAY. WHERE WERE STATE'S EXHIBITS -- THESE STATE'S
22 EXHIBITS 63, 4 AND 5 FOUND?

23 A. THEY WERE FOUND IN THE DEFENDANT'S APARTMENT HANGING
24 IN A CLOSET IN A BEDROOM.

25 MR. PASCOE: YOUR HONOR, I'D ASK THAT STATE'S

1 EXHIBITS 63, 4 AND 5 BE ADMITTED INTO EVIDENCE, YOUR HONOR.

2 THE COURT: I ADMITTED THOSE---

3 MR. LITTLEJOHN: SUBJECT TO MY OBJECTION.

4 THE COURT: ---WITH HIS EXCEPTION AND SUBJECT TO
5 OBJECTION.

6 (STATE'S EXHIBITS 63, 64, AND 65 WERE RECEIVED IN
7 EVIDENCE.)

8 BY MR. PASCOE:

9 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
10 EXHIBIT 66. TAKE A LOOK AT THAT AND TELL ME IF YOU RECOGNIZE
11 THAT.

12 A. YES, SIR. THIS IS A NOTEBOOK THAT HAD SOME --
13 LOOKED LIKE SOME RAP LYRICS OR SOME MUSIC LYRICS IN IT THAT
14 WAS FOUND IN SOME MISCELLANEOUS PAPERWORK IN THE APARTMENT --
15 SAME APARTMENT, THE DEFENDANT'S APARTMENT.

16 Q. AND THIS IS IN THE SAME CONDITION AS WHEN YOU FOUND
17 IT IN THE DEFENDANT'S APARTMENT?

18 A. IT'S GOT THE IDENTIFICATION STICKERS ON IT, BUT
19 OTHER THAN THAT IT'S...

20 MR. PASCOE: I'D ASK THAT STATE'S EXHIBIT 66 BE
21 ADMITTED INTO EVIDENCE, YOUR HONOR.

22 THE COURT: OKAY.

23 MR. LITTLEJOHN: YOUR HONOR, I WOULD -- I WOULD
24 OBJECT. THERE'S BEEN NO CONNECTION WITH THOSE ITEMS WITH MY
25 CLIENT OTHER THAN BEING IN THE APARTMENT. THERE'S BEEN NO

1 HANDWRITING EXAMINATION OR ANYTHING.

2 THE COURT: I UNDERSTAND THAT. I UNDERSTAND THAT
3 OBJECTION. I'LL NOTE IT FOR THE RECORD AND ADMIT IT OVER
4 THAT OBJECTION.

5 (STATE'S EXHIBIT 66 WAS RECEIVED IN EVIDENCE.)
6 BY MR. PASCOE:

7 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
8 EXHIBIT 67. DO YOU RECOGNIZE THAT?

9 A. YES, SIR.

10 Q. WHAT DO YOU RECOGNIZE THAT TO BE?

11 A. THIS IS A -- IT'S A GANG CODE BOOK BASICALLY FOR
12 LACK OF A BETTER WAY TO DESCRIBE IT, AND STAPLED TO IT IS
13 ALSO -- IT'S BASICALLY A PLEDGE OF ALLEGIANCE TO THE RED
14 FLAG. THIS IS ALL BLOOD-RELATED MATERIAL, GANG MATERIAL.

15 Q. AND WHERE DID YOU FIND STATE'S EXHIBIT 67?

16 A. IN JEROID PRICE'S APARTMENT.

17 Q. AND THIS IS THE SAME BODY, UNITY OF LOVE, JUST SOUL
18 THAT YOU FOUND OF THE BLOODS THAT YOU FOUND IN THE
19 DEFENDANT'S APARTMENT?

20 A. YES, SIR.

21 MR. PASCOE: I'D ASK THAT STATE'S EXHIBIT 67 BE
22 ADMITTED INTO EVIDENCE, YOUR HONOR.

23 MR. LITTLEJOHN: SAME OBJECTION.

24 THE COURT: SUBJECT TO HIS SAME OBJECTION IT'S
25 ADMITTED.

1 MR. PASCOE: THANK YOU, YOUR HONOR.

2 (STATE'S EXHIBIT 67 WAS RECEIVED IN EVIDENCE.)

3 BY MR. PASCOE:

4 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
5 EXHIBIT 90. DO YOU RECOGNIZE THAT?

6 A. YES, SIR. IT'S PAPERWORK DEALING WITH A GUN
7 PURCHASE FROM DISCOUNT GUNS, INCORPORATED, IN VANWYCK, SOUTH
8 CAROLINA.

9 Q. AND IS THAT THE -- WHERE DID YOU RETRIEVE THIS?

10 A. THAT WAS AGAIN IN SOME OF THE MISCELLANEOUS
11 PAPERWORK THAT WE FOUND IN MR. PRICE'S APARTMENT.

12 Q. OKAY. FOR PURCHASE OF A -- POSSIBLY THE PURCHASE OF
13 A GUN?

14 A. YES, SIR.

15 Q. AND THIS IS THE SAME SHEET THAT YOU GOT FROM HIS
16 APARTMENT?

17 A. YES, SIR.

18 Q. SAME CONDITION OTHER THAN THE EXHIBIT STICKER?

19 A. IT IS.

20 MR. PASCOE: I'D ASK THAT STATE'S EXHIBIT 90 BE
21 ADMITTED INTO EVIDENCE, YOUR HONOR.

22 THE COURT: SAME... ANY OBJECTION?

23 MR. LITTLEJOHN: LET ME SEE THE FRONT. NO
24 OBJECTION.

25 THE COURT: WITHOUT OBJECTION IT'S ADMITTED.

1 (STATE'S EXHIBIT 90 WAS RECEIVED IN EVIDENCE.)

2 BY MR. PASCOE:

3 Q. AND AS A RESULT OF FINDING THAT IN THE APARTMENT,
4 DID YOU GO AND GET ANY MORE INFORMATION? LET ME SHOW YOU
5 WHAT'S BEEN MARKED AS STATE'S EXHIBIT 91.

6 A. YES, SIR.

7 Q. DO YOU RECOGNIZE THAT?

8 A. YES, SIR.

9 Q. WHAT IS THAT?

10 A. THAT IS A TRANSACTION RECORD OF WHERE A FIREARM WAS
11 ACTUALLY PURCHASED. IN THIS PARTICULAR INSTANCE THIS WAS A
12 FIREARM THAT WAS PURCHASED BY JEROID PRICE OF [REDACTED] SAINT
13 ANDREWS ROAD AND THE PURCHASE DATE WAS 6/26. CORRECTION.
14 THE PURCHASE DATE WAS 11/2/02.

15 Q. CORRESPONDING WITH THIS RECEIPT HERE FOR THE GUN?

16 A. IT'S FOR THE COBRAY NINE MILLIMETER WHICH
17 CORRESPONDS TO THAT RECEIPT; YES, SIR.

18 MR. PASCOE: I'D ASK THAT STATE'S EXHIBIT 91 BE
19 ADMITTED INTO EVIDENCE, YOUR HONOR.

20 MR. LITTLEJOHN: NO OBJECTION.

21 THE COURT: WITHOUT OBJECTION IT'S ADMITTED.

22 (STATE'S EXHIBIT 91 WAS RECEIVED IN EVIDENCE.)

23 BY MR. PASCOE:

24 Q. JUST ONE SECOND. LET ME SHOW YOU WHAT'S BEEN MARKED
25 AS STATE'S EXHIBIT 72. OPEN THAT UP FOR ME AND TELL US WHAT

1 THAT IS.

2 A. THIS IS A BOX OF AMMUNITION FOR A 32 CALIBER PISTOL.

3 Q. AND WHERE DID YOU FIND THAT BOX OF AMMUNITION?

4 A. IT WAS FOUND IN JEROID PRICE'S -- IN THE LIVING ROOM
5 NEAR A BAR STOOL AND AN IRONING BOARD.

6 Q. IS IT IN THE SAME CONDITION AS WHEN YOU FOUND IT
7 FROM THE DEFENDANT'S APARTMENT?

8 A. YES, SIR.

9 MR. PASCOE: I'D ASK THAT STATE'S EXHIBIT 72 BE
10 ADMITTED INTO EVIDENCE, YOUR HONOR.

11 THE COURT: ANY OBJECTION?

12 MR. LITTLEJOHN: NO OBJECTION, YOUR HONOR.

13 THE COURT: ALL RIGHT. WITHOUT OBJECTION IT'S
14 ADMITTED.

15 (STATE'S EXHIBIT 72 WAS RECEIVED IN EVIDENCE.)
16 BY MR. PASCOE:

17 Q. WHAT NUMBER IS THAT?

18 A. THIS IS 73.

19 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
20 EXHIBIT 73. DO YOU RECOGNIZE THAT?

21 A. YES, SIR. IT'S A BOX FOR A RUGER PISTOL, A GUN BOX.
22 THE GUN WAS ACTUALLY PURCHASED OR ACQUIRED IN THIS BOX.

23 Q. WHERE DID YOU FIND THAT?

24 A. THIS WAS FOUND ACTUALLY IN THE -- I GUESS THE LIVING
25 ROOM AREA ON TOP OF A -- LIKE AN ENTERTAINMENT CENTER ON THE

1 TOP SHELF IN JEROID PRICE'S APARTMENT.

2 MR. PASCOE: I'D ASK THAT STATE'S EXHIBIT 73 BE
3 ADMITTED INTO EVIDENCE, YOUR HONOR.

4 MR. LITTLEJOHN: YOUR HONOR, I DON'T KNOW IF THEY
5 SPECIFIED ANY PARTICULARS ON THAT PARTICULAR BOX OR WEAPON OR
6 ANYTHING.

7 THE COURT: I'M SORRY. I'M NOT QUITE SURE I
8 UNDERSTOOD YOUR...

9 MR. LITTLEJOHN: I GUESS MY OBJECTION WOULD BE
10 RELEVANCY.

11 THE COURT: OKAY.

12 MR. LITTLEJOHN: IF IT APPLIES TO A .380 OR A .40,
13 THEN I DON'T HAVE ANY OBJECTION, BUT IF IT'S SOME OTHER
14 WEAPON THAT DOESN'T HAVE ANYTHING TO DO WITH THIS...

15 THE COURT: WELL, THAT'S A GOOD QUESTION.

16 MR. PASCOE: WE NEED TO APPROACH.

17 THE COURT: YES, SIR.

18 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

19 THE COURT: I'M GOING TO SUSTAIN THE OBJECTION.

20 MR. PASCOE: THIS CAN'T COME IN?

21 THE COURT: NO.

22 BY MR. PASCOE:

23 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
24 EXHIBIT 74. DO YOU RECOGNIZE THAT ITEM?

25 A. YES, SIR. THIS IS AN EMPTY AMMUNITION BOX FOR 40

1 BULLETS. IT WAS FOUND IN JEROID PRICE'S APARTMENT IN A
2 CLOSET IN THE LIVING ROOM UNDER SOME CLOTHES.

3 Q. AND WHAT CALIBER BULLETS ARE THOSE FOR?

4 A. 40.

5 Q. 40 CALIBER?

6 A. YES, SIR.

7 Q. SAME EMPTY BOX OF AMMO THAT YOU FOUND IN THE
8 DEFENDANT'S APARTMENT?

9 A. YES, SIR.

10 MR. PASCOE: I'D ASK THAT STATE'S EXHIBIT 74 BE
11 ADMITTED INTO EVIDENCE, YOUR HONOR.

12 THE COURT: ANY OBJECTION?

13 MR. LITTLEJOHN: NO, YOUR HONOR.

14 THE COURT: ADMITTED WITHOUT OBJECTION.

15 (STATE'S EXHIBIT 74 WAS RECEIVED IN EVIDENCE.)

16 BY MR. PASCOE:

17 Q. WHAT'S THAT? STATE'S EXHIBIT 78, DO YOU RECOGNIZE
18 THAT ITEM?

19 A. YES, SIR. THIS IS A -- AN EMPTY GUN BOX FROM A
20 PURCHASE OR AN ACQUISITION OF A 380 CALIBER PISTOL. THE NAME
21 BRAND ON IT IS FIRESTORM.

22 Q. WHERE DID YOU RETRIEVE THAT ITEM?

23 A. THIS ITEM WAS I BELIEVE -- I BELIEVE IT WAS ON -- I
24 BELIEVE IT WAS IN THE BEDROOM IN THE CLOSET.

25 Q. WHOSE CLOSET?

1 A. IN JEROID PRICE'S APARTMENT.

2 MR. PASCOE: I'D ASK THAT STATE'S EXHIBIT 78 BE
3 ADMITTED INTO EVIDENCE, YOUR HONOR.

4 THE COURT: ANY OBJECTION?

5 MR. LITTLEJOHN: NO OBJECTION, YOUR HONOR.

6 THE COURT: WITHOUT OBJECTION.

7 (STATE'S EXHIBIT 78 WAS RECEIVED IN EVIDENCE.)

8 BY MR. PASCOE:

9 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
10 EXHIBIT 77. DO YOU RECOGNIZE THAT?

11 A. YES, SIR. THIS IS A MAGAZINE FOR A SEMIAUTOMATIC
12 PISTOL. IT'S -- I BELIEVE IT'S A 40. IT'S EITHER A 40 OR A
13 NINE MILLIMETER. IT'S BROKEN, BUT IT'S A MAGAZINE OR A CLIP.

14 Q. WHERE DID YOU FIND THAT ITEM?

15 A. IN JEROID PRICE'S APARTMENT.

16 Q. SAME CONDITION AS WHEN YOU FOUND IT ON DECEMBER THE
17 13TH?

18 A. YES, SIR.

19 MR. PASCOE: I ASK THAT STATE'S EXHIBIT 77 BE
20 ADMITTED INTO EVIDENCE, YOUR HONOR.

21 THE COURT: ANY OBJECTION?

22 MR. LITTLEJOHN: IF IT'S A NINE MILLIMETER, I WOULD
23 OBJECT. IF IT'S A 40, I GUESS HE'S KIND OF TIED IT UP.

24 THE COURT: WELL, I THINK HE SAID THAT HE COULDN'T
25 TELL BECAUSE PART OF IT WAS BROKEN OFF. IS THAT RIGHT?

1 SUBJECT TO YOUR OBJECTION, I'M GOING TO ALLOW IT.

2 MR. PASCOE: THANK YOU, YOUR HONOR.

3 (STATE'S EXHIBIT 77 WAS RECEIVED IN EVIDENCE.)

4 BY MR. PASCOE:

5 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
6 EXHIBIT 79. DO YOU RECOGNIZE THAT?

7 A. YES, SIR. THIS IS AN EXTENDED MAGAZINE. IN OTHER
8 WORDS, IT HOLDS EXTRA -- EXTRA ROUNDS FOR MORE FIRING WITHOUT
9 HAVING TO RELOAD BASICALLY. IT WAS FOUND IN THE DEFENDANT'S
10 APARTMENT.

11 Q. AND IS THAT IN THE SAME CONDITION AS WHEN YOU FOUND
12 IT FROM THE DEFENDANT'S APARTMENT---

13 A. YES, SIR.

14 Q. ---ON DECEMBER 13TH? I'D ASK THAT STATE'S EXHIBIT
15 79 BE ADMITTED INTO EVIDENCE, YOUR HONOR.

16 THE COURT: ANY OBJECTION?

17 MR. LITTLEJOHN: YOUR HONOR, I WOULD HAVE THE SAME
18 OBJECTION IF IT'S NOT CONNECTED WITH THE EVENTS AT VODOO.

19 THE COURT: IS THAT -- WHAT CALIBER OF WEAPON---

20 BY MR. PASCOE:

21 Q. DO YOU KNOW WHAT KIND OF WEAPON THAT WOULD EVEN GO
22 TO?

23 A. IT APPEARS THAT IT'S A 40. AGAIN, I DON'T HAVE A
24 WEAPON TO TIE IT WITH TO ATTEMPT TO FEED A SHELL IN IT, BUT
25 IT'S CONSISTENT WITH A 40.

1 MR. LITTLEJOHN: YOUR HONOR, IF HE DOESN'T KNOW,
2 THEN I WOULD -- I WOULD OBJECT.

3 MR. PASCOE: DO YOU WANT ME TO HOLD IT TO THE SIDE?

4 THE COURT: YES, SIR.

5 MR. PASCOE: AND THAT WAS FOUND IN THE

6 DEFENDANT'S---

7 THE COURT: THAT WAS 79, COUNSELOR?

8 MR. PASCOE: 79, YOUR HONOR.

9 BY MR. PASCOE:

10 Q. THAT WAS FOUND IN THE DEFENDANT'S APARTMENT?

11 A. YES, SIR.

12 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
13 EXHIBIT 76. DO YOU RECOGNIZE THAT?

14 A. YES, SIR. THIS IS TWO BOXES OF AMMUNITION, ONE 38
15 SPECIAL, ONE 357 MAGNUM.

16 Q. AND WHERE WAS THE 38 SPECIAL AND 357 MAGNUM
17 AMMUNITION FOUND?

18 A. IN THE DEFENDANT'S APARTMENT, JEROID PRICE.

19 Q. AND THIS IS IN THE SAME CONDITION AS WHEN YOU FOUND
20 IT---

21 MR. LITTLEJOHN: YOUR HONOR, I'M GOING TO OBJECT TO
22 JUST ALLOWING HIM TO ANSWER.

23 THE COURT: IN LIGHT OF MY PRIOR RULINGS, NONE OF
24 THESE APPLY TO THE TWO CALIBERS THAT WE'RE TALKING ABOUT, THE
25 380 AND THE 40.

1 MR. PASCOE: I'D LIKE TO BRING THAT UP IN A MINUTE
2 AGAIN, YOUR HONOR.

3 THE COURT: YES, SIR.

4 MR. LITTLEJOHN: YOUR HONOR, WITH THAT I'M GOING TO
5 ASK THAT ANY REFERENCE TO THAT BE STRICKEN FROM THE RECORD.

6 THE COURT: THAT REQUEST IS GRANTED. LADIES AND
7 GENTLEMEN OF THE JURY, YOU WILL DISREGARD ANY TESTIMONY
8 RELATED TO THE ITEMS THAT I'VE EXCLUDED AS EXHIBITS. THANK
9 YOU.

10 BY MR. PASCOE:

11 Q. LET ME SHOW WHAT'S BEEN MARKED AS STATE'S EXHIBIT
12 80. DO YOU RECOGNIZE THAT?

13 A. YES, SIR. THAT'S A BOX FOR A SPRINT CELL PHONE.

14 Q. AND WHERE WAS THAT ITEM FOUND?

15 A. IT WAS IN THE DEFENDANT'S APARTMENT.

16 Q. AND DOES IT ACTUALLY HAVE THE DEFENDANT'S CELL PHONE
17 NUMBER INSIDE THE BOX?

18 A. IT'S GOT A [REDACTED] 4610.

19 Q. OKAY. THAT'S THE SAME ONE YOU FOUND IN THE
20 DEFENDANT'S APARTMENT?

21 A. YES, SIR.

22 MR. PASCOE: I'D ASK THAT STATE'S EXHIBIT 80 BE
23 ADMITTED INTO EVIDENCE, YOUR HONOR.

24 THE COURT: ANY OBJECTION?

25 MR. LITTLEJOHN: NO OBJECTION.

1 THE COURT: WITHOUT OBJECTION.

2 (STATE'S EXHIBIT 80 WAS RECEIVED IN EVIDENCE.)

3 BY MR. PASCOE:

4 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
5 EXHIBIT 82. DO YOU RECOGNIZE THAT PAPERWORK?

6 A. YES, SIR. THIS IS A QUOTE SHEET ACTUALLY WHERE A
7 PISTOL WAS -- A 40 CALIBER PISTOL WAS PURCHASED BY JEROID
8 JOHN PRICE AT [REDACTED] SAINT ANDREWS ROAD, APARTMENT [REDACTED], ON
9 JUNE THE 14TH, 2002, FROM PALMETTO DISTRIBUTORS ON BROAD
10 RIVER ROAD.

11 Q. AND WHERE DID YOU FIND THIS DOCUMENT?

12 A. IN THE DEFENDANT'S APARTMENT.

13 MR. PASCOE: I'D ASK THAT STATE'S EXHIBIT 82 BE
14 ADMITTED INTO EVIDENCE, YOUR HONOR.

15 MR. LITTLEJOHN: NO OBJECTION, YOUR HONOR.

16 THE COURT: WITHOUT OBJECTION.

17 (STATE'S EXHIBIT 82 WAS RECEIVED IN EVIDENCE.)

18 BY MR. PASCOE:

19 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
20 EXHIBIT 83. DO YOU RECOGNIZE THAT DOCUMENT?

21 A. YES, SIR. THIS IS ANOTHER TRANSACTION SHEET LIKE
22 THE COBRAY THAT WE COVERED EARLIER. THIS IS WITH REGARD TO
23 THE PURCHASE OF A PISTOL FROM DISCOUNT GUNS IN VANWYCK, SOUTH
24 CAROLINA. ONCE AGAIN, IN THIS PARTICULAR CASE IT WAS A
25 FIRESTORM 40 CALIBER PISTOL AND IT WAS PURCHASED ON

1 AUGUST THE 4TH, 2002.

2 Q. BY WHO?

3 A. JEROLD PRICE.

4 Q. AND BEHIND IT IS THERE ALSO A CLEANER COPY OF IT
5 THAT WAS FAXED TO YOU?

6 A. YES. IT WAS IN THIS -- IT WAS IN THIS CONDITION.
7 SO WE -- WE WANTED A BETTER COPY TO MAKE EVERYTHING OUT
8 CLEARLY, AND WE GOT A FAXED COPY ACTUALLY FROM DISCOUNT GUNS
9 ON THE 16TH AND IT'S -- AND YOU CAN READ IT BETTER.

10 MR. PASCOE: I'D ASK THAT STATE'S EXHIBIT 83 BE
11 ADMITTED INTO EVIDENCE, YOUR HONOR.

12 MR. LITTLEJOHN: NO OBJECTION.

13 MR. PASCOE: ANY OBJECTION TO THE COPY -- THE CLEAN
14 COPY BEING ADMITTED?

15 MR. LITTLEJOHN: NO, YOUR HONOR.

16 THE COURT: THEY'RE BOTH MARKED AS NUMBER 83.

17 MR. PASCOE: 83 AND I'LL JUST PAPER-CLIP IT IF
18 THAT'S OKAY.

19 (STATE'S EXHIBIT 83 WAS RECEIVED IN EVIDENCE.)
20 BY MR. PASCOE:

21 Q. AND REMIND THE JURY OF THE TWO TYPES OF SHELL
22 CASINGS THAT WERE FOUND AT THE SCENE.

23 A. 40 AND 380.

24 Q. AND LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
25 EXHIBIT 81. DO YOU RECOGNIZE THAT?

1 A. YES, SIR. THIS IS SOME MATERIAL PERTAINING TO
2 THE -- IT'S OWNERSHIP MATERIAL FOR THE FIRESTORM... IT'S
3 FIRESTORM SAFETY WARNING INSTRUCTION HANDBOOK AND SOME OTHER
4 MATERIAL FROM THE FIRESTORM COMPANY AND AN A.T. YOUTH HANDGUN
5 SAFETY ACT NOTICE FORM.

6 Q. AND SPECIFICALLY FOR LIKE A 380 CALIBER PISTOL?
7 CORRESPONDING WITH STATE'S EXHIBIT 78?

8 A. YEAH, THIS IS -- THIS IS FOR THE 380, 380 A.C.P.

9 MR. PASCOE: I'D ASK THAT STATE'S EXHIBIT 81 BE
10 ADMITTED INTO EVIDENCE, YOUR HONOR.

11 MR. LITTLEJOHN: NO OBJECTION.

12 THE COURT: WITHOUT OBJECTION.

13 (STATE'S EXHIBIT 81 WAS RECEIVED IN EVIDENCE.)

14 BY MR. PASCOE:

15 Q. DID YOU LOCATE ANY GUNS IN THE DEFENDANT'S
16 APARTMENT?

17 A. NO.

18 Q. A 380 OR A 40?

19 A. NO, SIR.

20 Q. JUST THE AMMO, BOXES, AND ALL THE OTHER ITEMS YOU'VE
21 GONE OVER.

22 A. THAT IS CORRECT.

23 Q. IS THERE A DIFFERENCE IN A 380 AND A 40 CALIBER
24 PISTOL?

25 A. YES.

1 Q. AND YOU'VE HAD EXPERIENCE USING BOTH GUNS IN LAW
2 ENFORCEMENT?

3 A. I HAVE.

4 Q. IN FACT, YOU CARRY BOTH TYPES OF GUNS.

5 A. I DO.

6 Q. AND WHAT IS THE DIFFERENCE IN THOSE TWO TYPE OF
7 WEAPONS? IF YOU COULD EXPLAIN FOR THE JURY.

8 A. WELL, A 40 IS A LARGER CALIBER, HAS MORE KNOCK-DOWN
9 POWER. THAT'S THE WAY IT'S DESCRIBED. A 380 IS ACTUALLY A
10 NINE MILLIMETER SHORT. IT'S A -- IT'S USUALLY FIRED FROM A
11 SMALLER WEAPON IN SIZE, PHYSICALLY IN SIZE, AND IT HAS LESS
12 STOPPING POWER, KNOCK-DOWN POWER, THAN A 40 WOULD HAVE. BOTH
13 -- BOTH ARE SEMIAUTOMATIC CALIBERS WHICH MEANS THAT BOTH ARE
14 MAGAZINE FED THROUGH THE -- USUALLY THE GRIP OF THE FIREARM
15 AND ARE EJECTED. WHENEVER A SHELL IS FIRED, IT EJECTS --
16 WHEN A ROUND IS FIRED, IT EJECTS A SHELL CASING. THEN
17 ANOTHER ONE IS FED INTO THE -- INTO THE BREECH.

18 Q. AND ARE THERE ANY INHERENT PROBLEMS WITH FIRING A
19 SEMIAUTOMATIC PISTOL, ANYTHING THAT COULD OCCUR?

20 A. SOMETIMES THEY'LL -- THEY'LL MISFIRE. YOU'LL GET
21 WHAT THEY CALL A DOUBLE FEED FOR VARIOUS REASONS. THE
22 MAGAZINE WILL TRY TO -- THE SLIDE MAY GO BACK HALFWAY AND
23 IT'LL GET CAUGHT FEEDING A SHELL -- A ROUND AND IT WILL --
24 IT'LL -- IT'LL -- IT WON'T FUNCTION PROPERLY.

25 Q. WOULD THAT HAPPEN IF YOU WERE USING A REVOLVER

1 THOUGH?

2 A. NO.

3 Q. AND, OF COURSE, A 357 WOULD BE A REVOLVER?

4 A. THAT'S CORRECT.

5 Q. NOW, YOU ALSO TESTIFIED THAT YOU CONDUCTED A SEARCH

6 AT MR. BROOKS' APARTMENT?

7 A. YES.

8 Q. DID YOU -- ON THAT DAY?

9 A. YES.

10 Q. DID YOU FIND ANYTHING OF SIGNIFICANCE DURING THAT

11 SEARCH?

12 A. I BELIEVE WE FOUND A BOX OF AMMO FOR A 380 IN THAT

13 SEARCH.

14 Q. NOW, DID YOU HAVE ANY LUCK LOCATING EITHER THE
15 DEFENDANT OR MR. BROOKS IN THE MONTH OF DECEMBER?

16 A. NO, I DID NOT.

17 Q. DID YOU CONTINUE TO INTERVIEW WITNESSES?

18 A. YES, WE DID.

19 Q. OKAY. AND WHO IN PARTICULAR DID YOU INTERVIEW? YOU

20 CAN'T TELL US WHAT THEY SAID, BUT WHO INTERVIEWED -- WHO DID

21 YOU INTERVIEW?

22 A. I INTERVIEWED SHERMAN ANTHONY PATRICK, JAMEL BRYANT,

23 JASON WOOD, TO NAME A FEW.

24 Q. AND WHAT TYPE OF INFORMATION WERE YOU SEEKING FROM

25 THEM?

1 A. WELL, WE WERE -- THOSE THREE INDIVIDUALS I NAMED ARE
2 CLOSELY ACQUAINTED WITH MR. BROOKS AND MR. PRICE, AND WE WERE
3 SEEKING INFORMATION CONCERNING THEIR KNOWLEDGE OF THE EVENTS
4 FROM THE EARLY MORNING HOURS OF DECEMBER THE 7TH AND ALSO WE
5 WERE SEEKING TO ASCERTAIN IF THEY KNEW WHERE THESE TWO GUYS
6 WERE.

7 Q. OKAY. WHEN DID YOU FINALLY LOCATE THE CO-DEFENDANT,
8 RYAN BROOKS?

9 A. BEAR WITH ME JUST ONE MINUTE. ON THE 9TH -- JANUARY
10 THE 9TH OF THIS YEAR MR. BROOKS TURNED HIMSELF IN.

11 Q. AND WHO WAS WITH MR. BROOKS WHEN HE TURNED HIMSELF
12 IN?

13 A. HIS ATTORNEY AT THE TIME, HUGH ROBERTS.

14 Q. OKAY. WHAT DID YOU DO WITH MR. BROOKS?

15 A. ACTUALLY HE TURNED HIMSELF IN TO THESE -- UP HERE AT
16 THE SOLICITOR'S OFFICE AND I IMMEDIATELY RESPONDED WHEN I GOT
17 THE PHONE CALL, AND WE SOUGHT TO INTERVIEW MR. BROOKS.

18 Q. DID YOU PLACE HIM UNDER ARREST FIRST?

19 A. HE WAS PLACED UNDER ARREST.

20 Q. OKAY. AND DID YOU GO OVER HIS RIGHTS WITH HIM?

21 A. YES. HE WAS ADVISED OF HIS MIRANDA WARNINGS.

22 Q. WAS ANYONE PRESENT WITH HIM WHEN YOU TOOK MR.
23 BROOKS' STATEMENT AND WENT OVER HIS RIGHTS WITH HIM?

24 A. HIS ATTORNEY, MR. ROBERTS, WAS WITH HIM AT THE TIME.

25 Q. SO YOU ALLOWED HIS ATTORNEY TO BE THERE WHEN HE GAVE

1 A STATEMENT.

2 A. OF COURSE.

3 Q. IS THAT SOMETHING YOU WOULD ALLOW?

4 A. YES.

5 Q. NOW, EVEN AFTER MR. BROOKS GAVE YOU A STATEMENT ON
6 JANUARY THE 9TH AND HE WAS ARRESTED FOR MURDER, DID YOU
7 CONTINUE TO INTERVIEW WITNESSES?

8 A. YES, I DID.

9 Q. OKAY. AND, IN FACT, IN THIS CASE YOU HAVE TAKEN
10 OVER 50 WRITTEN STATEMENTS. IS THAT TRUE?

11 A. YES, SIR.

12 Q. A NUMBER OF VERBAL STATEMENTS?

13 A. YES, SIR.

14 Q. DID YOU HAVE AN OPPORTUNITY TO INTERVIEW A MARCUS
15 JONES?

16 A. I DID.

17 Q. OKAY. WHEN DID YOU INTERVIEW MR. JONES?

18 A. MR. JONES WAS IDENTIFIED AFTER WE INTERVIEWED HENRY
19 FOSTER PHILLIPS WHO WAS THE D.J., AND MYSELF AND INVESTIGATOR
20 ROBERTSON INTERVIEWED HIM. BEAR WITH ME.

21 Q. YOU DON'T HAVE TO SAY WHERE.

22 A. I UNDERSTAND.

23 Q. BUT YOU DID INTERVIEW HIM?

24 A. YES.

25 Q. AND WHEN WAS THAT?

1 A. ON THE -- BEAR WITH ME ONE MOMENT. ON THE -- ON
2 FEBRUARY THE 3RD WE ACTUALLY DID THAT INTERVIEW.

3 Q. OKAY. AND TO REFRESH THE JURY'S MEMORY, MARCUS
4 ACTUALLY TESTIFIED THIS WEEK ON MONDAY?

5 A. YES.

6 Q. OKAY. AND WHAT TYPE OF INFORMATION DID YOU ASK HIM,
7 DID YOU TRY TO SEEK FROM HIM?

8 A. WELL, WE HAD LEARNED THAT HE WAS A POTENTIAL WITNESS
9 TO THE ACTUAL SHOOTING, AND SO WE WERE SEEKING TO GET HIS
10 DESCRIPTION OF WHAT HAPPENED.

11 Q. OKAY. WAS HE ABLE TO GIVE YOU A DESCRIPTION OF THE
12 GUNMAN THAT HE SAW?

13 A. YES, SIR.

14 MR. LITTLEJOHN: YOUR HONOR, I'M GOING TO OBJECT.

15 THE COURT: SUSTAINED.

16 MR. PASCOE: THAT'S UNDER THE RULES, YOUR HONOR.

17 THE COURT: WHAT RULE, SIR?

18 MR. PASCOE: LET ME FIND IT. COME ON UP.

19 MR. LITTLEJOHN: WOULD YOUR HONOR LIKE ME TO
20 APPROACH?

21 THE COURT: I'M A LITTLE CURIOUS AS TO WHAT MR.
22 PASCOE HAS.

23 MR. PASCOE: AND I KNOW THE RULES, JUDGE.

24 THE COURT: YES. SO DO I, MR. PASCOE. DO YOU WANT
25 TO HAVE A SEAT, SIR?

1 MR. PASCOE: SIR? I'M SORRY?

2 THE COURT: HAVE A SEAT. LADIES AND GENTLEMEN, I
3 THINK IT'S PROBABLY A GOOD TIME FOR YOU ALL TO TAKE A LITTLE
4 BREAK. WE'LL BRING YOU BACK OUT SHORTLY. IF YOU ALL WILL
5 JUST GO TO YOUR JURY ROOM. DON'T DISCUSS THE EVIDENCE OR
6 TESTIMONY YOU'VE SEEN OR HEARD THUS FAR. THANK YOU.

7 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT
8 11:46 A.M.)

9 THE COURT: THANK YOU, SIR. YOU CAN STEP DOWN, SIR.
10 I JUST REMIND YOU YOU'RE STILL ON THE STAND AND STILL UNDER
11 OATH.

12 THE WITNESS: YES, SIR.

13 THE COURT: MR. PASCOE?

14 MR. PASCOE: SIR?

15 THE COURT: WHAT EXCEPTION WERE YOU ATTEMPTING TO
16 APPLY?

17 MR. PASCOE: THE -- CAN I SAY ONE THING FIRST?

18 THE COURT: YES, SIR.

19 MR. PASCOE: I WASN'T TRYING TO BE DISRESPECTFUL TO
20 THE COURT; I HOPE YOU KNOW THAT.

21 THE COURT: WELL, I WAS GETTING READY TO COME TO
22 THAT BECAUSE YESTERDAY THERE WERE A FEW THINGS I LET SLIDE,
23 AND I NORMALLY WOULD TAKE A LOT -- I HAVE A LOT OF PATIENCE.
24 STUFF HAPPENING IN FRONT OF A JURY I HAVE NO PATIENCE WITH.

25 I WANT TO MAKE SOMETHING CLEAR. I DON'T REALLY CARE

1 OR BELIEVE THAT I SHOULD -- WHETHER ATTORNEYS AGREE WITH MY
2 RULINGS OR DON'T AGREE WITH MY RULINGS, THEY HAVE THE RIGHT
3 TO MAKE A RECORD IF THEY TAKE AN EXCEPTION OR OBJECT TO
4 SOMETHING. I DON'T LIKE TO HEAR LITTLE COMMENTS OR SEE
5 LITTLE GLANCES FROM LAWYERS IN FRONT OF A JURY.

6 I ACTUALLY BASICALLY TOOK YESTERDAY AND LAST NIGHT
7 TO CALM DOWN A LITTLE BIT. I THINK EVERY ATTORNEY IN THIS
8 ROOM KNOWS HOW TO CONDUCT THEMSELVES. I KNOW SOMETIMES Y'ALL
9 THINK I'M A LITTLE OFF MY ROCKER, AND I TRIED HARD YESTERDAY
10 NOT TO RESPOND TO SOME OF THAT STUFF.

11 I DON'T LIKE LAWYERS BEING CALLED NAMES. I DON'T
12 LIKE LAWYERS ACTING LIKE SCHOOL KIDS WHEN THEY DISAGREE WITH
13 A RULING. AS YOU ALL KNOW, THE RULES ACTUALLY GOVERN HOW
14 WE'RE TO CONDUCT OURSELVES AFTER A RULING FROM THE COURT. IF
15 YOU HAVE AN EXCEPTION, SIR, I WILL LISTEN TO YOU. THAT SORT
16 OF EXASPERATION AND COMMENTS -- AND I HEARD, BELIEVE IT OR
17 NOT -- SOMETIMES IT LOOKS LIKE I'M NOT PAYING ATTENTION. I
18 SEE THINGS AND I HEAR THINGS, AND I THINK YOU KNOW WHAT I'M
19 TALKING ABOUT.

20 IF I HEAR OR SEE ONE MORE THING LIKE THAT LIKE
21 YESTERDAY, I'M GOING TO DECLARE A MISTRIAL. I'LL TELL YOU
22 NOW. I'M NOT PLAYING. I'M NOT JOKING. I'M NOT JUST SAYING
23 THIS. I WILL DECLARE A MISTRIAL, AND I'M GIVING EVERYBODY A
24 WARNING RIGHT NOW. THERE WILL BE NO MORE WARNINGS. IT'S
25 JUST GOING TO HAPPEN. NOW, SIR, I WILL BE GLAD TO LISTEN TO

1 YOU AS TO WHAT EXCEPTION YOU BELIEVE APPLIES.

2 MR. PASCOE: THANK YOU, JUDGE LLOYD. 801(D)1, THE
3 IDENTIFICATION OF A PERSON MADE AFTER RECEIVING A PERSON
4 (SIC), I CAN JUST TELL YOU IN EVERY TRIAL I'VE DONE THE
5 DESCRIPTION OF ANY -- GIVEN BY ANY WITNESS HAS ALWAYS COME IN
6 THROUGH THE INVESTIGATING OFFICER.

7 THE COURT: 801(D)1?

8 MR. PASCOE: YES, YOUR HONOR. LET ME LOOK AGAIN.
9 MY EYES ARE...

10 THE COURT: I ASSUME YOU'RE TALKING ABOUT C.?

11 MR. PASCOE: YES, SIR.

12 THE COURT: YES, SIR. MR. LITTLEJOHN? ANYTHING AS
13 TO THAT?

14 MR. LITTLEJOHN: YOUR HONOR, IF HE'S LIMITING IT TO
15 THAT PARTICULAR EXCEPTION, THEN I THINK THAT'S ALL RIGHT. IF
16 HE'S GOING INTO WHAT THIS WITNESS' STATEMENT WAS BACK WHEN HE
17 WAS INTERVIEWED IN FEBRUARY, THEN I DON'T THINK THAT'S WITHIN
18 THE PURVIEW OF THAT PARTICULAR EXCEPTION.

19 MR. PASCOE: AND CAN I RESPOND?

20 THE COURT: YES, SIR.

21 MR. PASCOE: AND THAT'S EXACTLY WHAT I WAS DOING
22 WHEN I ASKED HIM ABOUT THE DESCRIPTION. I WASN'T GOING INTO
23 HIS STATEMENT.

24 THE COURT: OKAY. WELL, I'LL LET YOU QUESTION THAT
25 WITNESS, LIMIT HIS -- AND I THINK THE WITNESS IS SITTING

1 HERE, SO HE UNDERSTANDS THE RULE. HIS RESPONSE WILL BE
2 LIMITED TO THAT.

3 MR. PASCOE, I DON'T BELIEVE YOU'RE TRYING TO BE
4 DISRESPECTFUL TO THIS COURT, SIR, BUT AT SOME POINT MY
5 PATIENCE DOES RUN OUT. YOU'RE A GOOD LAWYER. THERE ARE ALL
6 GOOD LAWYERS ON BOTH SIDES IN THIS CASE, BUT AT SOME POINT MY
7 PATIENCE DOES RUN OUT WITH THAT KIND OF STUFF.

8 I THINK ACTUALLY WE WERE IN A TRIAL BEFORE AND YOU
9 SAW MY PATIENCE RUN OUT WITH THAT -- WITH OPPOSING COUNSEL ON
10 THE OTHER SIDE OF YOU. WE'LL BRING THE JURY BACK OUT AND
11 FINISH THIS WITNESS'S TESTIMONY. AS I THINK I INDICATED TO
12 YOU ALL EARLIER, WE'RE GOING TO BREAK A LITTLE BIT EARLY FOR
13 LUNCH TODAY.

14 MR. PASCOE: YOUR HONOR---

15 THE COURT: YES, SIR.

16 MR. PASCOE: ---FOR SCHEDULING I THINK THIS WILL
17 PROBABLY BE MY LAST WITNESS ANYWAY.

18 THE COURT: OKAY. WE'RE GOING TO BREAK UNTIL ABOUT
19 1:00 ANYWAY, AND I UNDERSTAND THAT THERE WILL PROBABLY BE
20 MOTIONS AND WE'LL PROBABLY SPEND A LITTLE BIT OF TIME ON
21 DIRECTED VERDICT ARGUMENTS, I WOULD ASSUME. OKAY. WE'RE
22 READY FOR THE JURY. YES, SIR.

23 MR. PASCOE: MAY I SET SOMETHING UP WHILE THE JURY
24 IS COMING IN TO SAVE TIME?

25 THE COURT: YES, SIR. OFFICER, YOU MAY RETAKE THE

1 STAND, SIR. THANK YOU.

2 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT
3 11:53 A.M.)

4 THE COURT: THANK YOU, LADIES AND GENTLEMEN. WE'RE
5 READY TO CONTINUE. MR. PASCOE?

6 MR. PASCOE: THANK YOU, YOUR HONOR.
7 BY MR. PASCOE:

8 Q. LET ME ASK YOU AGAIN, SIR: WERE YOU ABLE TO GET A
9 DESCRIPTION OF THE GUNMAN---

10 A. YES, SIR.

11 Q. ---FROM MARCUS JONES?

12 A. YES, SIR.

13 Q. OKAY. DID HE TELL YOU HOW TALL HE WAS?

14 A. YES, SIR.

15 Q. WHAT DID HE TELL YOU?

16 A. IF I COULD REFER TO HIS STATEMENT.

17 Q. SURE.

18 A. I DON'T HAVE IT WITH ME.

19 Q. (MR. PASCOE HANDS A DOCUMENT TO THE WITNESS.)

20 A. HIS RESPONSE REGARDING HEIGHT WAS FIVE-SEVEN TO
21 FIVE-EIGHT.

22 Q. OKAY. DID HE TELL YOU WHAT HIS SKIN COMPLEXION WAS?

23 A. INDICATED HE WAS DARK-SKINNED.

24 Q. DID HE TELL YOU ABOUT THE CLOTHING HE WORE THAT
25 NIGHT?

1 A. YES, SIR. HE DESCRIBED A RED, BLACK, AND WHITE HAT.
2 WHAT HE DESCRIBED -- HE REFERRED TO IT AS A PINWHEEL HAT.

3 Q. AND DID YOU WANT TO SEE, AFTER HE WAS ABLE TO GIVE
4 YOU THIS DESCRIPTION, WHETHER HE COULD IDENTIFY ANYONE THAT
5 HE SAW THAT NIGHT?

6 A. YES.

7 Q. OKAY. AND HOW DID YOU GO ABOUT DOING THAT?

8 A. WE HAD PHOTOGRAPHIC LINE-UPS PREPARED BY THAT POINT
9 IN TIME ON BOTH RYAN BROOKS AND JEROID PRICE.

10 Q. AND HOW MANY PHOTO LINE-UPS DID YOU SHOW MARCUS THAT
11 DAY?

12 A. SHOWED TWO.

13 Q. AND HOW MANY PHOTO LINE-UPS DO YOU THINK YOU'VE
14 SHOWN OVER THE YEARS IN 24 YEARS OF LAW ENFORCEMENT?

15 A. HUNDREDS.

16 Q. ARE WITNESSES ALWAYS ABLE TO PICK SOMEBODY OUT?

17 A. NO.

18 Q. AND WHEN A WITNESS CAN'T PICK SOMEONE OUT, DO YOU
19 DOCUMENT THAT IN YOUR NOTES?

20 A. YES.

21 Q. WHAT SORTS OF THINGS ARE YOU LOOKING FOR AS AN
22 INVESTIGATOR IN WHETHER A VICTIM MIGHT BE ABLE TO EVEN BE
23 SHOWN A PHOTOGRAPHIC LINE-UP, MUCH LESS PICK SOMEBODY OUT?

24 A. TYPICALLY YOU WANT TO SHOW A LINE-UP TO A WITNESS
25 WHO HAD THE OPPORTUNITY TO MAKE AN IDENTIFICATION. THE TIME

1 INVOLVED IN IT, THE ABILITY TO SEE WHAT YOU THINK THEY MAY
2 HAVE SEEN, WHAT THEY'VE INDICATED TO YOU IN THE STATEMENT
3 POSSIBLY THAT THEY SAW ALL GIVES YOU AN IDEA OF WHETHER OR
4 NOT YOU MIGHT GET A FIT OR NOT.

5 Q. AND DID YOU FEEL COMFORTABLE SHOWING MARCUS A
6 LINE-UP THAT -- THAT DAY ON FEBRUARY 3RD?

7 A. YES, SIR.

8 Q. LET ME SHOW YOU -- HOW MANY LINE-UPS DID YOU SHOW
9 HIM?

10 A. I SHOWED HIM TWO.

11 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
12 EXHIBIT 41. DO YOU RECOGNIZE THAT?

13 A. YES, SIR. THAT'S A LINE-UP WITH MR. BROOKS IN IT.

14 Q. OKAY. AND DID YOU SHOW THAT TO MARCUS ON FEBRUARY
15 THE 3RD?

16 A. I DID.

17 Q. WHAT DID YOU ASK HIM TO DO WITH THAT?

18 A. IDENTIFY ANYONE THAT HE SAW ON THERE THAT HE
19 RECALLED FROM THE CLUB THAT NIGHT.

20 Q. DID YOU TELL HIM THAT THE GUNMAN WAS IN THIS
21 LINE-UP?

22 A. NO.

23 Q. DID YOU EVEN HINT TO HIM OR SUGGEST TO HIM WHO TO
24 PICK OUT?

25 A. NO.

1 Q. DID HE PICK ANYONE OUT AS LOOKING LIKE THE GUNMAN IN
2 STATE'S EXHIBIT 41?

3 A. HE DID NOT OUT OF THAT LINE-UP.

4 Q. AND WHO IS PHOTOGRAPH NUMBER ONE?

5 A. ONE IS RYAN BROOKS IN THAT LINE-UP.

6 Q. NOW, LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
7 EXHIBIT 40. DO YOU RECOGNIZE THAT?

8 A. YES. THIS IS THE SECOND LINE-UP I SHOWED HIM. IN
9 THIS PARTICULAR CASE THE DEFENDANT, JEROID PRICE, IS ALSO
10 COINCIDENTALLY NUMBER ONE IN THAT LINE-UP.

11 Q. WHAT DID YOU ASK HIM TO DO WITH STATE'S EXHIBIT 40?

12 A. THE SAME THING, IF HE COULD RECOGNIZE ANYONE IN THE
13 LINE-UP WITH REGARD TO THE INCIDENT AT THE PARTY.

14 Q. DID YOU TELL HIM THAT THE GUNMAN WAS IN THIS
15 LINE-UP?

16 A. NO.

17 Q. THAT THE PERSON HE SAW WAS IN HERE?

18 A. NO, SIR.

19 Q. DID YOU HINT TO HIM OR SUGGEST TO HIM WHO TO PICK
20 OUT?

21 A. NO, SIR.

22 Q. IN ANY WAY?

23 A. NO, SIR.

24 Q. AND DID HE HAVE A RESPONSE WHEN HE LOOKED AT STATE'S
25 EXHIBIT 40?

1 A. YES, SIR. HE -- HE WENT TO PHOTO NUMBER ONE. HE
2 WENT TO THE DEFENDANT'S PHOTO.

3 Q. WHAT HESITATION DID HE SHOW WHEN HE WENT TO PHOTO
4 NUMBER ONE?

5 A. HE WENT RIGHT TO THE PHOTO. HE -- HE WAS HESITANT
6 TO SWEAR TO IT IN AN AFFIDAVIT, BUT HE WENT RIGHT TO THAT
7 PICTURE. HE FELT LIKE THAT THAT WAS THE INDIVIDUAL THAT HE
8 SAW.

9 Q. AND DID YOU DOCUMENT THAT DOWN IN HIS STATEMENT THAT
10 THAT LOOKED LIKE THE PERSON?

11 A. YES, SIR.

12 Q. OR MOST LIKE THE PERSON?

13 A. YES.

14 Q. AND WHO IS NUMBER ONE AGAIN?

15 A. IT'S THE DEFENDANT, JEROID PRICE.

16 Q. NOW, WERE YOU EVER ABLE TO LOCATE JEROID PRICE IN
17 DECEMBER OF LAST YEAR?

18 A. NO, SIR.

19 Q. JANUARY OF THIS YEAR?

20 A. NO, SIR.

21 Q. FEBRUARY OF THIS YEAR?

22 A. NO, SIR.

23 Q. WHEN DID MR. PRICE FINALLY TURN HIMSELF IN?

24 A. IT WAS IN MARCH. MARCH THE 19TH.

25 Q. AND FROM DECEMBER THE 7TH TO MARCH THE 19TH HOW --

1 DID YOU HAVE ANY CONTACT WITH THE DEFENDANT - MR. PRICE?

2 A. YES, I DID.

3 Q. HOW?

4 A. BY PHONE.

5 Q. OKAY. AND WHEN DID HE -- WHEN DID YOU FIRST

6 COMMUNICATE WITH HIM BY PHONE?

7 A. BEAR WITH ME ONE MOMENT. THE FIRST DAY THAT JEROID
8 PRICE AND I SPOKE WAS ON DECEMBER THE 16TH.

9 Q. OKAY. WHAT NUMBER DID HE REACH YOU AT?

10 A. THE FIRST COMMUNICATION ACTUALLY WAS HE -- HE LEFT A
11 COUPLE OF MESSAGES ON MY VOICE MAIL. MY PHONE NUMBER AT THE
12 TIME WAS [REDACTED]-3037, I BELIEVE.

13 Q. AND THAT WAS YOUR DIRECT LINE?

14 A. YES.

15 Q. HOW WOULD HE HAVE BEEN ABLE TO GET YOUR DIRECT LINE?

16 A. IN THAT -- IN THAT PARTICULAR CASE HE COULD HAVE
17 JUST CALLED THROUGH AND THEY COULD HAVE SENT IT TO MY DIRECT
18 LINE.

19 Q. AND WHEN WAS THE FIRST TIME YOU HAD EVER HEARD FROM
20 JEROID PRICE?

21 A. ON THE 16TH.

22 Q. OKAY. AND WHAT WERE THOSE? WERE THOSE ACTUAL
23 CONVERSATIONS OR VOICE MAILS?

24 A. WELL, THERE WERE TWO VOICE MAILS INITIALLY.

25 Q. WHAT WERE THE VOICE MAILS?

1 A. BASICALLY JUST WANTING TO KNOW WHAT WAS GOING ON.
2 HE DID NOT LEAVE A WAY TO REACH HIM AND ACTUALLY -- BEAR WITH
3 ME ONE MINUTE. ON -- LATER ON ON THE 16TH IN THAT AFTERNOON
4 I WAS -- I ACTUALLY DID SPEAK TO HIM.

5 Q. TELL US ABOUT THAT CONVERSATION. FIRST OF ALL, HOW
6 DID YOU VERIFY THAT IT WAS HIM ON THE TELEPHONE?

7 A. WE HAD -- WE HAD LOCATED SOME INFORMATION IN THE
8 SEARCH. WE HAD ACTUALLY DOWNLOADED SOME NUMBERS OFF OF HIS
9 CALLER I.D., AND ONE OF MY DETECTIVES, ROBERTSON, HAD MADE A
10 PHONE CALL TO THAT INDIVIDUAL JUST ATTEMPTING TO FIND OUT IF
11 HE KNEW WHERE PRICE WAS. AND WITHIN A FEW MINUTES OF THAT
12 CALL AND THAT CONVERSATION, ROBERTSON GOT A CALL BACK ON HIS
13 CELL PHONE WHICH APPARENTLY HAD DISPLAYED HIS CELL NUMBER TO
14 THE PERSON HE CALLED AND IT WAS THE DEFENDANT.

15 Q. OKAY. AND WHEN YOU TALKED TO THE DEFENDANT, WHAT,
16 IF ANYTHING, DID HE SAY WITH REGARDS TO THE SHOOTING?

17 A. WELL, WE HAD A RATHER LENGTHY CONVERSATION AT THAT
18 POINT IN TIME, BUT THE FIRST THING HE SAID WAS THAT HE HAD
19 DEPARTED THE CLUB PRIOR TO THE SHOOTING. HE WASN'T THERE.

20 Q. AND DID HE ACTUALLY GIVE YOU AN ALIBI?

21 A. YES. HE MENTIONED THAT HIS COUSIN - AND HE
22 IDENTIFIED HER AS I BELIEVE TAMEKA COLES - DROVE HIM TO THE
23 PARTY AND ACTUALLY DROVE HIM AWAY FROM THE PARTY SO HE
24 WOULDN'T GET IN ANY TROUBLE, YOU KNOW, BEFORE THE SHOOTING
25 TOOK PLACE.

1 Q. AND AS A RESULT OF THAT CONVERSATION WHERE HE GAVE
2 YOU AN ALIBI, WHAT DID YOU END UP DOING AFTER THAT
3 CONVERSATION?

4 A. WELL, FORTUNATELY FOR US HE ALSO PROVIDED SOME WAYS
5 THAT WE COULD REACH TAMEKA COLES, I BELIEVE A COUPLE OF
6 PLACES OF HER EMPLOYMENT, AND I ACTUALLY DISPATCHED
7 INVESTIGATOR ROBERTSON IMMEDIATELY TO TRY TO FIND HER TO
8 EITHER CONFIRM OR REFUTE THAT ALIBI.

9 Q. OKAY. AND WERE YOU ABLE TO EITHER CONFIRM OR REFUTE
10 IT?

11 A. WE WERE ABLE TO REFUTE IT.

12 Q. NOW, WAS THAT THE ONLY TIME YOU HEARD FROM THE
13 DEFENDANT ON DECEMBER THE 16TH? IS THAT THE ONLY TIME?

14 A. NO. HE LEFT ANOTHER VOICE MAIL LATER ON THAT
15 EVENING ON MY PHONE AGAIN.

16 Q. WHAT DID HE SAY IN THAT VOICE MAIL?

17 A. IN THAT PARTICULAR VOICE MAIL HE WAS -- HE WAS
18 UPSET. HE INDICATED -- SOUNDED LIKE HE WAS UPSET, AND HE WAS
19 UPSET THAT I HADN'T TOLD HIM DURING THE INITIAL CALL THAT HE
20 WAS WANTED FOR MURDER. HE SAID IT WOULDN'T CHANGE ANYTHING
21 AND THAT HE WOULD BE COMING IN THE FOLLOWING MONDAY MORNING,
22 AS HE ADVISED IN THE FIRST CALL WHEN WE HAD INDICATED THAT WE
23 NEEDED TO TALK TO HIM.

24 Q. DID HE COME IN ON THE FOLLOWING MONDAY MORNING?

25 A. NO.

1 Q. DID YOU HEAR FROM HIM AGAIN BEFORE THAT MONDAY
2 MORNING?

3 A. ON THE 18TH WHICH WAS A -- ACTUALLY IT WAS ON THE
4 17TH. THERE WAS A VOICE MAIL ON TUESDAY THE 18TH AT AROUND
5 7:14 P.M. THAT I FOUND---

6 Q. YOU SAID WEDNESDAY THE 18TH?

7 A. YES. I FOUND IT ON THE 18TH, BUT HE HAD LEFT IT,
8 ACCORDING TO MY VOICE MAIL, THE EVENING OF THE 17TH.

9 Q. AND HE DID NOT TURN HIMSELF IN ON MONDAY THE 16TH.

10 A. RIGHT.

11 Q. OR MONDAY THE 23RD, FOR THAT MATTER.

12 A. RIGHT.

13 Q. WHAT WAS THE VOICE MAIL ON WEDNESDAY THE 18TH?

14 A. ON THE 18TH THE VOICE MAIL SAID HIS WORLD WAS
15 FALLING DOWN AROUND HIM AND THAT THE POLICE WERE HELPING IT
16 FALL. HE MENTIONED HOW HIS MOTHER HAD TO BE HOSPITALIZED AS
17 A RESULT OF ALL THIS. HE DID LEAVE ME A CALL-BACK NUMBER IN
18 THAT MESSAGE WHICH WAS [REDACTED] 8640, AND I -- AT THAT TIME I DID
19 RECORD THOSE -- THAT PARTICULAR VOICE MAIL.

20 Q. NOW, DID YOU EVER HEAR FROM HIM AGAIN IN THE MONTH
21 OF DECEMBER?

22 A. NO.

23 Q. AND DID YOU ATTEMPT TO TRY TO CALL HIM BACK AT THAT
24 CALL-BACK NUMBER?

25 A. YES. I KEPT TRYING TO CALL THAT NUMBER BACK

1 REPEATEDLY TO REACH HIM, AND FINALLY ON THE 3RD OF JANUARY
2 AFTER A NUMBER OF TIMES TRYING TO CALL IT, LEAVING MESSAGES,
3 I CALLED IT AND IT INDICATED OR ONE OF THE VOICE -- VOICE
4 PROMPTS SAID IT WAS OUT OF SERVICE.

5 Q. NOW -- AND YOU REALIZED THROUGH THE COURSE OF YOUR
6 INVESTIGATION THAT WAS THE PHONE THAT MR. WOODS HAD BOUGHT
7 FOR THE DEFENDANT---

8 A. YES, WE LEARNED THAT.

9 Q. ---TWO OR THREE DAYS AFTER THE MURDER.

10 A. I BELIEVE IT WAS ON THE TUESDAY AFTER THE MURDER HE
11 SECURED A PHONE IN HIS NAME AND GAVE IT TO THE DEFENDANT.

12 Q. SO WHEN DID YOU FINALLY HEAR FROM THE DEFENDANT,
13 JEROID PRICE, AGAIN?

14 A. ON JANUARY 10TH I HAD TWO VOICE MAILS FROM PRICE.
15 IT WAS AROUND 9:00 -- OR ACTUALLY A VOICE MAIL, A SOLE VOICE
16 MAIL. I'M SORRY. AND THE VOICE MAIL HAD BEEN LEFT AT 8:40.
17 SO I CHECKED MY VOICE MAIL AROUND 9, AND LESS THAN 20 MINUTES
18 EARLIER HE HAD LEFT A MESSAGE, SAID HE WAS CALLING TO TALK
19 ABOUT THE CASE AND HE WOULD BE LEAVING WHAT I -- I PERCEIVED
20 HE SAID NEW JERSEY. IT WAS DIFFICULT TO MAKE OUT. HE WOULD
21 BE BACK IN COLUMBIA ON MONDAY. HE SAID HE NEEDED TO TALK TO
22 HIS LAWYER ABOUT WHETHER HE'D BE TURNING HIMSELF IN OR NOT
23 AND THAT HE WOULD CALL BACK ON MONDAY.

24 Q. OKAY. AND THIS WAS ON -- THE MESSAGE ON JANUARY THE
25 10TH?

1 A. THAT WAS ON THE 10TH.

2 Q. OF COURSE, WHAT HAD HAPPENED THE DAY BEFORE ON
3 JANUARY THE 9TH?

4 A. NOTHING.

5 Q. WHAT DID RYAN BROOKS DO ON JANUARY THE 9TH?

6 A. OH, RYAN BROOKS HAD TURNED HIMSELF IN.

7 Q. OKAY. DID THE DEFENDANT TURN HIMSELF IN THAT
8 FOLLOWING MONDAY?

9 A. NO.

10 Q. WHAT DID YOU DO WITH REGARDS TO THE SEARCH OF THE
11 DEFENDANT NOW THAT HE'S STILL NOT TURNED HIMSELF IN?

12 A. WE ACTUALLY -- ACTUALLY KIND OF TURNED IT UP A
13 LITTLE BIT. I DID ACTUALLY HAVE ANOTHER CONVERSATION ON THE
14 10TH WITH THE DEFENDANT.

15 Q. AND WHAT WAS THAT CONVERSATION ON THE 10TH?

16 A. WITHIN A FEW MINUTES OF CHECKING THAT LAST CALL -- I
17 WAS STILL AT THE OFFICE. I WAS AT THE OFFICE LATE. THE
18 PHONE RANG AGAIN, AND I WAS ABLE TO PICK IT UP THIS TIME AND
19 IT WAS MR. PRICE AND WE HAD ANOTHER CONVERSATION. IT WOULD
20 BE THE ACTUAL SECOND, I BELIEVE, CONVERSATION THAT WE
21 ACTUALLY HAD OVER THE PHONE.

22 Q. IS THAT THE EXTENT?

23 A. WE HAD A RATHER LENGTHY CONVERSATION.

24 Q. WHAT DID YOU TALK ABOUT?

25 A. IN THAT CONVERSATION I ASKED HIM AGAIN, YOU KNOW,

1 WHEN ARE YOU COMING IN? AND IT WAS DURING THAT CONVERSATION
2 THAT HE KIND OF -- HE KIND OF MOANED AND HE SAID, "SOUTH
3 CAROLINA DOESN'T HAVE A SELF-DEFENSE LAW," AND HE REFERRED TO
4 ME BY MY LAST NAME. YOU KNOW, "SOUTH CAROLINA DOESN'T HAVE A
5 SELF-DEFENSE LAW, SMITH," YOU KNOW.

6 I TRIED TO TALK TO HIM ABOUT THAT AND, YOU KNOW,
7 TOLD HIM IT WAS GENERALLY VIEWED CASE BY CASE AND HE COULD
8 PURSUE WHATEVER STRATEGY HE WANTED TO, YOU KNOW, ONCE HE
9 TURNED HIMSELF IN BUT THAT HE NEEDED TO TURN HIMSELF IN. I
10 ADVISED HIM THAT, QUITE FRANKLY, THAT BEING ON THE RUN LOOKED
11 BAD FOR HIM. HE WANTED TO KNOW WHAT HAD HAPPENED TO BROOKS,
12 AND I INFORMED HIM WHAT HAD HAPPENED WITH REGARD TO BROOKS.
13 I INFORMED HIM THAT BROOKS HAD TURNED HIMSELF IN, CONFESSED
14 AND TOLD THE TRUTH. HE INDICATED THAT HE WANTED -- THAT HE
15 WOULD DO THE SAME.

16 Q. NOW, BROOKS TURNED HIMSELF IN THE DAY BEFORE ON
17 JANUARY THE 9TH.

18 A. THAT'S CORRECT.

19 Q. AND THE DEFENDANT CALLED THE NEXT DAY. YOU
20 TESTIFIED THAT BACK ON DECEMBER 16TH THE DEFENDANT SAID HE
21 WASN'T EVEN THERE DURING THE SHOOTING?

22 A. CORRECT.

23 Q. AND NOW ON THE 10TH HE WAS ALLUDING TO SELF-DEFENSE?

24 A. YES.

25 Q. WAS THAT PRETTY MUCH THE EXTENT OF THAT

1 CONVERSATION?

2 A. WE HAD SOME OTHER -- I MEAN, WE TALKED SOME MORE
3 ABOUT DIFFERENT THINGS. WE TALKED ABOUT ANOTHER INVESTIGATOR
4 THAT HE WAS FAMILIAR WITH, HE MENTIONED. HE INDICATED THAT
5 HE WISHED TO REMAIN BASICALLY AT LARGE UNTIL -- UNTIL AFTER
6 HIS BIRTHDAY BECAUSE HE DIDN'T WANT TO SPEND HIS BIRTHDAY IN
7 JAIL. HE SAID HE'D CALL ME BACK THE FOLLOWING WEEK.

8 HE SAID HE HADN'T SPOKEN TO ANYONE, EVEN HIS MOTHER.
9 HE INDICATED SOONER OR LATER AFTER THIS SORT OF LENGTHY
10 CONVERSATION HE WANTED TO HANG UP. I TRIED TO KEEP HIM
11 TALKING TO SEE IF I COULD SORT OF TALK HIM INTO TURNING
12 HIMSELF IN, AND HE SAID HE'D SPEAK TO ME SOON. THAT WAS
13 BASICALLY THE END OF IT.

14 Q. OKAY. DID YOU TALK TO HIM AGAIN IN THE MONTH OF
15 JANUARY?

16 A. NO.

17 Q. AND YOU TESTIFIED THAT AFTER JANUARY THE 10TH YOU
18 STARTED TO PICK UP, STEP UP, THE SEARCH FOR THE DEFENDANT,
19 MR. PRICE. WHEN WAS THE NEXT TIME YOU HEARD FROM HIM?

20 A. WE HAD SEARCHED THE RESIDENCE OF ALL THE FAMILY
21 MEMBERS OF HIS BASED ON A TIP WE RECEIVED, AND THAT SEARCH
22 WAS ACTUALLY CONDUCTED ON THE MORNING OF FEBRUARY THE 20TH ON
23 DONALD DRIVE. I BELIEVE IT -- I BELIEVE IT WAS A RESIDENCE
24 OF HIS COUSIN. WE RECEIVED A TIP HE MIGHT BE THERE. A
25 VEHICLE THAT HE HAD BEEN PREVIOUSLY LINKED TO, A GOLD ALTIMA,

1 HAD BEEN SEEN IN FRONT OF THAT RESIDENCE. AND ON THE 21ST I
2 GOT ANOTHER VOICE MAIL FROM JEROID PRICE AND THAT HE --
3 DURING THAT CALL HE INDICATED THAT HE WOULD BE TURNING
4 HIMSELF IN ON MARCH THE 10TH AND HE SAID -- AND I -- AGAIN, I
5 DON'T THINK I RECORDED THIS ONE. I GUESS YOU COULD CALL IT A
6 FUTILE SEARCH OR WHATEVER, THAT HE HAD CALLED AGAIN UNDER THE
7 OLD EXTENSION DURING THAT CALL.

8 Q. NOW, DID YOU HAVE ANY OTHER CONVERSATION WITH HIM
9 PRIOR TO MARCH THE 10TH?

10 A. NO.

11 Q. AND DID THE DEFENDANT TURN HIMSELF IN ON MARCH THE
12 10TH?

13 A. NO, HE DID NOT.

14 Q. WHEN DID HE FINALLY TURN HIMSELF IN?

15 A. ON THE 19TH OF MARCH.

16 Q. NOW, WERE YOU -- YOU WERE ABLE TO DOCUMENT
17 EVERYTHING THE DEFENDANT SAID WHEN HE CALLED?

18 A. YES.

19 Q. TOOK NOTES?

20 A. YES, SIR, I DID.

21 Q. PUT IT DOWN? WITH REGARDS TO THE VOICE MAILS THOUGH
22 SINCE THOSE WERE RECORDED INTO YOUR VOICE MAIL, WERE YOU ABLE
23 TO TAPE-RECORD THOSE AS BEST YOU COULD?

24 A. YES, SIR. I WAS ABLE TO GET SOME HELP WITH -- WE
25 HAVE AN AUDIO/VIDEO TECHNICAL INVESTIGATOR BASICALLY, FOR

1 LACK OF A BETTER WAY TO DESCRIBE IT, WHO HELPED ME RECORD
2 THOSE VOICE MAILS OFF MY PHONE.

3 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
4 EXHIBIT 38. DO YOU RECOGNIZE THAT?

5 A. YES, SIR.

6 Q. WHAT DO YOU RECOGNIZE THAT TO BE?

7 A. THIS IS ONE OF THE TAPES THAT INVESTIGATOR DAVIS
8 HELPED ME SECURE WITH REGARD TO---

9 THE COURT: HOLD ON A SECOND, COUNSEL. ALL RIGHT.
10 FOLKS, LET ME TELL YOU YOU'RE GOING TO HAVE TO KEEP HER
11 OUTSIDE. CHILDREN ARE CHILDREN, BUT WE NEED TO PROCEED WITH
12 THIS TRIAL WITHOUT THOSE KIND OF DISTRACTIONS. THANK YOU.
13 SORRY ABOUT THAT.

14 MR. PASCOE: THANK YOU, YOUR HONOR.

15 BY MR. PASCOE:

16 Q. WHAT'S THAT, STATE'S EXHIBIT 38?

17 A. IT'S A TAPE MADE OF THE VOICE MAILS.

18 Q. OKAY. THE ONES THAT YOU JUST TALKED TO THE JURY
19 ABOUT?

20 A. YES.

21 Q. AND YOU TAPED IT AS BEST YOU COULD?

22 A. THAT'S CORRECT.

23 MR. PASCOE: FOR NOW, YOUR HONOR, WE'RE JUST GOING
24 TO KEEP IT AS I.D. WE'LL TAKE IT UP LATER IF THAT'S ALL
25 RIGHT.

1 THE COURT: ANY OBJECTION?

2 MR. LITTLEJOHN: NO, YOUR HONOR.

3 THE COURT: IT'S JUST FOR I.D. IS THIS THE -- THIS
4 IS NOT THE---

5 MR. PASCOE: THESE ARE THE VOICE MAILS.

6 THE COURT: ---THE THING WE TALKED ABOUT THIS
7 MORNING?

8 MR. PASCOE: NO, SIR.

9 MR. LITTLEJOHN: NO, YOUR HONOR.

10 THE COURT: ALL RIGHT.

11 BY MR. PASCOE:

12 Q. NOW, DURING YOUR INVESTIGATION DID YOU ALSO GET
13 PHONE RECORDS WITH REGARDS TO THE DEFENDANT'S CELL PHONE BACK
14 ON DECEMBER THE 7TH OF LAST YEAR?

15 A. YES, SIR, I DID.

16 Q. OKAY. AND WHAT WAS HIS CELL NUMBER BACK THEN?

17 A. I BELIEVE IT WAS [REDACTED] 4610, JUST GOING FROM MEMORY.
18 I THINK THAT'S THE NUMBER.

19 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
20 EXHIBIT 57. DO YOU RECOGNIZE THAT?

21 A. YES, SIR.

22 Q. WHAT DO YOU RECOGNIZE THAT TO BE?

23 A. THAT'S FROM THE ACTUAL BILL OR AS WAY OF THE SEARCH
24 WARRANT WE GET THIS DOCUMENT FOR THAT NUMBER, [REDACTED] 4610, AND
25 IT SPECIFICALLY REFLECTS CALL ACTIVITY FROM THE NIGHT -- FROM

1 THE MORNING OF THE INCIDENT.

2 Q. OF MR. PRICE'S PHONE?

3 A. YES, SIR.

4 MR. PASCOE: I DON'T BELIEVE -- ANY OBJECTION TO
5 STATE'S EXHIBIT 57?

6 MR. LITTLEJOHN: NO, YOUR HONOR.

7 THE COURT: WITHOUT OBJECTION IT'S ADMITTED.

8 (STATE'S EXHIBIT 57 WAS RECEIVED IN EVIDENCE.)

9 BY MR. PASCOE:

10 Q. AND SPECIFICALLY WITH REGARDS TO STATE'S EXHIBIT 57,
11 WHAT NUMBER DID MR. PRICE'S CELL PHONE CALL AT EXACTLY 2:18
12 A.M.?

13 A. AT 2:18 A.M. HE CALLED [REDACTED]-5071.

14 Q. AND WHOSE CELL PHONE WAS THAT?

15 A. WE LEARNED THAT THAT WAS THE -- RYAN BROOKS'. THAT
16 WAS THE PREPAID CELLULAR PHONE THAT RYAN BROOKS HAD.

17 Q. AND THAT CALL ONLY LASTED SEVEN SECONDS?

18 A. YES, SIR.

19 Q. SO WHAT NUMBER DID HE CALL AT EXACTLY 2:18 AND 28
20 SECONDS?

21 A. [REDACTED] 2619 WHICH WAS -- WE LEARNED WAS ANTHONY SHERMAN
22 PATRICK'S.

23 Q. AND THAT'S A 68-SECOND CALL.

24 A. YES, SIR.

25 Q. AND WHAT TIME WAS THE DISPATCH FOR THE SHOOTING---

1 A. I DON'T HAVE THE LOG IN FRONT OF ME.

2 Q. ---AT CLUB VOODOO'S?

3 A. I KNOW THAT THE OFFICERS ARRIVED AT -- RIGHT AT
4 2:18.

5 Q. AND DURING THE COURSE OF THE INVESTIGATION YOU MET
6 MS. SMALLS, SIR?

7 A. YES, I DID.

8 Q. AND YOU -- DID YOU COMMUNICATE WITH MS. SMALLS
9 THROUGHOUT THE INVESTIGATION?

10 A. WE COMMUNICATED FREQUENTLY.

11 Q. WAS CARL LEFT-HANDED OR RIGHT-HANDED?

12 A. HE WAS RIGHT-HANDED.

13 Q. AND DID YOU GET ANOTHER PHONE RECORD WITH REGARDS TO
14 THIS INVESTIGATION?

15 A. YES.

16 Q. AND WHOSE WAS THAT?

17 A. WE GOT PATRICK'S RECORD TO SHOW THE REVERSE OF THAT
18 CALL.

19 Q. DID YOU GET ANY OTHER RECORDS WITH REGARDS TO THE
20 CALL ON -- OR A CALL FOR THE EARLY MORNING HOURS OF DECEMBER
21 7TH?

22 A. YES. WE GOT THE ACTUAL RECORDS FROM THE 9-1-1 CALL.

23 Q. OKAY.

24 A. REFLECTING THE DEFENDANT'S PHONE NUMBER THAT CALLED
25 9-1-1.

1 Q. MR. SMALLS' PHONE NUMBER CALLED 9-1-1?

2 A. YES.

3 Q. AND WHAT TYPE OF PHONE WAS THAT?

4 A. IT WAS A CELLULAR PHONE.

5 Q. LET ME SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT
6 19 ALREADY IN EVIDENCE.

7 A. YES, SIR.

8 Q. IS THAT THE CELL PHONE THAT WAS LYING NEXT TO MR.
9 SMALLS' BODY?

10 A. LOOKS LIKE THE FLASH HAS BLED IT OUT A LITTLE BIT,
11 BUT THAT'S THE CELL PHONE.

12 Q. AND IS THAT THE RECORD THAT YOU WANTED TO GET WITH
13 REGARDS TO THE 9-1-1 CALL?

14 A. YES, SIR.

15 Q. WHAT TIME DID CARL SMALLS' PHONE CALL 9-1-1 THAT
16 MORNING?

17 A. I BELIEVE IT WAS AT 2:14 ON THE NOSE.

18 Q. OKAY. AND WHEN YOU FOUND OUT THAT HIS PHONE HAD
19 MADE A PHONE CALL TO 9-1-1 AT 2:14, WHAT DID YOU DO NEXT?

20 A. WE WERE ABLE TO ACTUALLY COMMUNICATE WITH OUR
21 DISPATCH CENTER. THEY RETAIN, DURING THE NORMAL COURSE OF
22 BUSINESS, ALL PHONE CONVERSATIONS AND RECORDS PERTAINING TO
23 THOSE CONVERSATIONS, TRANSCRIPTS, IF YOU WILL, OF
24 CONVERSATIONS THAT A DISPATCHER HAD OF SOMEONE CALLING 9-1-1.

25 Q. AND YOU HAVE RETRIEVED TAPES NUMEROUS TIMES FROM

1 9-1-1?

2 A. IT'S DONE ROUTINELY IN CASES.

3 Q. AND DID YOU RETRIEVE IT IN THIS CASE?

4 A. YES.

5 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S

6 EXHIBIT 39.

7 A. YES, SIR. THIS IS THE 9-1-1 RECORDED TAPE.

8 Q. THAT WAS MADE AT EXACTLY 2:14 IN THE MORNING ON

9 SATURDAY, DECEMBER THE 7TH?

10 A. YES.

11 MR. PASCOE: I'D ASK THAT STATE'S EXHIBIT 39 BE

12 ADMITTED INTO EVIDENCE.

13 THE COURT: ANY OBJECTION, SIR?

14 MR. LITTLEJOHN: NO OBJECTION, YOUR HONOR.

15 THE COURT: WITHOUT OBJECTION IT'S ADMITTED.

16 (STATE'S EXHIBIT 39 WAS RECEIVED IN EVIDENCE.)

17 BY MR. PASCOE:

18 Q. WHOSE VOICE IS ON STATE'S EXHIBIT 39?

19 A. THE VICTIM.

20 Q. AND HOW DID YOU -- WERE YOU ABLE TO VERIFY THAT IT

21 WAS CARL SMALLS' VOICE?

22 A. I GOT THE SMALLS TO ACTUALLY LISTEN TO THE TAPE.

23 MR. PASCOE: CAN I PLAY THE TAPE, YOUR HONOR?

24 THE COURT: YES, SIR.

25 (STATE'S EXHIBIT 39 WAS PLAYED FOR THE JURY.)

1 BY MR. PASCOE:

2 Q. HOW LONG WAS THAT PHONE CALL TO 9-1-1, SIR?

3 A. IT WAS JUST A FEW SECONDS, 30 SECONDS MAYBE.

4 Q. SOMEWHERE AROUND A MINUTE ACTUALLY IF YOU TIMED IT?

5 A. IF YOU ACTUALLY TIMED IT I GUESS MAYBE.

6 Q. SO IF THAT CALL WAS MADE AT 2:14, IT WOULD HAVE
7 ENDED AROUND 2:15?

8 A. YES, SIR.

9 MR. PASCOE: BEG THE COURT'S INDULGENCE.

10 THE COURT: YES, SIR.

11 BY MR. PASCOE:

12 Q. FINALLY, LIEUTENANT, THE PERSON WHOSE APARTMENT YOU
13 SEARCHED AT SAINT ANDREWS ROAD ON DECEMBER THE 13TH AND
14 ALLUDED THE POLICE FOR THREE MONTHS FIRST SAYING THAT HE HAD
15 AN ALIBI, LATER SAYING---

16 MR. LITTLEJOHN: YOUR HONOR, I'M GOING TO OBJECT TO
17 THE NATURE OF THIS -- THIS QUESTION IS NOT IN PROPER FORM.

18 THE COURT: YES, SIR. REPHRASE IT, COUNSELOR.

19 MR. PASCOE: I CAN CUT IT SHORTER IF YOU WANT, SIR.

20 THE COURT: OKAY. THANK YOU, SIR.

21 BY MR. PASCOE:

22 Q. THE PERSON WHOSE APARTMENT YOU SEARCHED ON DECEMBER
23 13TH, JEROID PRICE, WHO YOU TOOK THOSE ITEMS FROM OUT OF HIS
24 THE APARTMENT, DO YOU SEE HIM IN THE COURTROOM?

25 A. I DO.

1 Q. IF YOU COULD, POINT HIM OUT FOR THE JURY.

2 A. HE'S WEARING A WHITE SHIRT SITTING NEXT TO MS.
3 RUSHING.

4 MR. PASCOE: THAT'S ALL I HAVE. PLEASE ANSWER ANY
5 QUESTIONS MR. LITTLEJOHN HAS FOR YOU.

6 THE COURT: THANK YOU, SIR. MR. LITTLEJOHN?

7 CROSS-EXAMINATION

8 BY MR. LITTLEJOHN:

9 Q. INVESTIGATOR SMITH, YOU'RE THE LEAD INVESTIGATOR IN
10 THIS CASE; IS THAT RIGHT?

11 A. YES, SIR.

12 Q. AND YOUR RESPONSIBILITY IS TO MAKE THIS CASE, PUT
13 THE CASE TOGETHER FOR THE STATE; ISN'T THAT RIGHT?

14 A. YES, SIR.

15 Q. OKAY. NOW, YOU INDICATED YOU FIRST GOT THE CALL
16 ABOUT THIS PARTICULAR INCIDENT AT 2:37?

17 A. YES, SIR, I DID.

18 Q. OKAY. AND THEN YOU ARRIVED AN HOUR AND THREE
19 MINUTES LATER?

20 A. YES, SIR.

21 Q. WAS MR. SMALLS' BODY STILL THERE?

22 A. I BELIEVE -- I BELIEVE THAT IT WAS STILL THERE.

23 Q. OKAY. WAS IT -- WHAT WAS THE POSITION OF HIS BODY
24 WHEN YOU GOT THERE?

25 A. BEAR WITH ME JUST A MINUTE. YES, IT WAS -- IT WAS

1 DEFINITELY STILL THERE. HE WAS LAYING FACE DOWN NEAR THIS
2 DOOR IN THIS HALLWAY.

3 Q. HE WAS LAYING FACE DOWN.

4 A. YES, SIR.

5 Q. OKAY. SO WHEN YOU GOT THERE, HE WAS IN THE POSITION
6 AS INDICATED IN STATE'S EXHIBIT 25 AND 24? IS THAT RIGHT?

7 A. THAT'S CONSISTENT WITH MY RECOLLECTION; YES, SIR.

8 Q. AND HE WAS FACEDOWN. NOW, HIS BODY WAS LATER
9 REMOVED, WAS IT NOT?

10 A. YES, SIR.

11 Q. WAS IT REMOVED WHILE YOU WERE THERE?

12 A. I BELIEVE IT PROBABLY WAS.

13 Q. OKAY. AND AT THAT TIME WAS HE TURNED OVER?

14 A. THAT'S NORMALLY WHAT THEY DO. I'M NOT SURE. I
15 WASN'T PRESENT ACTUALLY WHEN THAT OCCURRED, SO I CAN'T
16 TESTIFY TO THAT DIRECTLY, BUT THAT'S NORMALLY WHAT THEY DO
17 WHEN THE BODY REMOVAL PEOPLE ARRIVE.

18 MR. LITTLEJOHN: YOUR HONOR, IF WE COULD MARK THESE
19 FOR DEFENDANT'S EXHIBITS 3 AND 4 FOR I.D.

20 THE COURT: YES, SIR.

21 (DEFENDANT'S EXHIBITS 3 AND 4 WERE MARKED FOR
22 IDENTIFICATION ONLY.)

23 BY MR. LITTLEJOHN:

24 Q. INVESTIGATOR SMITH, I SHOW YOU WHAT'S PREVIOUSLY
25 BEEN MARKED AS DEFENDANT'S EXHIBIT 4 FOR IDENTIFICATION. DO

1 YOU RECOGNIZE WHAT'S SHOWN IN THAT PHOTOGRAPH?

2 A. YES, SIR.

3 Q. IS THAT AN ACCURATE DEPICTION OF HOW MR. SMALLS'
4 BODY WAS AFTER HE WAS TURNED OVER?

5 A. AGAIN, I MIGHT NOT HAVE BEEN PRESENT, BUT I DON'T
6 DISPUTE THAT THAT'S AN ACCURATE PHOTO. I WASN'T PRESENT
7 PROBABLY WHEN THAT WAS TAKING PLACE.

8 Q. OKAY. BUT YOU -- YOU SAW HIM LIKE THAT?

9 A. I DON'T BELIEVE I DID.

10 Q. BUT YOU DON'T DISPUTE THAT THAT'S AN ACCURATE---

11 A. I MAY HAVE BEEN OUTSIDE AT THE TIME. I BELIEVE MS.
12 ELLINGTON HAD ARRIVED, AND I WAS OUTSIDE WITH HER AT SOME
13 POINT IN TIME.

14 Q. OKAY. AND HOW ABOUT DEFENDANT'S EXHIBIT 3 FOR
15 IDENTIFICATION?

16 A. AGAIN, I DON'T DISPUTE THAT THAT'S---

17 Q. DOES THAT APPEAR TO BE A CLOSER SHOT---

18 A. YES, SIR.

19 Q. ---PHOTOGRAPH OF WHAT'S DEPICTED IN DEFENDANT'S 4?

20 A. YES, SIR.

21 MR. LITTLEJOHN: YOUR HONOR, AT THIS TIME I'D MOVE
22 TO INTRODUCE DEFENDANT'S EXHIBITS 3 AND 4.

23 THE COURT: ANY OBJECTION?

24 MR. PASCOE: PROBABLY NOT. CAN I JUST SEE THEM?

25 THE COURT: YES, SIR.

1 MR. PASCOE: I HAVE NO OBJECTION, YOUR HONOR.

2 THE COURT: WITHOUT OBJECTION THEY'RE BOTH ADMITTED.

3 (DEFENDANT'S EXHIBITS 3 AND 4 WERE RECEIVED IN
4 EVIDENCE.)

5 BY MR. LITTLEJOHN:

6 Q. NOW, REFERRING TO DEFENDANT'S 4 FIRST, THIS SHOWS
7 MR. SMALLS' BODY AFTER HE WAS REMOVED FROM THE ORIGINAL
8 POSITION. IS THAT RIGHT?

9 A. YES, SIR.

10 Q. OKAY. AND WERE THE FRONT OF HIS PANTS WET?

11 A. THEY APPEAR TO BE IN THAT PHOTOGRAPH.

12 Q. OKAY.

13 A. AGAIN, I DON'T RECALL THAT SPECIFICALLY, BUT I DON'T
14 DISPUTE THAT THAT'S AN ACCURATE DEPICTION.

15 Q. ALL RIGHT. AND AS TO DEFENDANT'S EXHIBIT 3, DOES
16 THAT ALSO SHOW MR. SMALLS' BODY AFTER HE WAS TURNED OVER ON
17 HIS BACK?

18 A. OSTENSIBLY IT WOULD BE, YES, SIR.

19 MR. LITTLEJOHN: OKAY. YOUR HONOR, MAY I PUBLISH?

20 THE COURT: YES, SIR.

21 BY MR. LITTLEJOHN:

22 Q. NOW, LIEUTENANT SMITH, WHEN YOU ARRIVED THERE, WERE
23 THERE ANY WITNESSES THERE?

24 A. WELL, MS. ELLINGTON ARRIVED.

25 Q. UH-HUH.

1 A. AND I'M NOT SURE HOW DEANDRE EILAND -- WHETHER HE
2 ARRIVED OR WE CONTACTED HIM THROUGH MS. ELLINGTON. SOME
3 OTHER INVESTIGATORS WERE INVOLVED AT THAT POINT IN TIME.

4 Q. OKAY.

5 A. HE MAY HAVE ARRIVED BACK AT THE SCENE ALSO.

6 Q. BUT AT THAT POINT YOUR GENERAL JOB WAS YOU WERE
7 TRYING TO FIND ANYBODY THAT HAD WITNESSED THIS THING.

8 A. CORRECT.

9 Q. OKAY. NOW, YOU ALSO LEARNED AT THAT TIME THAT THERE
10 WERE AT LEAST TWO GUNS INVOLVED. IS THAT RIGHT?

11 A. YES, SIR.

12 Q. OKAY. AND, IN FACT, THERE COULD HAVE BEEN THREE
13 GUNS INVOLVED; ISN'T THAT RIGHT?

14 A. THAT'S A POSSIBILITY.

15 Q. OKAY. BECAUSE THERE WERE DIFFERENT -- DIFFERENT
16 PROJECTILES THAT WERE FOUND THAT WERE INCONSISTENT WITH EACH
17 OTHER AND WOULD INDICATE THERE WERE THREE GUNS.

18 A. THAT'S MY UNDERSTANDING; YES, SIR.

19 Q. ISN'T THAT RIGHT?

20 A. YES, SIR.

21 Q. AND THESE PROJECTILES WERE ALL FOUND IN THAT SMALL
22 HALLWAY WHERE CARL SMALLS' BODY WAS.

23 A. THAT'S CORRECT.

24 Q. IS IT YOUR UNDERSTANDING THOSE PROJECTILES CAME FROM
25 THREE DIFFERENT GUNS?

1 A. YES, SIR.

2 Q. OKAY. NOW, YOU INDICATED THAT A FEW DAYS LATER YOU
3 WENT TO THE MAGISTRATE AND GOT A SEARCH WARRANT FOR JEROID
4 PRICE'S APARTMENT.

5 A. YES, SIR.

6 Q. OKAY. AND YOU SAID THAT APARTMENT WAS LOCATED AT
7 [REDACTED] SAINT ANDREWS ROAD?

8 A. YES, SIR.

9 Q. THAT'S AN APARTMENT COMPLEX.

10 A. YES, SIR.

11 Q. DID YOU LEARN IF THAT APARTMENT WAS IN JEROID
12 PRICE'S NAME?

13 A. I DON'T RECALL WHETHER IT WAS IN ACTUALLY HIS NAME
14 OR NOT. IF IT WASN'T IN HIS NAME, IT WAS I BELIEVE A
15 RELATIVE OR A GIRLFRIEND. WE CONFIRMED THE ADDRESS THOUGH
16 THAT IT WAS HIS APARTMENT.

17 Q. DID YOU INVESTIGATE TO SEE WHETHER THE LEASE WAS IN
18 HIS NAME?

19 A. I BELIEVE WE DID, BUT I DON'T RECALL WHAT THE
20 RESULTS WERE WITH REGARD TO THAT.

21 Q. BUT YOU DON'T THINK IT WAS IN JEROID PRICE'S NAME.

22 A. I DON'T RECALL. IT WAS HIS APARTMENT.

23 Q. OKAY. BUT WHAT I'M ASKING YOU IS: DID YOU LOOK AT
24 THE LEASE TO SEE IF IT WAS IN HIS NAME?

25 A. AGAIN, I DON'T RECALL, BUT WE KNEW THAT IT WAS HIS

1 APARTMENT. THAT'S WHY WE SEARCHED THAT APARTMENT.

2 Q. OKAY. SO YOU DON'T -- YOU DON'T REMEMBER WHETHER IT
3 WAS IN HIS NAME OR NOT.

4 A. I DON'T -- I DON'T RECALL WHETHER IT WAS IN HIS
5 NAME, BUT WE KNEW THAT THAT WAS HIS APARTMENT. THAT'S WHY WE
6 SEARCHED THAT APARTMENT.

7 Q. ALL RIGHT, SIR.

8 A. BUT WE FOUND PLENTY OF PAPERWORK IN THE APARTMENT
9 WITH HIS NAME ON IT INDICATING THAT IT WAS HIS APARTMENT.

10 Q. YOU FOUND INDICATIONS THAT OTHER PEOPLE LIVED IN
11 THAT APARTMENT, TOO, DIDN'T YOU?

12 A. THE ONLY THING THAT I'M AWARE OF FROM MY
13 RECOLLECTION IS THERE MAY HAVE BEEN A GIRLFRIEND OFF AND ON
14 IN THAT APARTMENT.

15 Q. OKAY.

16 A. OR MAYBE HIS -- THE MOTHER OF HIS CHILDREN POSSIBLY.
17 WE FOUND SOME MATERIAL WITH HER NAME ON IT, TWANA IVERY.

18 Q. UH-HUH.

19 A. BUT IT WAS CLEARLY HIS APARTMENT IS MY RECOLLECTION.

20 Q. DID YOU FIND ANYTHING TO INDICATE THAT OTHER PEOPLE
21 HAD STAYED THERE?

22 A. NOT THAT I RECALL. IF YOU COULD TELL ME WHAT YOU'RE
23 MAKING REFERENCE TO I...

24 Q. NO, I'M ASKING YOU.

25 A. I DON'T RECALL THAT; NO, SIR.

1 Q. YOU DON'T RECALL.

2 A. NO, SIR.

3 Q. OTHER PEOPLE COULD HAVE STAYED THERE AS FAR AS YOU
4 KNEW.

5 A. CERTAINLY.

6 Q. OKAY. NOW, YOU IDENTIFIED A BOX OF CLOTHING AT MR.
7 PASCOE'S REQUEST WHICH HAS BEEN MARKED STATE'S EXHIBIT 63.
8 THOSE ARE RED ITEMS THAT YOU FOUND IN THE APARTMENT.

9 A. YES, SIR.

10 Q. OKAY. NOW, WERE THERE ALSO BLUE ITEMS IN THAT
11 APARTMENT---

12 A. I DON'T RECALL---

13 Q. ---ITEMS OF CLOTHING?

14 A. I DON'T RECALL WHAT ELSE WAS IN THERE. WE TOOK THE
15 RED ITEMS BECAUSE OF THEIR SIGNIFICANCE TO THIS CASE.

16 Q. OKAY.

17 A. WE WEREN'T LOOKING FOR BLUE ITEMS.

18 Q. YOU WEREN'T LOOKING FOR BLUE ITEMS.

19 A. NO, SIR.

20 Q. SO IF THERE HAD BEEN BLUE ITEMS WHICH MAYBE
21 INDICATED HE WAS A CRYPT, YOU COULD HAVE SEIZED THOSE THINGS.

22 A. BY THAT TIME WE HAD DIFFERENT INFORMATION THAN HIM
23 BEING A CRYPT.

24 Q. OKAY. BUT YOU LEFT THE BLUE ITEMS AND YOU LEFT THE
25 GREEN ITEMS AND YOU LEFT THE YELLOW ITEMS ALL THERE.

1 A. WE TOOK THE RED CLOTHING IN CONJUNCTION WITH THE
2 AMERICAN -- THE ODE TO THE RED FLAG AND THE BLOOD CODE BOOK
3 AND EVERYTHING THAT WAS BACKED UP BY OUR PREVIOUS INFORMATION
4 THAT HE WAS INDEED A BLOOD, NOT A CRYPT.

5 Q. SPEAKING OF THOSE CODE BOOKS, DID YOU DO ANY SORT OF
6 HANDWRITING ANALYSIS---

7 A. NO, SIR.

8 Q. ---TO DETERMINE IF JEROID PRICE HAD WRITTEN THAT
9 MATERIAL?

10 A. NO, SIR, BECAUSE THOSE WERE PHOTOCOPIES THAT WERE IN
11 HIS APARTMENT AND IT APPEARED TO US THAT HE HAD GOT THAT FROM
12 SOMEONE ELSE. HE HAD PHOTOCOPIED THOSE THINGS.

13 Q. SO YOU THINK SOMEBODY ELSE WROTE THIS THEN.

14 A. I DON'T KNOW WHO WROTE THEM, BUT THEY WERE IN HIS
15 APARTMENT.

16 Q. SO YOU DON'T KNOW WHETHER JEROID PRICE WROTE THEM.
17 YOU DON'T KNOW WHETHER HE COPIED THEM. YOU DON'T KNOW HOW
18 THEY GOT THERE.

19 A. WELL, I KNOW THAT THEY WERE IN HIS APARTMENT.

20 Q. OKAY.

21 A. AND THAT WAS WHAT WAS IMPORTANT TO US AT THE TIME.

22 Q. NOW, MR. PASCOE ASKED YOU TO IDENTIFY A NUMBER OF
23 DOCUMENTS PERTAINING TO FIREARM PURCHASES, AND I BELIEVE YOU
24 IDENTIFIED STATE'S EXHIBIT 82, STATE'S EXHIBIT 83, STATE'S
25 EXHIBIT 91, STATE'S EXHIBIT NUMBER 90. I'M NOT SURE IF THERE

1 ARE ANY MORE, BUT THESE ARE DOCUMENTS THAT YOU TOOK OUT OF
2 THAT APARTMENT. RIGHT?

3 A. YES, SIR.

4 Q. OKAY. AND THOSE WOULD INDICATE THAT JEROID PRICE
5 HAD LEGALLY PURCHASED FIREARMS FROM A LICENSED FIREARM
6 DEALER, WOULD THEY NOT?

7 A. NO, THEY DO NOT.

8 Q. HOW IS THAT, SIR? ISN'T THAT AN A.T.F. FORM, ONE OF
9 THOSE?

10 A. IT IS.

11 Q. IS NOT AN A.T.F. FORM REQUIRED WHEN YOU LEGALLY
12 PURCHASE A WEAPON?

13 A. IT IS AN A.T.F. FORM THAT'S REQUIRED WHEN YOU
14 LEGALLY PURCHASE A WEAPON, BUT THEY'RE NOT LEGAL.

15 Q. THEY'RE NOT ILLEGAL?

16 A. THEY'RE NOT LEGAL.

17 Q. THEY'RE NOT LEGAL.

18 A. NO, SIR.

19 Q. THE FORMS ARE NOT LEGAL? THOSE A.T.F. FORMS ARE NOT
20 LEGAL?

21 A. THERE WAS SOME FALSIFICATION OF INFORMATION ON THE
22 FORMS.

23 Q. DO YOU KNOW IF HE'S EVER BEEN CONVICTED OF
24 FALSIFYING A FEDERAL FORM?

25 A. NO, SIR, I DON'T KNOW IF HE'S EVER BEEN CONVICTED OF

1 THAT.

2 Q. IN FACT, IN ORDER TO PURCHASE A WEAPON HE COULDN'T
3 HAVE ANY KIND OF FELONY RECORD, COULD HE?

4 A. THERE ARE SOME OTHER QUESTIONS ON HERE THAT WERE IN
5 VIOLATION.

6 Q. THOSE ARE FEDERAL FORMS THOUGH, AREN'T THEY?

7 A. YES, SIR.

8 Q. THEY WERE FILLED OUT?

9 A. YES, SIR.

10 Q. OKAY. AND THE FORMS CAME FROM A LICENSED FIREARM
11 DEALER, DID THEY NOT?

12 A. THEY DID. THEY DID.

13 Q. OKAY. LIEUTENANT SMITH, YOU INDICATED THAT YOU
14 INTERVIEWED MARVIN JONES ON FEBRUARY 3RD. IS THAT RIGHT?

15 A. MARCUS JONES?

16 Q. MARCUS JONES. EXCUSE ME.

17 A. YES, SIR.

18 Q. AND I GOT HIS NAME MIXED UP JUST LIKE YOU DID WHEN
19 YOU PUT DOWN MARCUS MARTIN.

20 A. THAT WAS MY UNDERSTANDING THEY WERE BROTHERS.

21 Q. UH-HUH. BUT IS -- I MEAN, YOU PUT DOWN MARCUS
22 MARTIN AS HIS NAME ON HIS STATEMENT---

23 A. YES, THEY WERE---

24 Q. ---EVEN THOUGH HE SIGNED IT MARCUS JONES.

25 A. THEY WERE BROTHERS. THAT'S WHAT THEY TESTIFIED.

1 Q. AND YOU LEARNED ABOUT MARCUS JONES FROM D.J. FROSTY?

2 A. YES, SIR.

3 Q. HE WAS THE D.J. THAT WAS -- THAT MARCUS JONES WAS
4 WORKING FOR.

5 A. THAT'S CORRECT.

6 Q. HE WAS THE ONE THAT WAS THERE ON THE STAGE WITH
7 MARCUS JONES.

8 A. DURING THE COURSE OF THE NIGHT, YES, SIR. I'M NOT
9 SURE---

10 Q. OKAY.

11 A. ---WHAT PORTION YOU'RE ALLUDING TO.

12 Q. YOU INTERVIEWED HIM ALSO.

13 A. YES, SIR.

14 Q. OKAY. YOU LEARNED HE WAS A D.J. ON THE STAGE. .

15 A. THAT'S CORRECT.

16 Q. MARCUS JONES WORKED FOR HIM?

17 A. HE WORKED FOR HIM; YES, SIR.

18 Q. OKAY. AND APPARENTLY THEY WERE BOTH BREAKING DOWN
19 THINGS?

20 A. YES, SIR.

21 Q. AT THE SAME TIME.

22 A. RIGHT.

23 Q. OKAY. NOW, YOU DIDN'T INTERVIEW HIM UNTIL FEBRUARY
24 3RD OF THIS YEAR.

25 A. THAT'S CORRECT.

1 Q. YOU WENT TO FIND HIM.

2 A. THAT'S CORRECT.

3 Q. OKAY. AND UP UNTIL THAT TIME HE HAD NOT GIVEN YOU
4 ANY SORT OF STATEMENT.

5 A. NO, SIR.

6 Q. IS THAT RIGHT? OKAY.

7 A. WE HAD -- WE HAD A GREAT AMOUNT OF DIFFICULTY
8 GETTING WITNESSES TO COOPERATE BECAUSE THEY WERE SCARED THAT
9 HE WOULD BE---

10 Q. YOUR HONOR, I'M GOING TO OBJECT TO THIS. THIS IS
11 NOT RESPONSIVE TO MY QUESTION---

12 THE COURT: SUSTAINED.

13 MR. LITTLEJOHN: ---AND I WOULD ASK THAT IT BE
14 STRICKEN.

15 THE COURT: THE JURY WILL DISREGARD THE LAST PART OF
16 THAT RESPONSE.
17 BY MR. LITTLEJOHN:

18 Q. LIEUTENANT SMITH, IN TALKING ABOUT THIS
19 IDENTIFICATION - AND YOU TOLD MR. PASCOE WHAT MR. JONES HAD
20 TOLD YOU - WAS IT YOUR UNDERSTANDING FROM YOUR INVESTIGATION
21 THAT MR. JONES HAD NEVER SEEN THE PERSON HE DESCRIBED BEFORE
22 THAT NIGHT, DECEMBER 7TH?

23 A. IT WAS MY UNDERSTANDING THAT HE HAD SEEN HIM DURING
24 THE COURSE OF THE NIGHT PRIOR TO THE SHOOTING BUT NOT
25 NECESSARILY BEFORE THAT NIGHT.

1 Q. NOT BEFORE THAT NIGHT.

2 A. YES, SIR. THAT WAS MY UNDERSTANDING.

3 Q. THERE WAS ONLY THAT NIGHT THAT HE SAW THIS PERSON.

4 A. RIGHT.

5 Q. ALL RIGHT. AND YOU PREPARED OR HAD PREPARED TWO
6 LINE-UPS WHICH HAVE PREVIOUSLY BEEN MARKED STATE'S EXHIBITS
7 41 AND 40. IS THAT RIGHT? THESE TWO?

8 A. YES, SIR.

9 Q. AND I BELIEVE EXHIBIT 41 IS A PICTURE OF RYAN BROOKS
10 IN THE UPPER LEFT-HAND CORNER.

11 A. YES, SIR.

12 Q. AND STATE'S EXHIBIT 40 IS A PICTURE OF JEROID PRICE
13 IN THE UPPER LEFT-HAND CORNER.

14 A. YES, SIR.

15 Q. OKAY. AND AS I UNDERSTOOD YOUR TESTIMONY, YOU
16 SHOWED THE LINE-UP WITH MR. BROOKS IN IT TO MR. JONES FIRST.
17 IS THAT RIGHT?

18 A. BEAR WITH ME JUST A MINUTE AND I CAN...

19 Q. ALL RIGHT.

20 A. IF I ANNOTATED IT... I DIDN'T SPECIFICALLY INDICATE
21 IN MY NOTES WHICH SEQUENCE I DID IT.

22 Q. OKAY.

23 A. AND I DON'T RECALL, QUITE FRANKLY.

24 Q. ALL RIGHT.

25 A. I BELIEVE THAT'S THE ORDER THAT MR. PASCOE ASKED ME.

1 Q. OKAY. LET ME ASK YOU: AS OF THAT TIME THERE HAD
2 BEEN A NUMBER OF NEWSPAPER ARTICLES ABOUT THIS CASE, HAD
3 THERE NOT?

4 A. THERE HAD BEEN SOME MEDIA COVERAGE; YES, SIR.

5 Q. OKAY. AND, IN FACT, A PICTURE OF RYAN BROOKS AND A
6 PICTURE OF JEROID PRICE HAD BEEN IN THE NEWSPAPER. ISN'T
7 THAT RIGHT?

8 A. POSSIBLY.

9 Q. DO YOU KNOW OR YOU'RE JUST -- YOU'RE SAYING
10 POSSIBLY. DO YOU KNOW OR YOU DON'T KNOW?

11 A. I DON'T RECALL. THAT'S ENTIRELY POSSIBLE; YES, SIR.

12 Q. YOU WOULDN'T DISAGREE WITH THAT.

13 A. HE DIDN'T INDICATE THAT HE HAD SEEN THE NEWSPAPER.

14 Q. OKAY. BUT IT HAD BEEN IN THE NEWSPAPER AS FAR AS
15 YOU KNOW.

16 A. I WOULDN'T DISPUTE THAT.

17 Q. ALL RIGHT. YOU'RE THE LEAD AGENT. YOU DON'T READ
18 THE ARTICLES ABOUT---

19 A. CERTAINLY I DO, BUT I DON'T REMEMBER PER SE RIGHT
20 NOW WHETHER THEIR PICTURES HAD BEEN IN THE PAPER. THEY
21 PROBABLY WERE AT SOME POINT IN TIME.

22 Q. ALL RIGHT. NOW, LIEUTENANT SMITH, EARLIER YOU TOLD
23 MR. PASCOE THAT IN SHOWING THESE LINE-UPS TO MARCUS JONES YOU
24 ASKED MARCUS JONES TO IDENTIFY ANYBODY HE HAD SEEN. ISN'T
25 THAT WHAT YOU TOLD MR. PASCOE?

1 A. HE KNEW IT WAS REGARDING THE INCIDENT IN QUESTION
2 AND HE KNEW WE WERE SHOWING LINE-UPS WITH REGARD TO THE
3 INCIDENT IN QUESTION, ANYBODY AT THE CLUB THAT HE MAY BE
4 FAMILIAR WITH.

5 Q. ANYBODY AT THE CLUB THAT HE MAY BE FAMILIAR WITH.

6 A. YES, SIR. WE DIDN'T HAVE SIX PICTURES OF SIX PEOPLE
7 WHO WERE ALL AT THE CLUB.

8 Q. OKAY.

9 A. SO IF THAT ANSWERS YOUR QUESTION, I'M NOT SURE.

10 Q. RIGHT. BUT YOU ASKED MR. JONES TO IDENTIFY ANYBODY
11 HE HAD SEEN AT THE CLUB.

12 A. YES, SIR.

13 Q. OKAY. AND YOU SAID INSOFAR AS THE LINE-UP, STATE'S
14 EXHIBIT 40 WITH JEROID PRICE, HE WAS HESITANT TO IDENTIFY
15 ANYBODY IN THIS LINE-UP AS BEING SOMEBODY HE HAD SEEN AT THE
16 CLUB.

17 A. HE WENT TO THAT PHOTO RIGHT OFF THE BAT. I THINK
18 HIS HESITATION, IF YOU'RE ASKING ME FOR MY OPINION...

19 Q. NO, SIR, I'M NOT.

20 A. OKAY.

21 Q. I'M ASKING YOU DID HE -- DID HE---

22 A. HE WENT RIGHT TO THAT PICTURE.

23 Q. HE WENT RIGHT TO THAT PICTURE.

24 A. YES, SIR.

25 Q. BUT HE DID NOT SAY THIS IS FOR SURE THE PERSON.

1 A. MY TESTIMONY WAS HE WAS HESITANT TO FILL OUT AN
2 AFFIDAVIT AS TO THE SHOOTER.

3 Q. HE DIDN'T FILL OUT AN AFFIDAVIT, DID HE?

4 A. IF I COULD EXPLAIN MY ANSWER.

5 Q. I JUST ASK YOU DID---

6 THE COURT: YOU CAN FINISH YOUR ANSWER---

7 THE WITNESS: YES, SIR.

8 THE COURT: ---IF IT RELATES TO HIS QUESTION.
9 NOTHING BEYOND THAT.

10 THE WITNESS: HE CORRELATED THE PERSON HE HAD SEEN
11 EARLIER IN THE NIGHT WITH THE DISTINCTIVE PINWHEEL HAT, AND
12 HE GOT A GOOD LOOK AT HIS FACE, IT WAS MY UNDERSTANDING THEN,
13 TO THE PERSON HE SAW STANDING OVER THE VICTIM FIRING THE
14 ROUNDS INTO HIM, HAVING THE SAME CLOTHING ON, AND THAT WAS
15 HOW HE WAS ABLE TO IDENTIFY THAT PICTURE.
16 BY MR. LITTLEJOHN:

17 Q. LIEUTENANT -- YOUR HONOR, I -- I -- THAT'S WAY
18 BEYOND MY QUESTION. MY QUESTION WAS DID HE SIGN -- LET ME RE
19 -- LET ME RESTART IT. DID HE SIGN AN AFFIDAVIT SAYING NUMBER
20 ONE---

21 A. NO, SIR.

22 Q. ---WAS THE MAN HE SAW?

23 A. HE DID NOT SIGN AN AFFIDAVIT.

24 Q. LIEUTENANT SMITH, JUST A COUPLE OF FINAL THINGS.

25 THE CALLS YOU DESCRIBED BETWEEN JEROID PRICE AND YOURSELF, HE

1 INITIATED THOSE CALLS, DIDN'T HE?

2 A. HE DID, AND I ATTEMPTED---

3 Q. HE CALLED YOU.

4 A. I ATTEMPTED TO CALL HIM BACK BUT COULDN'T GET
5 ANSWERS, YES, SIR, BUT HE INITIATED THEM.

6 Q. AND HE CALLED YOU ON A NUMBER OF OCCASIONS.

7 A. HE DID.

8 Q. OKAY. AND THEN EVENTUALLY TURNED HIMSELF IN.

9 A. THREE MONTHS LATER, YES, SIR.

10 Q. BUT HE TURNED HIMSELF IN, DIDN'T HE?

11 A. YES, SIR.

12 MR. LITTLEJOHN: ALL RIGHT. THAT'S ALL I HAVE, YOUR
13 HONOR.

14 THE COURT: THANK YOU, SIR.

15 MR. PASCOE: THANK YOU, YOUR HONOR.

16 REDIRECT EXAMINATION

17 BY MR. PASCOE:

18 Q. MR. LITTLEJOHN ASKED YOU IF MR. PRICE'S -- THE
19 PURCHASE OF THOSE WEAPONS WAS DONE LEGALLY?

20 A. YES, SIR.

21 Q. DO YOU HAVE THOSE DOCUMENTS?

22 A. YES, SIR, I DO.

23 Q. AND YOU SAID NO?

24 A. I DID.

25 Q. ARE THERE FALSIFICATIONS ON THESE DOCUMENTS?

1 A. YES, SIR.

2 MR. LITTLEJOHN: YOUR HONOR, MAY WE APPROACH THE
3 BENCH?

4 THE COURT: YES, SIR.

5 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

6 THE COURT: LADIES AND GENTLEMEN, I NEED TO TAKE UP
7 A MATTER WITH THE LAWYERS, AND IT'S PROBABLY A GOOD TIME FOR
8 YOU ALL TO BREAK AND GET SOME LUNCH. IF YOU ALL WILL JUST
9 RETURN TO THE JURY ROOM. DO NOT DISCUSS THE TESTIMONY AND
10 EVIDENCE YOU'VE HEARD THUS FAR, AND WE'LL HAVE YOU ALL BREAK
11 FOR AN HOUR. WE'LL BE BACK FOR AN HOUR -- IN AN HOUR TO
12 RESUME COURT.

13 I WILL GO AHEAD AND TELL YOU ALL THAT WE MAY BE
14 RUNNING A LITTLE BIT LATER THAN THAT HOUR, BUT IT WON'T BE
15 VERY MUCH LATER. AND WE'LL BRING YOU BACK OUT HERE, BUT
16 Y'ALL ENJOY YOUR LUNCH AND WE'LL SEE Y'ALL SHORTLY.

17 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT TO
18 GO TO LUNCH AT 12:39 P.M.)

19 THE COURT: THANK YOU, SIR. LIEUTENANT, YOU MAY
20 STEP DOWN. I JUST REMIND YOU YOU'RE STILL UNDER OATH AND
21 STILL ON THE STAND, NOT TO DISCUSS YOUR TESTIMONY DURING THE
22 BREAK.

23 THE WITNESS: YES, SIR.

24 THE COURT: THANK YOU, SIR. MR. LITTLEJOHN?

25 MR. LITTLEJOHN: YES, YOUR HONOR.

1 THE COURT: YES, SIR. DO Y'ALL WANT TO GO AHEAD AND
2 BE HEARD ON THAT NOW OR WAIT TILL AFTER LUNCH?

3 MR. LITTLEJOHN: YES, SIR. WE'RE TRYING TO GET SOME
4 INFORMATION ABOUT IT.

5 THE COURT: OKAY. I'LL BE GLAD TO HEAR Y'ALL. WE
6 CAN TAKE IT UP RIGHT AFTER LUNCH IF YOU WANT TO OR DO YOU
7 HAVE WHAT YOU NEED RIGHT NOW?

8 MR. LITTLEJOHN: YOUR HONOR, I THINK WE'RE GOING TO
9 HAVE TO COMPARE THE DOCUMENTS---

10 THE COURT: OKAY.

11 MR. LITTLEJOHN: ---OF SOME OF THE COURT RECORDS WE
12 HAD.

13 THE COURT: OKAY. Y'ALL ARE GOING TO DO THAT NOW?

14 MR. LITTLEJOHN: AND WE HAVE FURTHER ARGUMENTS..

15 THE COURT: OKAY. WE'LL DO THAT -- SO I GUESS
16 YOU'RE SAYING YOU NEED THE TIME TO---

17 MR. LITTLEJOHN: YES, SIR.

18 THE COURT: ---OVER LUNCH. OKAY. WE'LL -- WE'LL
19 BREAK FOR AN HOUR AND COME BACK IN AN HOUR. WE'LL HEAR
20 ARGUMENTS ON THAT, AND I DON'T KNOW IF COUNSEL IS PREPARED TO
21 TALK AT ALL ABOUT CHARGES. I KNOW WE'RE SKIPPING A STEP IN
22 TERMS OF THE DIRECTED VERDICT MOTION AND I ASSUME WE'LL SPEND
23 A GOOD BIT OF TIME ON THAT AS WELL. BUT IF Y'ALL CAN BE
24 THINKING ABOUT THAT BECAUSE AFTER WE BREAK FOR THE DAY I MAY
25 JUST -- I THINK IT MAY BE A GOOD TIME AT THE END OF THE DAY

1 TO AT LEAST TOUCH ON THOSE DEPENDING ON WHAT HAPPENS PRIOR TO
2 THAT. BUT WE'LL BREAK FOR AN HOUR AND BE BACK AND WE'LL HEAR
3 FROM YOU ON THAT MATTER.

4 MR. LITTLEJOHN: YOUR HONOR, ONE THING JUST FOR THE
5 COURT'S SCHEDULING.

6 THE COURT: YES, SIR.

7 MR. LITTLEJOHN: THE STATE HAD LISTED SOME, I THINK,
8 54 WITNESSES. OBVIOUSLY THEY HAVE NOT CALLED NEARLY THAT
9 MANY. WE HAD TOLD MOST OF OUR WITNESSES TO BE HERE IN THE
10 MORNING, ANTICIPATING THAT THEY WILL LAST THREE -- AT LEAST
11 THREE DAYS. WE MAY BE ABLE TO PUT UP A COUPLE OF WITNESSES
12 THIS AFTERNOON---

13 THE COURT: OKAY.

14 MR. LITTLEJOHN: ---BUT WE MAY END UP BEING SHORT.

15 THE COURT: OKAY. WE'LL CERTAINLY PLAY THAT BY EAR.
16 THAT'S NOT A PROBLEM, AND WE'LL SEE Y'ALL AFTER LUNCH THEN.

17 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

18 THE COURT: Y'ALL READY TO DO THE ISSUE REGARDING
19 THE GUN APPLICATION? YES, SIR. MR. LITTLEJOHN?

20 MR. LITTLEJOHN: YOUR HONOR, AS I UNDERSTAND, THE
21 STATE'S CONTENTION IS THAT WHEN THESE FIREARM FORMS WERE
22 FILLED OUT - I BELIEVE ONE WAS IN JUNE, ONE WAS IN AUGUST,
23 ONE WAS IN NOVEMBER - THAT AT SOME POINT IN THERE MY CLIENT
24 WAS UNDER INDICTMENT ON SEPARATE UNRELATED CHARGES. I'VE
25 ASKED THE STATE TO PROVIDE US SOME INFORMATION TO SHOW WHEN

1 HE WAS INDICTED. SO I'M NOT SURE WHICH ONE OF THOSE DATES
2 MAY APPLY, AND IF WE COULD GET THAT INFORMATION OR IF WE
3 COULD TAKE A MOMENT AND CHECK WITH THE CLERK'S OFFICE WE
4 MIGHT BE ABLE TO ARGUE THIS BETTER.

5 MR. SORENSON: I'VE GOT SOMEONE CURRENTLY OVER THERE
6 GETTING THEM.

7 THE COURT: OKAY.

8 MR. PASCOE: DO YOU WANT ME TO SHOW YOU, YOUR HONOR,
9 ON ONE OF THESE STATE'S EXHIBITS WHERE WE'RE GOING?

10 THE COURT: YES, SIR. AS I UNDERSTAND IT, THE ONLY
11 -- IS IT THAT THE ONLY ISSUE WOULD BE WHETHER OR NOT HE WAS
12 UNDER INDICTMENT AT THE TIME?

13 MR. PASCOE: IT SAYS, "ARE YOU UNDER INDICTMENT OR
14 INFORMATION IN ANY COURT FOR A FELONY OR ANY OTHER CRIME FOR
15 WHICH A JUDGE COULD IMPRISON YOU FOR MORE THAN A YEAR?" AN
16 INFORMATION IS A FORMAL ACCUSATION OF A CRIME BY A
17 PROSECUTOR. NOW, THE DEFENDANT WAS ACTUALLY CHARGED WITH
18 DRUG TRAFFICKING, AND I THINK IT WAS ON JULY THE 19TH OR IT
19 WAS PRIOR TO THAT. HE SIGNED HIS BOND ON JULY THE 19TH WHERE
20 HE WAS TOLD HE HAD TO COME TO THE COURTHOUSE FOR HIS FIRST
21 APPEARANCE. THAT WOULD BE PRIOR TO BOTH HIS AUGUST PURCHASE
22 OF A HANDGUN AND HIS NOVEMBER PURCHASE OF A HANDGUN.

23 HE WAS ALSO INDICTED - AND WE'RE GOING TO
24 DOUBLE-CHECK ON THIS; THIS IS ACCORDING TO MY RECORDS - ON
25 AUGUST THE 14TH FOR DRUG TRAFFICKING. WHETHER HE'S INDICTED

1 OR NOT, THE FACT THAT HE WAS CHARGED, TOLD TO COME FOR HIS
2 FIRST APPEARANCE, THAT'S ENOUGH TO WHERE HE SHOULD HAVE SAID
3 YES. WHAT I WAS GOING TO PROPOSE -- DO YOU WANT TO HEAR WHAT
4 TYPE OF QUESTION I WAS GOING TO ASK?

5 THE COURT: GO AHEAD.

6 MR. PASCOE: I WAS NOT GOING TO GET INTO THE
7 SPECIFIC CHARGES. YOU KNOW, WAS HE CHARGED WITH DRUG
8 TRAFFICKING, LYNCHING? I WAS JUST GOING TO ASK -- WELL, WITH
9 REGARDS TO EXHIBITS 83 AND 91 WAS THERE ANY INFORMATION THAT
10 WAS FALSE? YES. WHAT WAS THAT? AND HE WAS JUST GOING TO --
11 I'LL HAVE HIM JUST ANSWER NUMBER OR LETTER C. AND MAYBE JUST
12 READ WHAT THAT IS AND LEAVE IT AT THAT. I WASN'T GOING TO
13 GET INTO WHAT THE CHARGES WERE.

14 THE COURT: OKAY.

15 MR. PASCOE: THERE WAS ONE MORE MATTER I WANTED TO
16 TAKE UP BEFORE WITH REGARDS TO... I WAS NOW GOING TO PROPOSE
17 TO PUT IN THESE STATE'S EXHIBITS RIGHT HERE. IT'S
18 SPECIFICALLY 76 WHICH WAS THE 357 AND THE 38 BECAUSE THERE
19 WAS TESTIMONY ON CROSS-EXAMINATION, AS YOUR HONOR RECALLS,
20 THAT ANOTHER BULLET WAS INVOLVED. FURTHERMORE, I WAS GOING
21 TO PREP IT BY ASKING HIM AGAIN ABOUT: IF YOU FIRE A REVOLVER
22 DOES IT LEAVE A CASE SHELLING? WERE ANY OTHER SHELLINGS
23 FOUND IN THAT AREA? THEN I WAS GOING TO PUT THESE INTO
24 EVIDENCE.

25 THE COURT: ANYTHING FURTHER? I UNDERSTAND THEY'RE

1 PULLING A COPY OF THE INDICTMENT RECORDS, BUT I DIDN'T KNOW
2 IF THERE WAS ANYTHING ELSE YOU WANTED TO ADDRESS AS TO...

3 MR. LITTLEJOHN: YOUR HONOR, WHILE WE'RE WAITING,
4 JUST A COUPLE OF THINGS. THAT FEDERAL A.T.F. FORM DOES HAVE
5 A QUESTION ON IT: HAVE YOU BEEN INDICTED OR ARE YOU UNDER --
6 OR ARE YOU UNDER AN INFORMATION? AN INFORMATION IS A FORM
7 THAT'S USED IN THE FEDERAL SYSTEM. THE COURT MAY VERY WELL
8 KNOW THIS: IN LIEU OF AN INDICTMENT, SOME CASES ARE
9 PROCEEDED UPON BY AN INFORMATION SIGNED BY THE U.S. ATTORNEY
10 WHICH IS JUST A FORMAL CHARGING DOCUMENT AND I'M SURE THAT'S
11 WHAT THAT -- THAT PARTICULAR FORM WE'RE TALKING ABOUT RELATES
12 TO. I DON'T THINK THAT ENCOMPASSES A WARRANT OR THE
13 KNOWLEDGE THAT THERE MAY BE A CHARGE OUT THERE. IF SO, I
14 DON'T THINK CONGRESS WOULD -- WOULD REQUIRE THE FORMALITY OF
15 AN INDICTMENT BE IN PLACE AND THE FORMALITY OF AN
16 INFORMATION.

17 YOUR HONOR, THE SECOND THING IS I DON'T KNOW IF
18 THERE'S ANY EVIDENCE THAT THE -- THAT MR. PRICE WAS ON NOTICE
19 AS TO WHETHER HE HAD BEEN INDICTED. OF COURSE, THERE'S NO
20 INFORMATION IN THE STATE SYSTEM, SO IT WOULD JUST BE A
21 QUESTION OF WHETHER HE KNEW HE WAS UNDER INDICTMENT AT THE
22 TIME HE SIGNED THAT FORM AND---

23 THE COURT: WELL, THAT'S A QUESTION I HAD AS TO
24 WHETHER HE -- I UNDERSTAND HE WAS ARRESTED BUT WHETHER OR NOT
25 HE NECESSARILY KNEW THAT, WHAT THAT MEANT.

1 MR. LITTLEJOHN: YOUR HONOR, NORMALLY -- NORMALLY IN
2 MY EXPERIENCE DEFENDANTS DON'T KNOW WHEN THEY'VE BEEN
3 INDICTED. THEY JUST HAVE NO REASON TO KNOW THAT. OFTENTIMES
4 YOU WORK OUT CASES AND YOU GET UP HERE TO DO A GUILTY PLEA
5 AND FIND OUT THE CASE HAS NOT BEEN INDICTED AND YOU PROCEED
6 BY WAIVER. BUT I THINK THERE WOULD HAVE TO BE SOME EVIDENCE
7 THAT HE WAS ON NOTICE THAT HE HAD BEEN INDICTED AT THE TIME
8 HE SIGNED THOSE FORMS.

9 MR. PASCOE: MR. LITTLEJOHN, YOUR HONOR, DID ALLUDE
10 TO JUST NOW WHETHER HE EVEN HAD A WARRANT OR NOT. I CAN ALSO
11 PROVE THAT HE WAS GIVEN A WARRANT THE DAY OF HIS ARREST IN
12 JULY. INTERESTINGLY, I'M NOT GOING TO GET INTO THIS EITHER.
13 HE -- WHEN HE WAS ARRESTED ON THE DRUGS IN JULY AND HE HAD A
14 40 CALIBER HANDGUN TAKEN, THE VERY NEXT DAY HE BOUGHT ANOTHER
15 40 CALIBER HANDGUN. WE'RE NOT EVEN TRYING TO GET INTO THAT,
16 AND I PURPOSEFULLY DIDN'T ASK INVESTIGATOR SMITH ABOUT
17 CONVERSATIONS HE HAD WITH THE DEFENDANT WHERE THE DEFENDANT
18 WAS TELLING HIM ABOUT WHAT HAD HAPPENED TO VARIOUS GUNS
19 BECAUSE THEY WERE TAKEN FROM THE POLICE. I PURPOSEFULLY
20 STAYED AWAY FROM THAT.

21 MR. LITTLEJOHN: IF I CAN JUST BRIEFLY REPLY. I
22 DON'T THINK AN ARREST WARRANT IS WHAT WAS INTENDED BY THE
23 FORM. IT SAYS CLEARLY AN INDICTMENT OR INFORMATION OR FORMAL
24 CHARGE THAT WOULD BE HANDED DOWN BY THE GRAND JURY OR
25 RECOGNIZED BY THE FEDERAL COURT AS A FORMAL CHARGE INSTEAD OF

1 A COMPLAINT OR WARRANT.

2 THE COURT: THANK YOU, SIR. ANYTHING FURTHER, MR.
3 PASCOE?

4 MR. PASCOE: NO, SIR. THANK YOU.

5 THE COURT: MR. LITTLEJOHN? LET ME ASK BOTH OF YOU
6 THEN -- BECAUSE WHAT REALLY CONCERNS ME IS JUST THE
7 ALLEGATION THAT THIS IS SOME PRIOR BAD ACT -- I MEAN TO HAVE
8 -- AND I DON'T KNOW WHETHER Y'ALL REALLY WANT THAT IN.

9 MR. PASCOE: NO. THAT'S WHY I DIDN'T BRING THIS IN
10 IN MY DIRECT EXAMINATION. YOU'RE ABSOLUTELY RIGHT, YOUR
11 HONOR, BUT ON CROSS-EXAMINATION HE ASKED HIM, YOU KNOW, THESE
12 GUNS WERE LAWFULLY OBTAINED. SO THAT'S WHAT OPENED THE DOOR.
13 I DIDN'T GO INTO IT IN MY DIRECT AND I WASN'T GOING TO, BUT
14 NOW I HAVE TO. I MEAN, THE JURY THINKS THAT THESE GUNS WERE
15 LAWFULLY OBTAINED BY THE DEFENDANT AND THEY WEREN'T. I'M NOT
16 GOING TO BE GOING INTO THE SPECIFIC, YOU KNOW, CHARGES BUT
17 JUST THAT---

18 THE COURT: WELL, I DON'T KNOW IF THEY THINK THAT
19 BECAUSE---

20 MR. PASCOE: YES, SIR.

21 THE COURT: ---THE OFFICER CLEARLY TESTIFIED THAT,
22 NO, THEY WEREN'T. I MEAN, WE HAVEN'T GONE INTO FURTHER
23 DETAIL ABOUT IT, BUT HE SAID, NO, THEY WEREN'T. HE POINTED
24 OUT -- HE DIDN'T GO INTO A WHOLE LOT OF DETAIL.

25 MR. PASCOE: ACTUALLY -- BEG -- LET ME ASK HIM.

1 THE COURT: YES, SIR.

2 MR. LITTLEJOHN: YOUR HONOR, CAN WE LOOK AT THE
3 RECORDS?

4 THE COURT: YES, SIR.

5 MR. PASCOE: ACTUALLY YOUR HONOR MAKES A GOOD POINT
6 THAT -- I MEAN, IT'S ALREADY -- AND MAYBE I CAN BRING IT BACK
7 OUT ON REDIRECT. HE CAN JUST LEAVE IT: WERE THESE GUNS
8 LAWFULLY OBTAINED? AND LEAVE IT AT THAT. I MEAN---

9 THE COURT: I KNOW THAT SOMETIMES Y'ALL DON'T
10 BELIEVE IT, BUT SOMETIMES -- SOMETIMES WE'RE A LITTLE
11 CONCERNED ABOUT YOUR RECORDS DOWN THE ROAD AS WELL. I'M NOT
12 SURE Y'ALL NECESSARILY WANTED TO GET BACK INTO THAT, BUT I'LL
13 BE GLAD TO CONTINUE TO LISTEN TO ARGUMENTS REGARDING THAT
14 MATTER, BUT I'M JUST CURIOUS AS TO WHETHER Y'ALL REALLY
15 WANTED TO GO FURTHER INTO THAT.

16 MR. PASCOE: I THINK THAT WOULD MAKE A POINT CLEAR
17 AS TO WHAT I WAS TRYING TO... NOW TO REBUT IT: NO, THEY
18 WEREN'T LAWFULLY OBTAINED. NOW, IF MR. LITTLEJOHN TRIES TO
19 GO INTO THE SPECIFICS ABOUT IT AND I KNOW HE'S NOT, THEN I
20 SHOULD BE ABLE TO GO INTO THE SPECIFICS ABOUT IT.

21 MR. LITTLEJOHN: YOUR HONOR, OF COURSE, THE STATE OF
22 THE RECORD RIGHT NOW IS THAT LIEUTENANT SMITH IN THE COLLOQUY
23 SAID, NO, THEY WEREN'T LEGALLY OBTAINED AND, I MEAN, THAT'S
24 IN FRONT OF THE JURY, YOUR HONOR. IT JUST SEEMS TO ME IN A
25 CASE LIKE THIS WHERE THERE'S NOT OVERWHELMING EVIDENCE OF

1 GUILT THAT THAT'S SOMETHING THAT DOESN'T NEED TO BE
2 INTERJECTED INTO THIS TRIAL.

3 THE COURT: THE STANDARD OF PROOF... IS IT YOUR
4 INTENTION THAT YOU WANT A CURATIVE INSTRUCTION OR DO YOU WANT
5 TO BE ABLE TO FURTHER GO INTO THAT WITH HIM?

6 MR. LITTLEJOHN: YOUR HONOR, I DID NOT PLAN ON GOING
7 ANY FURTHER WITH IT. I MEAN, IT WAS BROUGHT OUT BY THE
8 LIEUTENANT.

9 THE COURT: SO YOU'RE CONTENT TO LEAVE IT -- LEAVE
10 IT AT THAT OR DO YOU WANT A -- ARE YOU REQUESTING A CURATIVE
11 INSTRUCTION TO THE JURY AS TO -- TO THAT PARTICULAR STATEMENT
12 BY HIM?

13 MR. LITTLEJOHN: YOUR HONOR, IF YOU WOULD GIVE ME
14 JUST A SECOND.

15 THE COURT: YES, SIR.

16 MR. LITTLEJOHN: I DIDN'T HAVE A CHANCE TO COMPARE
17 THE DATA.

18 THE COURT: YEAH. I'LL CERTAINLY GIVE Y'ALL...

19 (AN OFF-THE-RECORD DISCUSSION TOOK PLACE BETWEEN MR.
20 LITTLEJOHN AND MS. RUSHING.)

21 MR. LITTLEJOHN: YOUR HONOR, JUST SO I UNDERSTAND
22 THE COURT'S QUERY, I UNDERSTAND THE COURT IS ASKING ME IF I
23 WANT A CURATIVE INSTRUCTION AS TO WHAT MR. -- WHAT HIS
24 RESPONSE WAS.

25 THE COURT: RIGHT. YOU HAD OBJECTED TO MR. PASCOE

1 GETTING BACK INTO THAT ON HIS REDIRECT BUT I... BEYOND THAT,
2 IF HE SAYS, LOOK, I'M NOT -- I'M WILLING TO LEAVE IT AT WHERE
3 IT'S AT, IS THAT WHERE THE DEFENSE THINKS IT'S...

4 MR. LITTLEJOHN: WELL, YOUR HONOR, OF COURSE, I
5 WOULD PREFER A CURATIVE INSTRUCTION THAT THEY SHOULD
6 DISREGARD THAT, BUT I CERTAINLY DON'T WANT TO OPEN THE DOOR
7 TO ANYTHING ELSE. I'D JUST AS SOON...

8 MR. PASCOE: NOW I'M CONFUSED, YOUR HONOR. A
9 CURATIVE INSTRUCTION TO DISREGARD IT? I MEAN I'M -- AND I'M
10 GOING TO GET OUT AGAIN: THESE GUNS WERE NOT LAWFULLY
11 OBTAINED. CORRECT? BUT I'M NOT GOING TO GO INTO WHICH ONE
12 AND WHY OR ANYTHING LIKE THAT, JUST RESPONDING TO HIS
13 QUESTION.

14 THE COURT: SO YOU'RE -- ON REDIRECT -- I'M NOT SURE
15 I UNDERSTOOD WHAT YOU WERE SAYING EARLIER.

16 MR. PASCOE: I CHANGED IT AGAIN.

17 THE COURT: YOU'RE JUST HAPPY TO LEAVE IT ALONE OR
18 DO YOU WANT TO GO -- GO BACK INTO IT?

19 MR. PASCOE: MR. LITTLEJOHN ASKED YOU IF THE
20 DEFENDANT OBTAINED THE FIREARMS LAWFULLY. HE TESTIFIED --
21 AND WITH REGARDS TO STATE'S EXHIBITS 83 AND 91, WERE THE
22 FIREARMS LAWFULLY OBTAINED? NO. AND I'M GOING TO LEAVE IT
23 AT THAT. I'M NOT GOING INTO EVEN NOW WHICH ONE WAS -- YOU
24 KNOW, WHY.

25 THE COURT: BUT YOU DO WANT TO ASK HIM AGAIN---

1 MR. PASCOE: ABSOLUTELY. YES, SIR.

2 MR. LITTLEJOHN: YOUR HONOR, I WOULD -- IF WE COULD
3 LEAVE THE RECORD LIKE IT IS. LIEUTENANT SMITH'S ALREADY
4 ANSWERED THAT. IT DOESN'T SOUND LIKE MR. PASCOE IS DOING
5 ANYTHING BUT REINFORCING IT. IF WE COULD LEAVE THE RECORD
6 LIKE IT IS RIGHT NOW AND JUST -- JUST GO ON, I'D BE AMENABLE
7 TO THAT.

8 THE COURT: ALL RIGHT. THEN I'LL NOTE THE STATE'S
9 EXCEPTION OR REJECTION TO THIS, BUT I'M GOING TO RULE FOR YOU
10 NOT TO GO BACK INTO THAT TOPIC WITH HIM. WE'LL JUST LEAVE IT
11 AS IT IS. I THINK WE WOULD HAVE TO PROVE IT BY CLEAR AND
12 CONVINCING AND THEN WE'VE GOT TO MAKE THE ANALYSIS OF WHETHER
13 OR NOT THE DEFENDANT ACTUALLY KNEW HE WAS UNDER INDICTMENT.
14 I DON'T KNOW THAT Y'ALL WOULD MEET THAT STANDARD ANYWAY. SO
15 NO INSTRUCTIONS TO THE JURY ABOUT IT, AND WE'LL JUST MOVE ON
16 FROM THERE.

17 MR. LITTLEJOHN: YES, SIR.

18 MR. PASCOE: CAN I PUT ONE THING ON THE RECORD ABOUT
19 THAT?

20 THE COURT: YES, SIR.

21 MR. PASCOE: FOR THE RECORD, I'M NOT PUTTING THIS IN
22 AS A PRIOR BAD ACT WHICH WOULD NEED TO GO TO CLEAR AND
23 CONVINCING EVIDENCE. I'M PUTTING IT IN -- I WAS GOING TO
24 INTRODUCE IT ON REDIRECT TO REBUT THE DEFENSE ATTORNEY'S
25 QUESTION ABOUT THESE GUNS BEING LAWFULLY OBTAINED AND --

1 THANK YOU.

2 THE COURT: YES, SIR.

3 MR. PASCOE: NOW -- NOW, WHAT ABOUT---

4 THE COURT: NOW, I TAKE IT -- I MEAN, I TOOK IT YOUR
5 ARGUMENT WAS HE OPENED THE DOOR TO ALL OF THAT AND I'M -- I
6 CERTAINLY UNDERSTAND YOUR ARGUMENT. I THINK THE OFFICER DID
7 ANSWER THAT, AND THERE WAS NO MOTION AT THE TIME TO STRIKE
8 THAT TESTIMONY ON CROSS. SO IT'S IN FRONT -- HIS ANSWER IS
9 IN FRONT OF THE JURY, BUT TO GO BACK TO THAT OVER AND OVER
10 AGAIN I THINK WE DO END UP HAVING TO DEAL WITH THE ISSUE OF
11 THE DEFENDANT'S CHARACTER AND OF PRIOR BAD ACTS HERE THAT ARE
12 NOT THE SUBJECT OF A CONVICTION. I'M NOT SURE THAT WE CAN
13 MEET THAT STANDARD, SO WE'LL -- YOUR EXCEPTION TO THAT IS
14 NOTED FOR THE RECORD---

15 MR. PASCOE: THANK YOU, YOUR HONOR.

16 THE COURT: -- AND WE'LL -- WE'LL PROCEED ON.

17 MR. PASCOE: BUT THE ANSWER DOES STAND? HIS ANSWER
18 IS NO.

19 THE COURT: CORRECT.

20 MR. PASCOE: THAT STANDS.

21 THE COURT: THERE WAS NO MOTION AT THE TIME TO
22 STRIKE IT, SO...

23 MR. PASCOE: SO THAT STANDS.

24 THE COURT: YES. HIS ANSWER IS HIS ANSWER.

25 MR. PASCOE: THANK YOU, YOUR HONOR. WELL, I

1 APPRECIATE THAT. NOW, WHAT ABOUT STATE'S EXHIBIT 76? THAT'S
2 THE REVOLVER AMMUNITION.

3 THE COURT: YEAH. DURING CROSS -- AND Y'ALL HELP ME
4 WITH THIS. PART OF WHAT I UNDERSTOOD FROM PRIOR TESTIMONY
5 WAS THAT THERE WERE TWO -- TWO GUNS INVOLVED, A 380 AND A 40
6 CALIBER. THE DEFENSE'S QUESTION INDICATED THAT THERE WERE
7 MORE GUNS INVOLVED HERE. I TAKE IT A PRIOR OBJECTION TO THE
8 -- I THINK IT WAS A NINE MILLIMETER?

9 MR. PASCOE: THERE WAS SOME NINE MILLIMETER
10 INFORMATION, YOUR HONOR, AND ALSO THE 357 AND 38 SPECIAL
11 AMMUNITION WHICH WOULD COME -- THAT WOULD ACTUALLY COME FROM
12 A...

13 THE COURT: IS THE OBJECTION STILL TO THOSE EXHIBITS
14 THAT...

15 MR. LITTLEJOHN: YES, YOUR HONOR. I MEAN, THE STATE
16 OF THE RECORD RIGHT NOW IS THERE'S -- THERE'S EVIDENCE THAT
17 THERE WERE 380 AND 40 CALIBER SPENT CARTRIDGES FOUND THERE,
18 BUT THERE'S NO EVIDENCE THAT THERE WERE EITHER CARTRIDGES --
19 AND I UNDERSTAND THEIR ARGUMENT ABOUT A REVOLVER DOESN'T
20 EXPEL CARTRIDGES. BUT THERE'S NO EVIDENCE THAT THERE WAS ANY
21 KIND OF 357 OR 38 OR NINE MILLIMETER PROJECTILE THAT WAS
22 FOUND THERE OR ANYTHING TO ASSOCIATE THE CRIME SCENE WITH
23 SUCH WEAPONS. AND FOR THEM TO JUST GO OUT AND SAY, WELL,
24 HE'S GOT OTHER GUNS, HE'S GOT A 22 OR HE'S GOT A 16-GAUGE
25 SHOTGUN OR WHATEVER, DOESN'T HAVE ANY CORRELATION WITH THE

1 PHYSICAL EVIDENCE THAT WAS COLLECTED ON DECEMBER 7TH.

2 THE COURT: BUT YOUR QUESTION AT ONE POINT TO -- TO
3 THE LIEUTENANT WAS THAT THERE WAS, IN FACT -- I TOOK IT AS
4 THE BASIS OF YOUR QUESTION WAS THAT THERE WAS, IN FACT, THREE
5 GUNS USED.

6 MR. LITTLEJOHN: YES, YOUR HONOR, AND I WAS -- I WAS
7 BASING THAT ON MR. COLLINS' REPORT WHO IS THE BALLISTICS MAN
8 FOR THE SHERIFF'S DEPARTMENT, AND IT'S MY UNDERSTANDING THAT
9 THERE WERE PROJECTILES FOUND IN THAT HALLWAY FROM THREE
10 DIFFERENT GUNS: TWO 380'S, ONE 40. AND I'M TALKING ABOUT
11 PROJECTILES, NOT CARTRIDGE CASINGS.

12 THE COURT: OKAY.

13 MR. LITTLEJOHN: NOWHERE IN THE DISCOVERY HAVE I
14 SEEN ANYTHING OTHER THAN WHAT CAME OUT OF THE APARTMENT
15 DEALING WITH ANY OTHER CALIBER OF GUN.

16 THE COURT: YES, SIR.

17 MR. PASCOE: IN THE DISCOVERY THERE'S ONE 380, ONE
18 40, AND ONE BULLET -- ANOTHER BULLET THAT MR. LITTLEJOHN IS
19 REFERRING TO. THAT COULD BE ANY HIGH-POWER TYPE OF BULLET,
20 I.E., A 357. AND, YOU KNOW, I THINK WHEN YOU START LINKING
21 IT TOGETHER -- THE REASON WE WERE GOING TO PUT IT IN IS THERE
22 IS NO SHELL CASING -- ANOTHER SHELL CASING TO MATCH THAT
23 BULLET, AND THAT'S WHY NOW I BELIEVE THE 357 AT THE VERY
24 LEAST SHOULD BE ABLE TO COME IN. YOUR HONOR, I'M NOT ASKING
25 TO PUT IN THE NINE MILLIMETER INFORMATION.

1 THE COURT: OKAY.

2 MR. PASCOE: WE HAD A NINE MILLIMETER SHELL CASING.
3 JUST THE 357.

4 MR. LITTLEJOHN: YOUR HONOR, LET ME CLARIFY. ONE OF
5 THE PROJECTILES WAS ITEM NUMBER 3 IN MR. COLLINS' REPORT.
6 THERE WAS FOUR BULLET FRAGMENTS WHICH WERE PREVIOUSLY
7 IDENTIFIED BY MS. CLEMMONS, AND HE DOES SAY THAT DUE TO THE
8 EXTENSIVE DAMAGE ON THE FRAGMENTS, THE ORIGINAL CALIBER COULD
9 NOT BE DETERMINED. SO THAT'S ONE OF THE PROJECTILES, BUT HE
10 DOES GO ON TO DETERMINE THAT THAT PROJECTILE WAS NOT FIRED BY
11 TWO OF THE OTHER GUNS WHICH WOULD LEAD TO THE CONCLUSION
12 THERE WERE THREE OF THEM, BUT THERE IS NO SPECIFIC CALIBER.
13 SO I CAN CLARIFY THAT.

14 YOUR HONOR, STILL THERE IS NO RECORD OF 357 OR 38,
15 ANYTHING SPECIFIC. OBVIOUSLY THE STATE HAS PUT IN A NUMBER
16 OF BULLETS THAT WERE FOUND IN MY CLIENT'S APARTMENT. I DON'T
17 SEE WHAT THIS IS BUT JUST CUMULATIVE AND POSSIBLY MORE
18 PREJUDICIAL EVIDENCE IN THE RECORD.

19 THE COURT: ANYTHING FURTHER?

20 MR. PASCOE: JUST THAT HE BROUGHT UP THAT THERE WAS
21 ANOTHER BULLET AT THE SCENE THAT CAN'T BE -- THAT DOESN'T
22 MATCH TO THE 40 OR THE 380. AND IF YOU RECALL THAT'S WHY
23 EVEN WHEN THE MOTION WAS DENIED TO PUT THE 357 AMMO IN, I
24 ASKED THAT WE MAY WANT TO GET BACK TO THAT LATER; THIS IS
25 WHY.

1 I WOULD ADD -- NOW, I WILL SAY THAT IN AN ABUNDANCE
2 OF CAUTION I'D LIKE TO TAKE -- I WOULD TAKE THE 38 SPECIAL
3 AMMO OUT BECAUSE AS OF NOW I DON'T HAVE INFORMATION THAT
4 COULD BE A 38 SPECIAL. I HAVE BEEN TOLD THAT IT COULD BE A
5 357 BUT NOT A 38 SPECIAL.

6 THE COURT: I'LL -- BASED ON THE ARGUMENTS AND THE
7 TESTIMONY THUS FAR, MY PRIOR RULING AS TO THE NINE
8 MILLIMETER, THE BOX ANYWAY, AND ANY -- AND ANY OF THOSE
9 AUTOMATIC WEAPONS STANDS, THE 357 I'M GOING TO ALLOW IN. THE
10 JURY CAN MAKE WHAT DELIBERATION ABOUT ALL THAT THAT THEY
11 THINK IS FIT. BUT IF THERE WAS A THIRD GUN AT SOME POINT
12 USED, THEY CAN BELIEVE IT WAS THIS ONE OR SOME OTHER WEAPON
13 OR ANYTHING ELSE. SO THE 357 I'LL ALLOW IN, AND MY PRIOR
14 RULINGS AS TO EVERYTHING ELSE STANDS.

15 MR. PASCOE: I'M GOING TO TAKE THAT 38 OUT?

16 THE COURT: YEAH.

17 MR. PASCOE: BECAUSE IT'S IN THE SAME BAG.

18 THE COURT: WHICH EXHIBIT WAS THE 357?

19 MR. PASCOE: 76, YOUR HONOR.

20 THE COURT: THANK YOU. OKAY. 76 IS ADMITTED
21 SUBJECT TO DEFENSE'S OBJECTION.

22 (STATE'S EXHIBIT 76 WAS RECEIVED IN EVIDENCE.)

23 THE COURT: AND ANYTHING ELSE WE NEED TO TAKE UP
24 BEFORE THE JURY COMES OUT?

25 MR. LITTLEJOHN: YOUR HONOR, THE ONLY THING WE HAVE

1 -- AS I EXPLAINED BEFORE THE LUNCH BREAK, WE'RE KIND OF
2 SCRAMBLING TO GET OUR WITNESSES HERE.

3 THE COURT: OH, CERTAINLY. WE'LL -- WE'LL CERTAINLY
4 ACCOMMODATE YOU ON THAT, AND I ASSUME WE'RE GOING TO SPEND A
5 LITTLE BIT OF TIME ON -- I DON'T KNOW; MAYBE NOT. BUT I
6 ASSUMED WE MAY SPEND A LITTLE TIME ON THE DIRECTED VERDICT
7 MOTION AND THEN TRY AND SQUEEZE IN MAYBE ONE OR TWO BEFORE WE
8 BREAK. IF THERE'S A PROBLEM, WE CAN CERTAINLY ACCOMMODATE
9 THAT. I THINK WE HAVE ENOUGH TIME. WE'RE READY FOR THE JURY
10 THEN.

11 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT
12 2:14 P.M.)

13 THE COURT: JUROR 124 IS GOING TO BE MY FOREPERSON
14 AND I'LL EXPLAIN TO YOU AT THE END OF THE CASE WHEN I'M
15 CHARGING THE JURY... MS. MILLER? YES, MA'AM? I'LL EXPLAIN
16 ALL THAT TO YOU AT THE END WHEN I CHARGE YOU AS TO YOUR
17 DUTIES AND RESPONSIBILITIES AS FOREPERSON, BUT AT THIS POINT
18 THAT MEANS THAT YOU GET THAT FIRST CHAIR EVERY TIME. SO IF
19 YOU'LL JUST CONTINUE TO SIT THERE.

20 FORELADY: OKAY.

21 THE COURT: THANK YOU, MA'AM. WE'RE READY TO
22 CONTINUE. LIEUTENANT, IF YOU'LL RE-TAKE THE STAND AND I
23 REMIND YOU THAT YOU'RE STILL UNDER OATH AND---

24 THE WITNESS: YES, SIR, YOUR HONOR. THANK YOU.

25 THE COURT: ---YOU'VE ALREADY BEEN SWORN. MR.

1 PASCOE?

2 MR. PASCOE: THANK YOU, YOUR HONOR.

3 REDIRECT EXAMINATION

4 BY MR. PASCOE:

5 Q. MR. SMITH, JUST A COUPLE OF QUESTIONS, SIR, IN ONE
6 AREA. MR. LITTLEJOHN ASKED YOU ABOUT A BULLET AT THE SCENE
7 OF WHERE THE VICTIM WAS THAT DIDN'T MATCH ANYTHING COMING
8 FROM THE 40 SHELL CASINGS OR THE 380. DO YOU REMEMBER THAT?

9 A. YES, SIR.

10 Q. IF YOU FIRE A 357, WOULD YOU LEAVE A SHELL CASING?

11 A. NO, SIR.

12 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
13 EXHIBIT 76. DO YOU RECOGNIZE THAT?

14 A. YES, SIR, I DO.

15 Q. WHAT DO YOU RECOGNIZE THAT TO BE?

16 A. IT'S A BOX OF 357 MAGNUM AMMUNITION.

17 Q. AND WHERE DID YOU FIND THAT FROM?

18 A. IT WAS IN THE DEFENDANT'S APARTMENT, JEROID PRICE.

19 MR. PASCOE: I'D ASK THAT STATE'S EXHIBIT 76 BE
20 ADMITTED INTO EVIDENCE, YOUR HONOR.

21 THE COURT: SUBJECT TO---

22 MR. LITTLEJOHN: SUBJECT TO OUR EARLIER OBJECTION.

23 THE COURT: SUBJECT TO EARLIER OBJECTION IT'S
24 ADMITTED.

25

1 BY MR. PASCOE:

2 Q. AND FINALLY, SIR, WITH REGARDS TO ALL THE AMMO OR
3 AMMO BOXES THAT WE'VE PUT IN AND THE GUN INFORMATION, WERE
4 ANY GUNS FOUND AT THE DEFENDANT'S APARTMENT CORRESPONDING TO
5 THE AMMO WITH THE GUN BOXES?

6 A. NO, SIR.

7 MR. PASCOE: OKAY. THAT'S ALL I HAVE. THANK YOU,
8 YOUR HONOR.

9 THE COURT: THANK YOU, SIR. MR. LITTLEJOHN?

10 MR. LITTLEJOHN: GIVE ME JUST A MOMENT, YOUR HONOR.

11 THE COURT: CERTAINLY.

12 MR. LITTLEJOHN: WE HAVE NO FURTHER QUESTIONS, YOUR
13 HONOR.

14 THE COURT: OKAY. THANK YOU, SIR. LIEUTENANT,, YOU
15 MAY STEP DOWN, SIR. THANK YOU. ANYTHING FURTHER FROM THE
16 STATE?

17 MR. PASCOE: THE STATE RESTS, YOUR HONOR. THANK
18 YOU.

19 THE COURT: THANK YOU, SIR. LADIES AND GENTLEMEN,
20 AT THIS POINT IN THE CASE I HAVE TO TAKE UP SOME MATTERS WITH
21 THE ATTORNEYS OUTSIDE OF YOUR PRESENCE. I'D ASK THAT ONCE
22 AGAIN -- SORRY TO BRING Y'ALL BACK DOWN HERE FOR A SHORT
23 PERIOD OF TIME, BUT SOMETIMES IT WORKS OUT THAT WAY. I JUST
24 ASK IF YOU ALL WILL WAIT IN THE JURY ROOM. WE'LL BE BACK
25 WITH YOU MOMENTARILY. I JUST ASK ONE MORE TIME THAT YOU NOT

1 DISCUSS THE TESTIMONY OR EVIDENCE THAT YOU'VE SEEN OR HEARD
2 THUS FAR. THANK YOU.

3 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT
4 2:18 P.M.)

5 THE COURT: MR. LITTLEJOHN.

6 MR. LITTLEJOHN: YES, YOUR HONOR. YOUR HONOR, AT
7 THIS TIME THE DEFENSE WOULD MOVE FOR A DIRECTED VERDICT OF
8 NOT GUILTY AS TO THE CHARGE -- THE SOLE CHARGE OF MURDER.
9 YOUR HONOR, THE EVIDENCE WHICH TAKEN IN THE LIGHT MOST
10 FAVORABLE TO THE STATE INDICATES THAT THERE ARE REALLY ONLY
11 TWO WITNESSES THAT HAVE ANY KNOWLEDGE DIRECTLY ABOUT WHAT
12 HAPPENED IN THIS CASE AND THOSE ARE RYAN BROOKS AND MR.
13 JONES, MARCUS JONES.

14 YOUR HONOR, MR. BROOKS IN ESSENCE IN HIS TESTIMONY
15 RELATED TO THE JURY THAT THE ACTS OR THAT HE ATTRIBUTED TO
16 MR. PRICE WERE THAT HE WAS ATTACKED BY THE VICTIM, THAT MR.
17 BROOKS FIRED A SHOT BECAUSE HE WAS TRYING TO DEFEND HIMSELF
18 BEFORE THE VICTIM COULD DO SOMETHING TO HIM, AND AT THAT
19 POINT MR. BROOKS LEFT. HE DOES NOT HAVE ANY INFORMATION AS
20 TO WHAT HAPPENED AFTER HE FIRED ONE SHOT AND LEFT. SO, YOUR
21 HONOR, THE RECORD THERE IS DEVOID OF ANY EVIDENCE AS TO WHAT
22 HAPPENED AFTER MR. BROOKS LEFT THE SCENE.

23 YOUR HONOR, THE SECOND WITNESS, MR. JONES, AS THE
24 COURT WILL RECALL, HE WAS ALL THE WAY ACROSS THE NIGHTCLUB
25 AND INDICATED THAT HIS FIELD OF VIEW WAS FROM A GREAT

1 DISTANCE AWAY AS HE INDICATED IN ONE OF THE PHOTOGRAPHS WHICH
2 I'LL BE GLAD TO SHOW THE COURT BUT THAT HE WAS LOOKING
3 THROUGH A HAZE OR A FOG THAT WAS CREATED AND LOOKING THE
4 ENTIRE LENGTH OF THE FLOOR. AND AS YOU CAN SEE FROM THE
5 PHOTOGRAPH WHICH I WILL COMMEND TO THE COURT, THERE WAS ONE
6 FIGURE THERE. THERE WAS A SILHOUETTE. IT WAS COMPLETELY
7 DARK, AND THAT WAS THE VIEW HE HAD OF WHAT HE DESCRIBED AS
8 THE SHOOTING.

9 YOUR HONOR, THE STATE ELICITED SOME INFORMATION THAT
10 MR. JONES HAD PICKED -- OR NOT PICKED BUT HE HAD LOOKED AT A
11 PICTURE OF MR. PRICE AT WHICH POINT HE HESITATED, BUT HE
12 NEVER SIGNED AN AFFIDAVIT THAT THAT WAS THE PICTURE OF MR.
13 PRICE, THAT THAT WAS THE PERSON WHO HAD DONE THE SHOOTING.
14 AND REALLY HE KEPT SAYING, WELL, MY COMMON SENSE THIS AND MY
15 COMMON SENSE THAT AND I REALLY GOT THE IMPRESSION HE WAS
16 PIECING TOGETHER THAT HE HAD SEEN SOMEBODY IN A PINWHEEL HAT
17 AND THEN SEEN ANOTHER PERSON WITH A PINWHEEL HAT AND ASSUMED
18 THOSE WERE THE TWO PERSONS.

19 BUT IN ANY EVENT, HE DID NOT PICK THE PHOTOGRAPH OF
20 JEROID PRICE OUT OF THE LINE-UP. HE DID NOT SIGN AN
21 AFFIDAVIT TO THAT EFFECT, AND AS THE COURT WAS QUITE AWARE,
22 HE DIDN'T PICK OUT MR. PRICE HERE IN THIS COURTROOM. HE DID
23 NOT MAKE AN IDENTIFICATION.

24 YOUR HONOR, OTHER THAN THE EVIDENCE CONCERNING MR.
25 PRICE ALLEGEDLY BEING A MEMBER OF A GANG, OF HIS HAVING

1 WEAPONS IN HIS APARTMENT, THERE'S REALLY NO OTHER EVIDENCE
2 THAT INDICATED THAT HE COMMITTED A MURDER. THE RECORD IS
3 DEVOID. I MEAN, WE DON'T KNOW WHAT HAPPENED. GIVEN IN THE
4 LIGHT MOST FAVORABLE TO THE GOVERNMENT OR TO THE STATE --
5 EXCUSE ME, I'VE BEEN IN FEDERAL COURT TOO MUCH -- WE DON'T
6 KNOW WHAT HAPPENED AND THE STATE HASN'T PROVED IT AND,
7 THEREFORE, I WOULD ASK THE COURT TO DIRECT A VERDICT OF NOT
8 GUILTY.

9 THE COURT: THANK YOU, SIR. MR. PASCOE?

10 MR. PASCOE: THANK YOU, YOUR HONOR. LOOKING AT THE
11 EVIDENCE MOST FAVORABLE -- IN THE LIGHT MOST FAVORABLE TO THE
12 STATE, THE MOTION SHOULD CERTAINLY BE DENIED. FIRST, WE HAVE
13 THE TESTIMONY OF THE CO-DEFENDANT, RYAN BROOKS, WHERE HE PUTS
14 THE DEFENDANT AND THE VICTIM AS THE ONLY PEOPLE IN THAT AREA
15 WITH THE DEFENDANT ARMED WITH A GUN WHERE THE VICTIM WAS
16 SHOT.

17 WE HAVE JASON WOODS' STATEMENT WHICH IS ACTUALLY IN
18 EVIDENCE WHERE HE TOLD THE POLICE THAT THE DEFENDANT HAD
19 INFORMED HIM THAT HE HAD SHOT THE VICTIM. YOU HAVE THE
20 DEFENDANT FLEEING FROM THE SCENE AND ELUDING THE POLICE FOR
21 AT LEAST THREE AND A HALF MONTHS, YOUR HONOR. YOU HAVE
22 INCONSISTENT STATEMENTS BY THE DEFENDANT WHILE HE WAS ON THE
23 RUN, AT ONE POINT GIVING LIEUTENANT SMITH AN ALIBI. THEN
24 WHEN THE ALIBI WAS PROVEN TO BE UNTRUE AND AFTER MR. BROOKS
25 TURNED HIMSELF IN, THEN THE DEFENDANT ALLUDED TO, WELL, YOU

1 DON'T HAVE SELF -- GOOD SELF-DEFENSE LAWS IN SOUTH CAROLINA.

2 YOU HAVE THE TESTIMONY THAT THERE WAS A
3 CONFRONTATION BETWEEN THE VICTIM AND THE DEFENDANT THAT NIGHT
4 WITHIN PROBABLY A HALF-HOUR OF THE SHOOTING WHICH WOULD SHOW
5 ANIMOSITY BETWEEN THE DEFENDANT AND THE VICTIM. YOU DO HAVE
6 MARCUS JONES' TESTIMONY WHO DESCRIBED THE SHOOTER TO A TEE
7 AND THAT BEING THE DEFENDANT. HE DID LOOK AT A PHOTOGRAPHIC
8 LINE-UP OF A TOTAL, WHEN YOU THINK ABOUT IT, OF 12 PHOTOS AND
9 OF 12 PHOTOS HE SAID NUMBER ONE LOOKS THE MOST LIKE THE
10 SHOOTER. NUMBER ONE JUST HAPPENS TO BE THE DEFENDANT.

11 ALSO, YOUR HONOR, WE ALSO HAVE THE ITEMS FOUND IN
12 THE DEFENDANT'S HOME SUCH AS THE PURCHASING OF MULTIPLE 40
13 CALIBER HANDGUNS, HAPPENS TO BE ONE OF THE WEAPONS USED IN
14 THE MURDER, THE SHELL CASINGS FOUND, AS WELL AS A 380 HANDGUN
15 WHICH ONE OF THE SHELL CASINGS MATCHED AT THE SCENE. AND
16 JUST ONE MORE PIECE OF EVIDENCE: WE HAVE WITNESSES WHO
17 ACTUALLY -- WHILE RYAN BROOKS WAS IMPEACHED ON A NUMBER OF
18 THINGS, WE ALSO HAVE HIM CORROBORATED IN THAT AFTER HE FIRED
19 ONE SHOT THERE WAS A PAUSE AND THEN THERE WERE MORE SHOTS AND
20 WE SUBMIT WE HAVE PROVEN THAT THOSE SHOTS CAME FROM THE
21 DEFENDANT. THANK YOU.

22 THE COURT: LET ME ASK BOTH COUNSEL: AT THIS STAGE
23 THIS ISSUE OF SELF-DEFENSE, IS THAT SOMETHING THE COURT OUGHT
24 TO BE CONSIDERING AS TO THE DIRECTED VERDICT MOTION?

25 MR. PASCOE: AS OF RIGHT NOW, YOUR HONOR, IT'S THE

1 STATE'S POSITION THAT EVEN IF WE WENT TO THE JURY RIGHT NOW
2 HE WOULD NOT BE ENTITLED TO A SELF-DEFENSE CHARGE.

3 THE COURT: OKAY. LET ME -- LET ME HEAR FROM THE
4 STATE AS TO THAT.

5 MR. PASCOE: SIR?

6 THE COURT: LET ME HEAR FROM THE STATE AS TO THAT.

7 MR. PASCOE: OKAY. BECAUSE THE ONLY WITNESS -- IF
8 YOU RECALL, MR. BROOKS WAS TALKING ABOUT WHAT HE DID -- WHY
9 HE DID WHAT HE DID FOR HIMSELF. HE SAID HE WAS DEFENDING
10 HIMSELF. NOW, MR. LITTLEJOHN A COUPLE OF TIMES LED HIM TO
11 TRY TO GET HIM TO SAY, HEY, WE WERE TRYING TO DEFEND MR.
12 PRICE, TOO. WELL, THE EVIDENCE IS AFTER HE SHOT HIM, BROOKS
13 RAN AND THEN AT LEAST TWO MORE SHOTS RANG OUT. SO I THINK AS
14 OF RIGHT NOW THERE IS NO EVIDENCE OF SELF-DEFENSE WITH
15 REGARDS TO MR. PRICE'S ACTIONS.

16 THE COURT: IF THE COURT FINDS THAT THERE IS AN
17 ISSUE OF SELF-DEFENSE AT THIS POINT, DOES THE STATE CONCEDE
18 THAT THE COURT APPLIES THE SAME STAN -- THE ANY EVIDENCE
19 STANDARD AT THIS POINT?

20 MR. PASCOE: THE -- ON THE ANY EVIDENCE STANDARD AS
21 IF WE WOULD GIVE A JURY CHARGE TO THE JURY?

22 THE COURT: WELL, AS TO THE STATE'S CASE IN CHIEF.
23 BASICALLY IF THE COURT FINDS THAT THE SELF-DEFENSE ISSUE IS
24 ON THE TABLE AT THIS POINT, THE STATE ULTIMATELY HAS THE
25 BURDEN OF PROOF OF BASICALLY DISPROVING SELF-DEFENSE.

1 MR. PASCOE: YES, SIR.

2 THE COURT: WHICH IN ESSENCE CREATES ANOTHER ISSUE
3 AT THIS POINT THAT THE STATE MUST PROVE---

4 MR. PASCOE: I CAN TALK ABOUT THAT EVIDENCE IF YOU
5 WANT TO.

6 THE COURT: OKAY.

7 MR. PASCOE: WE GOT -- YOU GOT THE VICTIM AT 2:14
8 CALLING 9-1-1 THAT HE SEES PEOPLE WITH GUNS. HE'S GUNNED
9 DOWN PROBABLY NO LATER THAN 2:17. HE'S ON THE PHONE WITH
10 9-1-1 UNTIL 2:15. YOU HAVE TESTIMONY OF J.J. JONES WHICH
11 IMPEACHES BROOKS WHICH SHOWS THAT THEY JUST DIDN'T HAPPEN TO
12 RUN UP ON THE VICTIM ATTACKING THE DEFENDANT, HIM WALKING
13 THROUGH, SAW BROOKS WALKING AROUND THE CROWD WITH SOMETHING
14 IRON IN HIS HAND, STANDING UP AND HEARING AND SEEING THE
15 SHOT. THE FACT THAT THE DEFENDANT WAS CARRYING A GUN ON HIS
16 WAISTBAND, I THINK THAT RIGHT THERE PRECLUDES HIM FROM
17 WINNING ON SELF-DEFENSE.

18 THE COURT: OR AT LEAST---

19 MR. PASCOE: OR AT LEAST---

20 THE COURT: ---AT THIS STAGE.

21 MR. PASCOE: ---AT THIS STAGE. CERTAINLY IN THE
22 LIGHT MOST FAVORABLE TO THE STATE, YES, SIR.

23 THE COURT: MR. LITTLEJOHN?

24 MR. LITTLEJOHN: YOUR HONOR, OF COURSE, I WOULD
25 DISAGREE. THE FACT THAT MR. BROOKS MAY HAVE BEEN CREEPING

1 THROUGH THE CROWD OR WHATEVER, I DON'T KNOW THAT THAT RELATES
2 TO MR. PRICE'S ISSUE OF SELF-DEFENSE. THE TESTIMONY FROM
3 BROOKS WAS THAT SMALLS ATTACKED MR. PRICE, THAT BROOKS -- I
4 THINK I ASKED HIM WAS CARL SMALLS IN A POSITION WHERE IF HE
5 HAD GOTTEN A GUN HE COULD HAVE SHOT YOU AND HE SAID YES. I
6 ALSO ASKED HIM IF HE COULD HAVE SHOT THE DEFENDANT AND HE
7 INDICATED HE COULD, AND I THINK HIS TESTIMONY OBVIOUSLY
8 CREATES AN ISSUE OF SELF-DEFENSE.

9 THE COURT: AND IT WOULD BE YOUR CONTENTION THE
10 STATE AT THIS POINT WOULD HAVE TO SHOW UNDER THE ANY EVIDENCE
11 STANDARD TO SURVIVE A DIRECTED VERDICT MOTION SOME EVIDENCE
12 DISPROVING SELF-DEFENSE AND I'VE GOT TO FIND OUT---

13 MR. LITTLEJOHN: YES, YOUR HONOR. I MEAN, THEY HAVE
14 THE BURDEN OF DISPROVING SELF-DEFENSE, PROVING THAT IT DIDN'T
15 HAPPEN, AND I DON'T THINK THEY'VE DONE THAT AT THIS POINT. I
16 MEAN, THE EVIDENCE WE'VE GOT IS SO SCANT.

17 THE COURT: IT'S A LITTLE BIT WEIRD BECAUSE YOU'RE
18 APPLYING THIS ANY EVIDENCE STANDARD TO SOMETHING THEY'RE
19 TRYING TO DISPROVE, AND THAT'S WHY I WAS JUST CURIOUS AS TO
20 COUNSEL'S... COUNSEL -- MR. LITTLEJOHN, I'M NOT SURE -- THE
21 PICTURE THAT YOU WERE REFERRING TO EARLIER, I'LL BE GLAD TO
22 TAKE A LOOK AT THAT. DO YOU RECALL WHICH EXHIBIT THAT IS?

23 MR. LITTLEJOHN: I DON'T, BUT I THINK I CAN FIND IT
24 VERY QUICKLY, YOUR HONOR. YOUR HONOR, STATE'S EXHIBIT NUMBER
25 10.

1 THE COURT: ANYTHING FURTHER FROM THE STATE?

2 MR. PASCOE: NOT UNLESS YOU WANT TO HEAR SOMETHING
3 FURTHER.

4 THE COURT: I'LL BE GLAD TO -- I'LL BE QUITE HONEST
5 WITH YOU. I'M GOING TO PROBABLY TAKE A LITTLE BREAK AND TAKE
6 A LOOK AT SOMETHING ELSE. THE CASE LAW THAT I'VE REVIEWED
7 THUS FAR IS -- IT'S MERELY REVERSIBLE ERROR TO DECLINE A
8 DIRECTED VERDICT AT THIS POINT ON WHETHER OR NOT OR HOW MUCH
9 THE STATE DID COME FORWARD TO DISPROVE SELF-DEFENSE. ALMOST
10 OBVIOUSLY THE STANDARD BEING ANY EVIDENCE GETS ME PAST THE
11 DIRECTED VERDICT.

12 MR. PASCOE: I THINK CERTAINLY THE FLIGHT, THE FACT
13 THAT THE DEFENDANT WAS ARMED WITH A GUN IN HIS WAISTBAND, THE
14 FACT THAT OUR VICTIM CALLED 9-1-1 WITHIN PROBABLY TWO MINUTES
15 OF BEING GUNNED DOWN BY -- WE ALLEGE BY THE DEFENDANT AND THE
16 CO-DEFENDANT, THAT'S MORE THAN ENOUGH TO GET IT PAST DIRECTED
17 VERDICT. THAT'S OUR POSITION.

18 MR. LITTLEJOHN: YOUR HONOR, OF COURSE, OUR POSITION
19 IS THAT THE IDENTIFICATION BY MR. JONES IS NON-EXISTENT, AND
20 THE ONLY OTHER EVIDENCE IS MR. BROOKS PLACING MR. PRICE IN A
21 POSITION WHERE HE HAD TO DEFEND HIMSELF AND I THINK BASICALLY
22 THAT'S THE -- THAT'S THE STATE OF THE RECORD RIGHT NOW WHICH
23 IS CERTAINLY TO ME DOESN'T -- I MEAN, IT DOESN'T SEEM TO ME
24 TO BE DISPROOF OF SELF-DEFENSE AT THIS -- AT THIS JUNCTURE IN
25 THE TRIAL.

1 MR. PASCOE: THIS IS WHERE I'M GETTING CONFUSED.
2 WE'RE GOING FROM -- IS IT, WELL, IT'S I.D.? NO. NO. NO.
3 IT'S SELF-DEFENSE, AND I'M TRYING TO ANSWER EACH SPECIFIC ONE
4 FOR YOU. YOU KNOW, WITH REGARD TO JUST SELF-DEFENSE, THOSE
5 ARE JUST A FEW THINGS THAT... IF YOU WANT TO TALK ABOUT
6 I.D., THEN I'LL TALK ABOUT BROOKS AND JONES ALTHOUGH, YOU
7 KNOW, YOUR HONOR, MARCUS JONES' TESTIMONY OF HIM STANDING --
8 YOU KNOW, THE PERSON STANDING OVER THE VICTIM AS HE'S
9 SHOOTING HIM, THAT'S NOT SELF-DEFENSE.

10 THE COURT: RIGHT.

11 MR. PASCOE: I MEAN, THERE'S A LOT OF EVIDENCE IN
12 HERE.

13 THE COURT: AND I SUPPOSE WE'LL ARGUE ABOUT THE
14 ACTUAL SELF-DEFENSE CHARGE IF THAT IS, IN FACT, THE DEFENSE.

15 MR. PASCOE: YEAH.

16 THE COURT: BUT LET ME -- LET ME ASK THE DEFENSE --
17 THERE WAS TESTIMONY REGARDING THE DEFENDANT'S STATEMENT THAT
18 YOU'RE GOING TO FALL LIKE THE MATRIX BEFORE THE END OF THE
19 EVENING. ISN'T THAT SUFFICIENT EVIDENCE TO GET PAST DIRECTED
20 VERDICT AT THIS POINT? BECAUSE---

21 MR. LITTLEJOHN: YOUR HONOR---

22 THE COURT: ---THE INFERENCES OR CONCLUSIONS THAT
23 WOULD BE DRAWN BY THE JURY THIS COURT SHOULDN'T WEIGH
24 REGARDING THAT. I'M JUST -- MY ROLE AT THIS POINT IS TO SEE
25 WHETHER OR NOT THERE IS ANYTHING.

1 MR. LITTLEJOHN: JUDGE, IF THOSE WORDS -- IF THE
2 RECORD WERE SUCH THAT THOSE WORDS WERE SPOKEN IMMEDIATELY
3 BEFORE THE SHOOTING, I THINK THAT WOULD BE ONE THING, BUT AS
4 I UNDERSTOOD THE TESTIMONY, THAT WAS SAID SOMETIME DURING THE
5 COURSE OF THE EVENING THAT -- AND IF THERE WAS A DISAGREEMENT
6 IT WAS BROKEN UP. THERE WAS NO FIST FIGHT OR ANYTHING.

7 APPARENTLY MR. SMALLS HAD GONE OUTSIDE, TALKED TO
8 SOME FRIENDS, HAD COME BACK INSIDE. THERE WAS CERTAINLY A
9 BREAK BETWEEN ANY -- ANY SUPPOSED THREAT BY THE DEFENDANT
10 TOWARD THE VICTIM AND I DON'T KNOW THAT THAT'S DIRECT
11 EVIDENCE THAT THERE WAS ABOUT TO BE AN UNLAWFUL SHOOTING OR
12 KILLING. I MEAN, HAD THAT HAPPENED THE DAY BEFORE I DON'T
13 THINK THERE WOULD BE ANY QUESTION ABOUT IT. IT'S JUST A
14 MATTER OF THERE WAS -- THERE WAS A TIME GAP BETWEEN THOSE
15 WORDS BEING SPOKEN AND WHEN THE SHOOTING TOOK PLACE.

16 MR. PASCOE: HAD IT HAPPENED THE DAY BEFORE, THAT
17 WOULD STILL BE SUBSTANTIAL EVIDENCE TO DISPROVE SELF-DEFENSE,
18 ABSOLUTELY, AND IT WOULD STILL PROBABLY COME -- WOULD
19 DEFINITELY COME IN AT TRIAL. THIS ACTUALLY HAPPENED I THINK
20 AT MOST 45 MINUTES TO HALF AN HOUR BEFORE THE SHOOTING,
21 ACCORDING TO THE TESTIMONY OF THE WITNESSES.

22 MR. LITTLEJOHN: AND OF COURSE---

23 THE COURT: IT DOESN'T SAY SUBSTANTIAL EVIDENCE;
24 IT'S JUST ANY EVIDENCE.

25 MR. LITTLEJOHN: YOUR HONOR, I'M TRYING TO THINK. I

1 DON'T KNOW IF WE'VE GOT A POSITIVE I.D. THAT THAT WAS THE
2 DEFENDANT THAT UTTERED THOSE WORDS. I HAVEN'T REVIEWED MY
3 NOTES BUT...

4 THE COURT: AND I'LL LOOK BACK THROUGH OUR NOTES
5 REGARDING THE TESTIMONY BUT... I THOUGHT THE -- I THOUGHT
6 THE YOUNG MAN DID IDENTIFY THE DEFENDANT.

7 MR. PASCOE: HE IDENTIFIED HIS CLOTHING, YOUR HONOR.

8 THE COURT: CLOTHING.

9 MR. PASCOE: BUT AGAIN WHEN YOU PUT HIS TESTIMONY
10 WITH THE OTHER WITNESSES, WITNESSES FRIENDLY TO THE
11 DEFENDANT, YEAH, I HAD TO CALL THEM, BUT THE DEFENDANT'S
12 FRIENDS LIKE JASON WOULD HAVE HAD TO SAY THE DEFENDANT WAS IN
13 THE VICTIM'S FACE, AND YOU PUT THAT WITH MARCUS JONES WHERE
14 MARCUS SAYS I EVEN REMEMBER THE GUY I PICKED OUT AS NUMBER
15 ONE SAYING TO MY BROTHER, "I DON'T KNOW IF I'D BE GETTING IN
16 THAT BIG GUY'S FACE ON THE DANCE FLOOR," AND THEN YOU PUT IT
17 WITH, YOU KNOW, WITH DERRICK CATTENHEAD DESCRIBING HIM TO A
18 TEE, WHEN YOU PUT IT ALL TOGETHER, IT'S DEFINITELY THIS
19 DEFENDANT, CERTAINLY EVIDENCE THAT THE JURY CAN INFER FROM.

20 THE COURT: AND THAT'S THEIR PROVINCE, NOT---

21 MR. PASCOE: YES, SIR.

22 THE COURT: ---NOT THE COURT'S.

23 MR. PASCOE: YES, SIR.

24 THE COURT: YES, SIR, MR. LITTLEJOHN.

25 MR. LITTLEJOHN: I HAD NOTHING ELSE OTHER THAN TO

1 RESPOND TO ANYTHING THE COURT WOULD HAVE.

2 THE COURT: OKAY. WE'LL TAKE A -- WE'LL TAKE A
3 SHORT BREAK, ABOUT 10 MINUTES, AND I'LL TAKE A LOOK AT THOSE
4 CASES AGAIN. THERE'S A LITTLE BIT OF A BALANCE BECAUSE
5 NORMALLY IT'S JUST ANY EVIDENCE TO PROVE YOUR CASE IN CHIEF,
6 AND I GUESS IT'S NOT THAT MUCH OF AN ODDITY BUT JUST -- NOW
7 I'M JUST LOOKING FOR ANY EVIDENCE TO DISPROVE THEIRS AND I
8 REMEMBERED THAT ONE PARTICULAR TESTIMONY AND WILL CERTAINLY
9 TAKE A LOOK AT OUR NOTES REGARDING THE TESTIMONY AGAIN.

10 WE'LL TAKE A BREAK AND, YOU KNOW, I'LL CERTAINLY BE
11 READY TO COME BACK OUT AND RULE ON THE DIRECTED VERDICT
12 MOTION, BUT IF THERE'S SOMETHING ELSE IN THE MEANTIME Y'ALL
13 WANT TO TAKE A LOOK AT AND GIVE TO THE COURT, I'LL BE GLAD TO
14 TAKE A LOOK AT IT DURING THE BREAK. OKAY. ALL RIGHT. WE'LL
15 BE IN RECESS FOR 10 MINUTES.

16 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

17 THE COURT: THANK YOU. YOU CAN BE SEATED. ALL
18 RIGHT. LET ME -- I'LL TAKE THE SUSPENSE OFF THE TABLE FIRST.
19 THIS IS GOING TO THE JURY. I THINK FROM THE TESTIMONY
20 PARTICULARLY GOING BACK LOOKING THROUGH CATTENHEAD'S
21 TESTIMONY AND JOE JOHNS' TESTIMONY -- JOE JONES THAT THERE'S
22 EVIDENCE THAT MEETS THE STANDARD THAT I'M GOING TO -- THAT
23 I'M TO APPLY AT THIS POINT ANYWAY FOR A DIRECTED VERDICT
24 MOTION THAT ALLOWS IT TO GO TO THE JURY. THEY CAN MAKE THEIR
25 OWN INFERENCES AND DRAW THEIR OWN CONCLUSIONS. SO

1 RESPECTFULLY THE DIRECTED VERDICT MOTION IS DENIED. ANYTHING
2 FURTHER BEFORE WE GO FORWARD, ASSUMING YOU'VE TALKED TO MR.
3 PRICE---

4 MR. LITTLEJOHN: YOUR HONOR, ON THAT ISSUE---

5 THE COURT: ---ABOUT HIS RIGHT TO TESTIFY OR NOT
6 TESTIFY. MR. PRICE -- AND I'M SURE YOUR ATTORNEY, SIR, HAS
7 GONE OVER WITH YOU... YOU DO HAVE A RIGHT, SIR, TO TESTIFY
8 IN THIS TRIAL IF YOU WISH TO OR NOT TESTIFY. IT IS SOLELY
9 YOUR DECISION, SIR. DO YOU UNDERSTAND THAT?

10 MR. PRICE: YES, SIR.

11 THE COURT: HAVE YOU UNDERSTOOD WHAT THEY'VE
12 EXPLAINED TO YOU?

13 MR. PRICE: YES, SIR.

14 THE COURT: DO YOU UNDERSTAND, SIR, THAT IF YOU
15 CHOOSE NOT TO TESTIFY I WILL INSTRUCT THE JURY THAT THEY'RE
16 TO DRAW NO INFERENCES FROM THAT? THEY ARE NOT TO HOLD THAT
17 AGAINST YOU IN ANY WAY. THEY'RE NOT TO CONSIDER IT IN THEIR
18 DELIBERATIONS, AND THEY'RE NOT EVEN TO TALK ABOUT IT IN THE
19 JURY ROOM. DO YOU UNDERSTAND THAT?

20 MR. PRICE: YES, SIR.

21 THE COURT: FURTHER, SIR, IF YOU DO DECIDE TO
22 TESTIFY, YOU DO UNDERSTAND THAT YOU WILL BE TREATED AS ANY
23 OTHER WITNESS ON THE WITNESS STAND.

24 MR. PRICE: YES, SIR.

25 THE COURT: DO YOU UNDERSTAND THAT? AND AGAIN THE

1 DECISION TO TESTIFY OR NOT TESTIFY, SIR, IS SOLELY YOURS.
2 YOU CAN OBVIOUSLY CONSULT WITH COUNSEL AND MAKE THAT
3 DECISION, BUT IT IS SOLELY YOUR DECISION, SIR. DO YOU
4 UNDERSTAND THAT?

5 MR. PRICE: YES, SIR.

6 THE COURT: OKAY. THANK YOU, SIR. MR. LITTLEJOHN,
7 I THINK YOU HAD SOMETHING ELSE YOU WANTED TO RAISE?

8 MR. LITTLEJOHN: YOUR HONOR, I DON'T THINK I HAD AN
9 ISSUE TO RAISE. AS TO THE TIMING, WE HAVE ONE WITNESS THAT'S
10 AVAILABLE THIS AFTERNOON. WE CERTAINLY THOUGHT THE STATE'S
11 CASE WAS GOING TO LAST---

12 THE COURT: IN FACT, WE TALKED LAST NIGHT AND WE
13 THOUGHT IT MIGHT BE NEAR THE END -- END OF THE DAY---

14 MR. LITTLEJOHN: YES, SIR.

15 THE COURT: ---AT BEST AND SO WE'LL DO -- WE'LL DO
16 THAT AND I THINK WE'VE GOT PLENTY OF TIME. ACTUALLY THAT MAY
17 GIVE US A CHANCE TO TALK ABOUT -- AFTER THAT WITNESS TALK A
18 LITTLE BIT ABOUT THE CHARGES AND THE VERDICT FORM AND ALL
19 THAT.

20 MR. PASCOE: CAN I TALK WITH MR. LITTLEJOHN ABOUT
21 THE WITNESS THAT---

22 THE COURT: YES, SIR.

23 (AN OFF-THE-RECORD DISCUSSION TAKES PLACE BETWEEN
24 MR. PASCOE AND MR. LITTLEJOHN.)

25 MR. PASCOE: MAY WE APPROACH?

1 THE COURT: YES, SIR.

2 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

3 THE COURT: ALL RIGHT. THANK YOU, COUNSEL. LADIES
4 AND GENTLEMEN, WE'RE GOING TO TAKE ABOUT 10 -- 10 OR 15
5 MINUTES WHILE COUNSEL TEND TO SOME MATTERS AND WE'LL BE BACK
6 IN 15 MINUTES. THANK YOU.

7 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

8 THE COURT: THANK YOU. YOU CAN BE SEATED. ALL
9 RIGHT. MR. LITTLEJOHN, HAVE YOU HAD AN OPPORTUNITY TO MEET
10 WITH THE WITNESS?

11 MR. LITTLEJOHN: YES, YOUR HONOR.

12 THE COURT: OKAY. THANK YOU. BOTH SIDES READY TO
13 RECEIVE THE JURY?

14 MR. PASCOE: YES, SIR.

15 THE COURT: ALL RIGHT. SHERIFF, GOOD TO SEE YOU,
16 SIR. WE'RE READY FOR THE JURY, SIR.

17 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT
18 3:34 P.M.)

19 THE COURT: THANK YOU, LADIES AND GENTLEMEN. WE
20 APOLOGIZE FOR THE DELAY IN BRINGING YOU BACK OUT, BUT WE'RE
21 READY TO CONTINUE. MR. LITTLEJOHN?

22 MR. LITTLEJOHN: THANK YOU, YOUR HONOR.

23 THE COURT: YES, SIR.

24 MR. LITTLEJOHN: YOUR HONOR, THE DEFENSE WOULD CALL
25 C.J. FRYE, JR.

1 THE COURT: MR. FRYE, IF YOU'LL JUST COME ON DOWN,
2 SIR.

3 CURTIS "C.J." FRYE, JR., AFTER BEING DULY
4 SWORN, TESTIFIED AS FOLLOWS:

5 THE CLERK: PLEASE HAVE A SEAT THERE, SIR, AND STATE
6 YOUR FULL NAME FOR THE RECORD.

7 THE WITNESS: CURTIS ALFONSO FRYE, JR.

8 DIRECT EXAMINATION

9 BY MR. LITTLEJOHN:

10 Q. I BELIEVE YOU GO BY THE NICKNAME C.J.?

11 A. YES, SIR.

12 Q. C.J., HOW OLD ARE YOU?

13 A. TWENTY-THREE.

14 Q. AND WHERE DO YOU LIVE?

15 A. I LIVE IN COLUMBIA.

16 Q. OKAY. GREW UP IN IRMO?

17 A. YES, SIR.

18 Q. WENT TO IRMO HIGH SCHOOL?

19 A. YES, SIR.

20 Q. AND I BELIEVE YOU PLAYED FOOTBALL THERE AND AT THE
21 UNIVERSITY OF SOUTH CAROLINA; IS THAT RIGHT?

22 A. YES, SIR.

23 Q. WHEN DID YOU PLAY FOOTBALL AT CAROLINA?

24 A. THE PRIOR FOUR YEARS OF '99 THROUGH 2003.

25 Q. OKAY. YOU GRADUATED IN 2003?

1 A. I GRADUATED IN 2002.

2 Q. OKAY.

3 A. YEAH, I GRADUATED A YEAR EARLY.

4 Q. YOU GRADUATED A YEAR EARLY?

5 A. YES, SIR.

6 Q. I GOT YOU. WHAT ARE YOU DOING NOW, C.J.?

7 A. I'M COACHING AT SOUTH CAROLINA STATE.

8 Q. FOOTBALL?

9 A. YES, SIR.

10 Q. NOT CHEERLEADERS.

11 A. NO, SIR.

12 Q. C.J., WHEN YOU WERE AT CAROLINA, WERE YOU A MEMBER
13 OF ALPHA PHI ALPHA?

14 A. YES, SIR.

15 Q. OKAY. AND WHAT -- BASICALLY WHAT IS ALPHA PHI
16 ALPHA?

17 A. IT'S A GREEK FRATERNITY. IT'S LIKE A KIND OF
18 ACADEMIC FRATERNITY. I MEAN, THEY DO THINGS TO HELP UPLIFT
19 THE COMMUNITY THROUGH SERVICE PROJECTS AND THINGS LIKE THAT.

20 Q. OKAY. NOW, DO Y'ALL PUT ON PARTIES FROM TIME TO
21 TIME?

22 A. YES, SIR.

23 Q. AND ARE THE PARTIES PUT ON AS A KIND OF
24 FUND-RAISER---

25 A. RIGHT.

1 Q. ---KIND OF THING?

2 A. YEAH.

3 Q. DID ALPHA PHI ALPHA PUT ON A PARTY ON DECEMBER 7TH
4 OF LAST YEAR?

5 A. YES, SIR.

6 Q. AT THE VODOO CLUB?

7 A. YES, SIR.

8 Q. WERE YOU INVOLVED IN THE PLANNING OF THE PARTY OR
9 PUTTING IT ON OR ANYTHING?

10 A. NOT THE PLANNING BUT I WAS -- I HAD TO HELP AT THE
11 DOOR AND THINGS LIKE THAT AND, I MEAN, JUST KIND OF BE
12 AROUND, YEAH.

13 Q. NOW, LET ME ASK YOU: BEFORE THE PARTY, DID Y'ALL
14 PUT OUT SOME FLIERS OR ANYTHING ADVERTISING THE PARTY? DO
15 YOU KNOW?

16 A. I BELIEVE SO, YEAH.

17 Q. YOU THINK YOU DID?

18 A. YEAH.

19 Q. OKAY. IN ESSENCE WERE THOSE DISTRIBUTED AT VARIOUS
20 SCHOOLS AROUND COLUMBIA?

21 A. YEAH. I MEAN, WE HANDED THEM OUT IN FRONT OF THE
22 RUSSELL HOUSE AND PASSED THEM OUT WHEN PEOPLE WALKED BY AND
23 IN FRONT OF THE DORMS.

24 Q. HOW ABOUT OVER AT BENEDICT?

25 A. I DIDN'T GO OVER THERE; I DON'T KNOW.

C.J. FRYE - DIRECT EXAM BY MR. LITTLEJOHN

1 Q. AND WAS THERE AN ADMISSION FEE TO GET INTO THE
2 PARTY?

3 A. YES.

4 Q. AND WAS THE ADMISSION FEE USED TO FUND YOUR
5 FRATERNITY'S VARIOUS ACTIVITIES?

6 A. RIGHT.

7 Q. OKAY. SO YOU WERE I GUESS TRYING TO GET PEOPLE
8 THERE TO RAISE MONEY.

9 A. RIGHT.

10 Q. OKAY. NOW, DO YOU REMEMBER WHAT TIME YOU GOT TO
11 VODOO LOUNGE THAT NIGHT, C.J., APPROXIMATELY? I'M NOT
12 TRYING TO HOLD YOU TO ANY PARTICULAR TIME.

13 A. AROUND 11 OR SO.

14 Q. ABOUT 11:00?

15 A. YEAH.

16 Q. OKAY. NOW, WHO DID YOU GO THERE WITH?

17 A. RACHIM MONROE AND I'M NOT SURE OF THE OTHER TWO. I
18 THINK -- I THINK THAT WAS IT OR -- NO, SOMEBODY ELSE WAS
19 RIDING WITH ME, BUT I CAN'T REMEMBER.

20 Q. WAS IT SOMEBODY ELSE ON THE FOOTBALL TEAM?

21 A. YEAH.

22 Q. OKAY. AND THERE WERE A NUMBER OF FOOTBALL PLAYERS
23 THERE FROM CAROLINA.

24 A. RIGHT.

25 Q. OKAY. NOW, DID YOU SEE CARL SMALLS THERE THAT

1 NIGHT?

2 A. YEAH.

3 Q. DID YOU KNOW CARL SMALLS?

4 A. YEAH.

5 Q. HOW DID YOU KNOW HIM?

6 A. HE PLAYED FOOTBALL WITH US AT U.S.C. BEFORE HE
7 TRANSFERRED.

8 Q. DID YOU SEE ANY KIND OF DISTURBANCE OR ANYTHING
9 INVOLVING CARL SMALLS THAT NIGHT?

10 A. YES, I DID.

11 Q. WOULD YOU TELL THE JURY WHAT HAPPENED?

12 A. HE GOT IN AN ALTERCATION WITH A GUY THAT I ALSO KNEW
13 FROM CLEMSON NAMED BERNARD RAMBERT (PHONETIC) AND---

14 Q. ALL RIGHT. AND WHAT WAS -- WHAT WAS THE
15 ALTERCATION? HOW DID IT HAPPEN?

16 A. WELL, I'M NOT REALLY SURE HOW IT HAPPENED, BUT
17 SOMEBODY TOLD ME LATER THAT IT WAS OVER A GIRL---

18 MR. SORENSON: OBJECTION.

19 THE COURT: SUSTAINED.

20 BY MR. LITTLEJOHN:

21 Q. C.J., DON'T GO INTO WHAT SOMEBODY TOLD YOU, BUT WHAT
22 DID YOU SEE BETWEEN BERNARD AND CARL SMALLS?

23 A. THEY WERE KIND OF JUST ARGUING ABOUT SOMETHING, AND
24 SOMEBODY CAME UP TO ME AND TOLD ME THAT, YOU KNOW, THAT I
25 NEED TO---

1 MR. SORENSON: OBJECTION, YOUR HONOR.

2 THE COURT: SUSTAINED.

3 THE WITNESS: NO, THAT -- NO, THAT---

4 THE COURT: HOLD ON A SECOND, MR. FRYE.

5 MR. LITTLEJOHN: LET ME STRAIGHTEN THIS UP FOR YOU.

6 THE COURT: I'LL LET MR. LITTLEJOHN EXPLAIN THAT TO
7 YOU.

8 BY MR. LITTLEJOHN:

9 Q. SOMEBODY CAME UP TO YOU. AS A RESULT OF THAT, WHAT
10 DID YOU DO?

11 A. SAY THAT AGAIN.

12 Q. I MEAN, DID YOU GO UP TO BERNARD AND CARL?

13 A. YEAH.

14 Q. AND WHAT HAPPENED? WHAT DID YOU DO?

15 A. I TOLD -- I TOLD CARL THAT, YOU KNOW, JUST CALM
16 DOWN. CALM DOWN OR ELSE HE'D HAVE TO LEAVE. WHEN I TOLD
17 BERNARD THAT, BERNARD JUST WENT AHEAD AND SAID, "I'M JUST
18 GOING TO GO AHEAD AND LEAVE."

19 Q. OKAY. DID BERNARD LEAVE AS FAR AS YOU KNOW?

20 A. YEAH, BERNARD LEFT.

21 Q. OKAY. DID YOU KNOW CARL'S GIRLFRIEND?

22 A. I KNOW OF HER. I MEAN, YEAH, KIND OF.

23 Q. THE GIRLFRIEND'S NAMED JOY, I BELIEVE?

24 A. YEAH.

25 Q. ALL RIGHT. DID YOU LATER SEE A PROBLEM BETWEEN CARL

1 SMALLS AND HIS GIRLFRIEND, JOY?

2 A. I DON'T REMEMBER.

3 Q. YOU DON'T REMEMBER SEEING ANYTHING?

4 A. NO.

5 Q. NOW, C.J., DID YOU -- DID YOU HAVE OCCASION TO SEE
6 ANY OTHER KIND OF DISTURBANCE THAT NIGHT?

7 A. YEAH. WE GOT IN A -- THE FRATERNITY GUYS GOT IN A
8 LITTLE ALTERCATION WITH ANOTHER FRATERNITY OUT IN FRONT OF
9 THE -- OF THE -- OF THE CLUB.

10 Q. UH-HUH. WHAT DID YOU DO AS A RESULT OF THAT?

11 A. I STOOD OUT FRONT AND TRIED TO TELL THE OTHER
12 FRATERNITY TO LEAVE BECAUSE IT WAS OUR FUNCTION, AND THEY
13 KIND OF STOOD OUT FRONT JUST STANDING AROUND AS THOUGH, YOU
14 KNOW, WE WERE GOING TO GET INTO AN ALTERCATION LATER.

15 Q. OKAY. AND, OF COURSE, THAT DIDN'T INVOLVE CARL
16 SMALLS.

17 A. NO.

18 Q. ALL RIGHT. WERE YOU THERE WHEN THE -- WHEN THE
19 PARTY ENDED?

20 A. YES.

21 Q. OKAY. DO YOU REMEMBER ABOUT WHEN THAT WAS?

22 A. NO, I'M NOT SURE WHAT TIME.

23 Q. OKAY. DO YOU REMEMBER WHEN THE MUSIC STOPPED, THE
24 LIGHTS WENT UP?

25 A. NO, I REALLY DON'T REMEMBER THE TIME. I MEAN,

C.J. FRYE - DIRECT EXAM BY MR. LITTLEJOHN

1 TIME-WISE I DON'T REMEMBER.

2 Q. OKAY. BUT, I MEAN, YOU REMEMBER THAT HAPPENING.

3 A. OH, YES. YES.

4 Q. SHORTLY AFTER THAT DID YOU STAY INSIDE THE CLUB OR
5 DID YOU GO OUTSIDE?

6 A. I WAS STANDING OUTSIDE.

7 Q. OKAY. DID YOU HEAR ANYTHING?

8 A. YEAH. I WAS STANDING OUTSIDE AGAIN LIKE I THOUGHT
9 SOME OF MY FRAT BROTHERS WAS GOING TO GET INTO -- WERE GOING
10 TO GET INTO AN ALTERCATION. SO I WAS STANDING OUT FRONT, AND
11 THEN I HEARD A SHOT AND THAT'S WHEN I TOOK OFF RUNNING INTO
12 THE PARKING LOT AND THEN I HEARD TWO OTHER SHOTS.

13 Q. OKAY. AND DID YOU -- YOU DIDN'T SEE THE SHOTS
14 FIRED.

15 A. NO.

16 Q. OKAY. SO YOU DIDN'T SEE ANYBODY SHOOT OR ANYBODY---

17 A. NO.

18 Q. ---GET SHOT.

19 A. NO.

20 Q. JUST ONE FINAL THING, C.J. DID YOU SEE CARL SMALLS
21 BOTHERING ANYBODY ELSE THAT NIGHT?

22 A. NO.

23 Q. YOU DIDN'T?

24 A. NO.

25 Q. OKAY. YOU JUST SAW THE THING BETWEEN HE AND

1 BERNARD.

2 A. RIGHT.

3 MR. LITTLEJOHN: IF YOU WOULD GIVE ME JUST A MOMENT,
4 YOUR HONOR.

5 THE COURT: YES, SIR.

6 BY MR. LITTLEJOHN:

7 Q. C.J., ONE FINAL THING. WHEN YOU WALKED OUTSIDE, DO
8 YOU KNOW WHERE CARL WAS?

9 A. NO, I DON'T.

10 MR. LITTLEJOHN: OKAY. THANK YOU. PLEASE ANSWER
11 ANY QUESTIONS MR. SORENSON MAY HAVE FOR YOU.

12 THE COURT: THANK YOU, SIR. MR. SORENSON?

13 MR. SORENSON: THANK YOU, YOUR HONOR.

14 CROSS-EXAMINATION

15 BY MR. SORENSON:

16 Q. GOOD AFTERNOON, MR. FRYE.

17 A. GOOD AFTERNOON.

18 Q. MY NAME IS DON SORENSON. I'M WITH THE SOLICITOR'S
19 OFFICE. I JUST HAVE A COUPLE OF QUESTIONS FOR YOU; OKAY?
20 YOU WERE A MEMBER BACK THEN OF ALPHA PHI ALPHA WHICH WAS THE
21 FRATERNITY THAT WAS THROWING THE PARTY; IS THAT CORRECT?

22 A. RIGHT.

23 Q. I BELIEVE YOU TESTIFIED ON DIRECT WITH MR.
24 LITTLEJOHN THAT Y'ALL HAD -- HAD PUT SOME FLIERS UP AROUND
25 U.S.C.?

C.J. FRYE - CROSS-EXAM BY MR. SORENSON

1 A. RIGHT.

2 Q. AND YOU WERE A MEMBER OF ALPHA PHI ALPHA AT U.S.C.

3 A. RIGHT.

4 Q. IS THAT CORRECT? ARE YOU AWARE OF WHETHER Y'ALL HAD
5 PUT FLIERS AT ANY OF THE OTHER UNIVERSITIES AROUND---

6 A. I'M NOT AWARE OF THAT; NO, SIR.

7 Q. ---AT BENEDICT COLLEGE OR ANYWHERE ELSE?

8 A. I'M NOT AWARE OF THAT. WE HAVE BOARDS OR SOMETHING
9 THAT DOES THE PUBLICITY, BUT IT'S -- I MEAN, I HANDED THEM
10 OUT ON CAMPUS.

11 Q. OKAY. SO IT WAS -- I MEAN, THE PARTY WAS OPEN TO
12 THE PUBLIC; IS THAT CORRECT?

13 A. YES. I MEAN, I BELIEVE SO. YEAH.

14 Q. BUT IT WAS PRIMARILY A COLLEGE---

15 A. A COLLEGE PARTY.

16 Q. ---PARTY; IS THAT CORRECT?

17 A. CORRECT.

18 Q. AND I BELIEVE YOU INDICATED YOU GOT THERE AROUND
19 11:00, AND YOU HAD OBSERVED AT SOME POINT IN TIME AFTER
20 11:00, I ASSUME, AN ALTERCATION BETWEEN MR. SMALLS AND
21 BERNARD RAMBERT?

22 A. RIGHT.

23 Q. WHO WAS A FOOTBALL PLAYER AT CLEMSON AT THE TIME; IS
24 THAT RIGHT?

25 A. RIGHT.

1 Q. YOU ACTUALLY HAD TO GO OVER AND KIND OF SEPARATE THE
2 TWO OF THEM BECAUSE YOU KNEW BOTH OF THEM; IS THAT CORRECT?

3 A. RIGHT.

4 Q. OKAY. AND I BELIEVE YOU TESTIFIED THAT MR. RAMBERT
5 SAID HE WOULD GO AHEAD AND HE LEFT AT THAT POINT IN TIME?

6 A. RIGHT.

7 Q. WHAT DID CARL DO? DID HE CALM DOWN AT THAT POINT IN
8 TIME?

9 A. YEAH. HE SAID HE WAS GOING TO BE COOL AND LET IT GO
10 AND SO HE JUST KIND OF WALKED OFF---

11 Q. HE EVEN -- HE EVEN TOLD YOU THAT HE WAS ALL RIGHT
12 AND HE WAS GOING TO CALM DOWN.

13 A. YEAH.

14 Q. AND YOU DIDN'T SEE HIM GET IN ANY MORE ALTERCATIONS
15 AFTER THAT, DID YOU?

16 A. NO.

17 Q. AND THAT OTHER ALTERCATION INVOLVED WITH YOUR
18 FRATERNITY AND ANOTHER FRATERNITY, MR. SMALLS WASN'T INVOLVED
19 IN THAT, WAS HE?

20 A. NO.

21 Q. AND I BELIEVE YOU TESTIFIED, MR. FRYE, THAT YOU WERE
22 OUTSIDE WHEN YOU HEARD GUNSHOTS?

23 A. RIGHT. YES, SIR.

24 Q. I THINK YOU TESTIFIED THAT YOU HEARD A GUNSHOT, THEN
25 THERE WAS A PAUSE, THEN YOU HEARD TWO MORE GUNSHOTS; IS THAT

C.J. FRYE - CROSS-EXAM BY MR. SORENSON

1 CORRECT?

2 A. YES, SIR.

3 Q. OKAY. HOW -- HOW LONG OF A PAUSE WAS THERE IN
4 BETWEEN THE ONE AND THEN THE LATER TWO?

5 A. I WAS KIND OF -- I WAS RUNNING OUT TOWARD THE
6 PARKING LOT, SO I'M NOT REALLY SURE OF THE TIME FRAME.

7 Q. THERE'S A -- THERE WAS A---

8 A. AS I WAS RUNNING---

9 Q. ---PAUSE THOUGH. IT WASN'T BOOM, BOOM, BOOM LIKE
10 THAT.

11 A. NO. NO.

12 Q. DID EVERYBODY PRETTY MUCH TAKE OFF RUNNING AT THAT
13 POINT IN TIME---

14 A. YEAH.

15 Q. ---WHEN THE SHOTS STARTED?

16 A. RIGHT. YEAH.

17 MR. SORENSON: THANK YOU, MR. FRYE.

18 THE COURT: THANK YOU, SIR. ANYTHING FURTHER, MR.
19 LITTLEJOHN?

20 MR. LITTLEJOHN: NO, YOUR HONOR. THANK YOU. WE'D
21 ASK THAT MR. FRYE BE EXCUSED.

22 THE COURT: OKAY. NO REASON TO KEEP HIM HERE. MR.
23 FRYE, YOU CAN COME AND GO AS YOU PLEASE, SIR. THANK YOU.

24 MR. FRYE, WHAT POSITIONS ARE YOU COACHING DOWN THERE AT SOUTH
25 CAROLINA STATE?

1 THE WITNESS: TACKLE AND TIGHT END.

2 THE COURT: I JUST -- FUTURE REFERENCE. I STILL --
3 I THINK YOU HAVE FOUR YEARS OF PLAYING AS... YOU DON'T NEED
4 ANY HELP. MR. LITTLEJOHN, YOU CAN CALL YOUR NEXT WITNESS.

5 MR. LITTLEJOHN: MAY IT PLEASE THE COURT? WE'D CALL
6 RACHIM MONROE.

7 RACHIM MONROE, AFTER BEING DULY SWORN,
8 TESTIFIED AS FOLLOWS:

9 THE CLERK: PLEASE HAVE A SEAT UP HERE, SIR. STATE
10 YOUR FULL NAME FOR THE RECORD AND PLEASE SPELL YOUR -- YOUR
11 FULL NAME FOR THE RECORD AND PLEASE SPELL YOUR FIRST NAME.

12 THE WITNESS: MY NAME IS RACHIM MONROE.
13 R-A-C-H-I-M.

14 DIRECT EXAMINATION
15 BY MR. LITTLEJOHN:

16 Q. GOOD AFTERNOON, RACHIM.

17 A. HOW ARE YOU DOING?

18 Q. RACHIM, WHERE DO YOU LIVE?

19 A. I LIVE?

20 Q. YEAH.

21 A. IN CHARLESTON, SOUTH CAROLINA.

22 Q. IN CHARLESTON? HOW LONG HAVE YOU LIVED IN
23 CHARLESTON?

24 A. PROBABLY ABOUT SEVEN, EIGHT YEARS.

25 Q. OKAY. RACHIM, LET ME GET YOU TO SPEAK UP BECAUSE

1 EVERYBODY ON THE JURY HAS GOT TO HEAR YOU.

2 A. ABOUT SEVEN OR EIGHT YEARS.

3 Q. OKAY. SEVEN OR EIGHT YEARS?

4 A. UH-HUH.

5 Q. ALL RIGHT. AND DID YOU GO TO THE UNIVERSITY OF
6 SOUTH CAROLINA?

7 A. YES.

8 Q. ARE YOU STILL THERE?

9 A. YES, SIR.

10 Q. OKAY. AND DO YOU PLAY FOOTBALL AT CAROLINA?

11 A. YES, SIR.

12 Q. WHAT POSITION DO YOU PLAY?

13 A. DEFENSIVE BACK.

14 Q. AND HOW LONG HAVE YOU -- HOW LONG HAVE YOU BEEN AT
15 THE UNIVERSITY?

16 A. SINCE 2000.

17 Q. YOU STARTED IN THE FALL OF 2000?

18 A. YES, SIR.

19 Q. OKAY. HOW OLD ARE YOU, RACHIM?

20 A. TWENTY-ONE.

21 Q. OKAY. NOW, RACHIM, LET ME REFER YOU TO THE NIGHT OF
22 DECEMBER 7TH OF LAST YEAR OR THE EARLY MORNING OF DECEMBER
23 7TH. DID YOU HAVE OCCASION TO GO TO CLUB VOODOO?

24 A. YES, SIR.

25 Q. AND WHAT WAS THE REASON FOR GOING THERE?

1 A. THERE WAS A PARTY, LIKE THE LAST PARTY OF THE YEAR.

2 Q. IT WAS LIKE THE LAST PARTY OF THE YEAR?

3 A. YEAH, BECAUSE IT WAS LIKE EXAM WEEK COMING UP. SO
4 THIS WAS THE LAST PARTY.

5 Q. OKAY. RACHIM, LET ME GET YOU TO SPEAK UP---

6 THE COURT: SLIDE UP A LITTLE CLOSER TO THAT
7 MICROPHONE AND WE SHOULD BE ABLE TO PICK YOU UP FINE.

8 THE WITNESS: OKAY. IT WAS THE LAST PARTY OF THE
9 YEAR LIKE RIGHT BEFORE EXAMS STARTED TAKING PLACE, SO
10 EVERYBODY WAS JUST GOING...

11 BY MR. LITTLEJOHN:

12 Q. WAS THIS LIKE A FRATERNITY PARTY?

13 A. YES, SIR.

14 Q. WERE YOU A MEMBER OF THE FRATERNITY?

15 A. NO, SIR.

16 Q. OKAY. HOW DID YOU GET -- HOW DID YOU HAVE OCCASION
17 TO GO? WERE YOU INVITED OR WHAT?

18 A. OH, WE WAS HANGING WITH THE FRATERNITY EARLIER LIKE
19 IN THE -- AT THE ALPHA HALL AND WE WAS JUST ALL TOGETHER AND
20 THEN I RODE WITH C.J. THERE TO THE PARTY, C.J. AND I THINK
21 HIS COUSIN AND A COUPLE OF ALPHAS. SO -- AND THE FOOTBALL
22 PLAYERS AND ALPHAS ARE ALL REAL GOOD FRIENDS, SO...

23 Q. OKAY. DID YOU HAVE TO PAY TO GET IN?

24 A. NO, SIR.

25 Q. THEY DIDN'T MAKE YOU PAY?

1 A. NO, SIR.

2 Q. BECAUSE YOU'RE A FOOTBALL PLAYER?

3 A. YEAH. THEY DIDN'T MAKE NONE OF THE FOOTBALL PLAYERS
4 PAY.

5 Q. OH, OKAY. THAT WAS A NICE ADVANTAGE. RACHIM, WHEN
6 YOU WENT IN -- WHAT TIME DID YOU GET THERE? DO YOU REMEMBER?

7 A. I THINK IT WAS LIKE ABOUT 11, 11:30, SOMETHING LIKE
8 THAT.

9 Q. 11 OR 11:30?

10 A. SOMETHING LIKE THAT. I DON'T REMEMBER THE TIME,
11 EXACT TIME.

12 Q. ALL RIGHT. NOW, DID YOU HAVE OCCASION TO SEE CARL
13 SMALLS WHEN YOU GOT THERE?

14 A. YES, SIR.

15 Q. AND DID YOU KNOW CARL SMALLS BEFORE THAT?

16 A. YES, SIR.

17 Q. HOW DID YOU KNOW CARL SMALLS?

18 A. PLAYING HIGH SCHOOL.

19 THE COURT: SIR, THE JURORS BACK THERE ALL THE WAY
20 IN THAT BACK NEEDS TO BE ABLE TO HEAR YOU. I NEED YOU TO
21 SPEAK UP AND JUST TALK RIGHT INTO THAT MICROPHONE; OKAY?
22 THEY'VE GOT TO BE ABLE TO HEAR YOU ON THAT BACK ROW.

23 THE WITNESS: WE PLAYED AGAINST EACH OTHER IN
24 FOOTBALL IN HIGH SCHOOL AND THEN HE THREW THE DISCUS IN TRACK
25 AND I RAN TRACK. SO THAT'S HOW WE BECAME GOOD FRIENDS.

1 BY MR. LITTLEJOHN:

2 Q. OKAY. DID Y'ALL GO TO THE SAME HIGH SCHOOL?

3 A. NO, SIR. I WENT TO N.A. HE WENT TO SAINT ANDREWS.

4 Q. OKAY. NOW, DID YOU SEE CARL SMALLS GET INTO AN
5 ARGUMENT THAT NIGHT?

6 A. YES, SIR.

7 Q. AND TELL THE JURY WHAT HAPPENED.

8 A. BASICALLY HIM AND HIS GIRLFRIEND, YOU KNOW, WAS
9 EXCHANGING WORDS OVER ONE OF HER EX-BOYFRIENDS FROM THE
10 ATLANTA AREA. SO THEY GOT INTO A LITTLE DISCUSSION ABOUT IT,
11 YOU KNOW, JUST...

12 Q. DID YOU KNOW THE EX-BOYFRIEND?

13 A. YES, SIR.

14 Q. WHAT WAS HIS NAME?

15 A. BERNARD RAMBERT.

16 Q. AND WHERE IS BERNARD FROM?

17 A. SUMMERVILLE.

18 Q. OKAY. AND I BELIEVE HE PLAYS FOOTBALL ALSO?

19 A. YES, SIR. HE USED TO PLAY FOR CLEMSON; HE DON'T
20 PLAY NO MORE.

21 Q. DID CARL GET INTO IT WITH BERNARD?

22 A. YEAH, THEY WERE SAYING WORDS, BUT IT WASN'T NOTHING
23 LIKE THAT BECAUSE ONE OF MY ROOMMATES NAMED PRESTON THORNE
24 JUST -- HE WENT AND GOT IN BETWEEN THEM BECAUSE HE'S A BIGGER
25 DUDE. HE GOT IN BETWEEN THEM AND HE SEPARATED THE TWO AND HE

RACHIM MONROE - DIRECT EXAM BY MR. LITTLEJOHN

1 TOOK BERNARD HOME.

2 Q. OKAY.

3 A. SO THEY LEFT. BERNARD AND PRESTON LEFT.

4 Q. SO PRESTON THORNE GOT BETWEEN THEM AND SEPARATED
5 THEM.

6 A. YEAH.

7 Q. AND PRESTON PLAYS FOOTBALL AT CAROLINA.

8 A. YES, SIR.

9 Q. OKAY. THEN BERNARD WENT ON HOME?

10 A. YES, SIR, HIM AND PRESTON LEFT.

11 Q. OKAY. NOW, LATER ON DID YOU SEE CARL GET INTO AN
12 ARGUMENT WITH HIS GIRLFRIEND?

13 A. YES, SIR. THEY WAS JUST EXCHANGING WORDS BACK AND
14 FORTH, YOU KNOW, TALKING A LITTLE LOUD. THEY WAS OVER THERE
15 BY THE D.J. BOOTH---

16 Q. UH-HUH.

17 A. ---AND THE D.J. MADE A COMMENT LIKE, HEY, MAN,
18 YOU'RE MESSING WITH A GIRL. CHILL OUT.

19 Q. OKAY.

20 A. AND WHEN THAT HAPPENED, THE DUDE CAME OVER THERE --
21 AS FAR AS -- I THINK IT WAS A BOUNCER CAME OVER THERE AND
22 TALKED TO HIM TRYING TO TELL HIM TO STOP.

23 Q. OKAY.

24 A. ASKED -- TELLING BOTH OF THEM REALLY TO STOP OR THEY
25 BOTH HAD TO LEAVE.

1 Q. ALL RIGHT. SO THE D.J. ACTUALLY SPOKE TO THEM OVER
2 THE P.A. SYSTEM.

3 A. YES, SIR.

4 Q. ALL RIGHT. NOW, DO YOU RECALL HOW LONG YOU STAYED
5 AT THE CLUB VOODOO?

6 A. I DON'T KNOW HOW LONG. I WAS THERE FROM WHEN I GOT
7 THERE TILL IT WAS OVER.

8 Q. OKAY. SO YOU LEFT AFTER IT WAS OVER.

9 A. YES, SIR.

10 Q. ALL RIGHT. WHO DID YOU LEAVE WITH? I MEAN, WHEN
11 YOU WALKED OUT THE DOOR WHO WAS WITH YOU?

12 A. WELL, I LEFT WITH -- IT WAS ME, DEANDRE, STEVE, RED,
13 CARL, AND A BUNCH OF OTHER FOOTBALL PLAYERS. IT WAS ALL --
14 WE LEFT IN A GROUP.

15 Q. OKAY.

16 A. WE LEFT IN A GROUP, AND EVERYBODY JUST WENT THEIR
17 SEPARATE WAYS.

18 Q. HOW MANY -- HOW MANY FOOTBALL PLAYERS LEFT AT THE
19 SAME TIME?

20 A. I DON'T KNOW HOW MANY. THERE WAS A LOT OF US
21 THOUGH. THERE WAS A LOT OF US.

22 Q. OKAY. WHERE DID -- WHEN YOU LEFT, YOU WENT OUT INTO
23 THE PARKING LOT?

24 A. YES, SIR. WE WENT OUT -- WE WENT OUT TO THE FRONT
25 AND THEN I TOLD -- I TOLD CARL LIKE I'M ABOUT TO RIDE WITH

RACHIM MONROE - DIRECT EXAM BY MR. LITTLEJOHN

1 DEANDRE, AND THEN DEANDRE ASKED ME IF HE WOULD STATE DID HE
2 NEED A RIDE AND HE SAID HE WAS RIDING WITH C.J. THEN WE JUST
3 WENT ON TO THE CAR.

4 Q. OKAY. SO CARL HAD A RIDE.

5 A. HE SAID HE WAS RIDING WITH C.J. BUT DIDN'T NOBODY
6 KNOW HE HAD A RIDE. AIN'T NOBODY KNOW HOW HE GOT OUT TO THE
7 CLUB.

8 Q. OKAY. DID YOU SEE CARL ANY MORE THAT NIGHT?

9 A. NO, SIR.

10 Q. DID YOU HEAR ANY SHOTS FIRED THAT NIGHT?

11 A. YES, SIR.

12 Q. AND WHEN WAS THAT?

13 A. I WAS WALKING TO THE CAR. ME, DEANDRE, AND RED WAS
14 WALKING TO THE CAR AND WE THOUGHT STEVE WAS SOMEWHERE NEAR
15 US. STEVE WENT TO GO -- HOLLERED AT A GIRL OR SOMETHING, AND
16 THEN ME AND RED TURNED BACK TO GO GET STEVE AND STEVE WAS
17 LIKE -- HE WAS REAL CLOSE TO US. SO WE GOT -- WE GOT STEVE
18 AND WHEN WE WERE WALKING BACK TO THE CAR, DEANDRE WAS ALREADY
19 IN THE CAR, LIKE HE TURNED IT ON AND WARMED IT UP. SO I
20 HEARD A -- WE WERE WALKING BACK TO THE CAR AND I HEARD LIKE A
21 LITTLE POP, THEN A SMALLER POP. THEN AFTER THAT I HEARD TWO
22 BIG BOOM, BOOM LIKE THAT. THAT'S WHEN WE RAN. STEVE KIND OF
23 GRABBED ME. WE STARTED RUNNING TO THE CAR AND WE JUST LEFT.

24 Q. OKAY. SO YOU HEARD TWO SMALL POPS?

25 A. NO, I HEARD ONE SMALL POP.

1 Q. OKAY. I MISUNDERSTOOD. ONE SMALL POP AND THEN TWO
2 OTHER SHOTS.

3 A. BOOM, BOOM. YES.

4 Q. OKAY. AND DID YOU LEAVE AFTER THAT?

5 A. YES, SIR. WE WAS IN THE CAR. WE JUST LEFT. WE
6 WENT BACK TO OUR DORM.

7 Q. OKAY. AND, RACHIM, I BELIEVE THE NEXT DAY YOU WERE
8 INTERVIEWED BY THE SHERIFF'S DEPARTMENT?

9 A. WELL, NOT THE NEXT DAY.

10 Q. OR MAYBE THAT SAME DAY.

11 A. THE SAME NIGHT.

12 Q. OKAY.

13 A. I GOT A PHONE CALL, YOU KNOW, ASKING DID I HEAR
14 ABOUT CARL GETTING SHOT IN THE LEG. I SAID, "CARL GOT SHOT
15 IN THE LEG? HE DIDN'T GET SHOT IN THE LEG," AND I WAS LIKE
16 HE RODE HOME WITH C.J. I CALLED C.J. AND ASKED HIM AND C.J.
17 SAID HE HEARD SOMETHING ABOUT THAT, TOO.

18 Q. OKAY. LET'S DON'T GO INTO WHAT SOMEBODY ELSE SAID.

19 A. OH, OKAY.

20 Q. YOU GAVE THE SHERIFF'S DEPARTMENT A STATEMENT.

21 A. YES, SIR.

22 Q. THAT SAME DAY, THE 7TH.

23 A. YES, SIR.

24 Q. RACHIM, WHEN YOU -- WHEN THESE SHOTS WENT OFF,
25 YOU'RE TELLING US YOU WERE OUT IN THE PARKING LOT?

1 A. YES, SIR.

2 Q. RACHIM, SOMETIME AFTER THIS DID YOU HAVE OCCASION TO
3 TALK TO A JUSTIN WILLIAMS OR A KIM MILLER?

4 A. NO, SIR.

5 Q. DID YOU TELL THEM THAT YOU HAD SEEN THE SHOOTING?

6 A. NO, SIR.

7 Q. AND KNEW WHAT HAPPENED?

8 A. NO, SIR.

9 Q. DO YOU KNOW THOSE PEOPLE?

10 A. NO, SIR.

11 Q. SO YOU NEVER MADE THE STATEMENT THAT YOU HAD SEEN
12 WHAT ACTUALLY OCCURRED.

13 A. NO, SIR.

14 MR. LITTLEJOHN: OKAY. IF YOU WOULD GIVE ME JUST A
15 MINUTE, YOUR HONOR.

16 THE COURT: YES, SIR.

17 BY MR. LITTLEJOHN:

18 Q. JUST A COUPLE OF FINAL THINGS, RACHIM. WAS CARL
19 SMALLS AFFILIATED WITH THE CRYPTS?

20 A. HE WAS, BUT IT WAS LIKE WHEN HE WAS YOUNGER. THAT'S
21 WHAT HE TOLD ME, BUT HE WASN'T LIKE NO BIG BAD -- NO GANGSTER
22 TYPE OF DUDE. HE WASN'T EVEN LIKE THAT. HE AIN'T LIVED NO
23 GANGSTER TYPE OF LIFE. HE JUST WANTED TO PLAY BALL AND
24 THAT'S IT.

25 Q. OKAY. BUT YOU KNEW HE WAS AFFILIATED WITH THE

1 CRYPTS.

2 A. YES, SIR, BUT, LIKE I SAID, FROM CHILDHOOD.

3 Q. ALL RIGHT. DID YOU HEAR HIM THREATEN ANYBODY THAT
4 NIGHT?

5 A. NO, SIR. I JUST SEEN HIM EXCHANGE WORDS.

6 Q. LIKE YOU DESCRIBED.

7 A. YEAH, HE WAS EXCHANGING WORDS.

8 Q. OKAY. BUT YOU DIDN'T -- YOU DIDN'T HEAR HIM
9 THREATEN ANYBODY OTHER THAN THAT?

10 A. NO, SIR.

11 MR. LITTLEJOHN: OKAY. THAT'S ALL I HAVE, YOUR
12 HONOR.

13 THE COURT: THANK YOU, SIR. MR. PASCOE?

14 MR. PASCOE: THANK YOU, YOUR HONOR.

15 CROSS-EXAMINATION

16 BY MR. PASCOE:

17 Q. RACHIM, I APPRECIATE YOU COMING TODAY. YOU'VE BEEN
18 AROUND SINCE THIS MORNING, HAVEN'T YOU?

19 A. YES, SIR.

20 Q. THANK YOU FOR COMING.

21 A. NO PROBLEM.

22 Q. IT WAS IMPORTANT TO GET YOU HERE. I'VE JUST GOT A
23 FEW QUESTIONS FOR YOU. DID YOU SEE CARL HIT ANYBODY THAT
24 NIGHT, DECEMBER 6TH OR DECEMBER 7TH?

25 A. NO, SIR.

1 Q. DID HE HAVE A GUN THAT NIGHT THAT YOU SAW?

2 A. NO, SIR.

3 Q. DID HE TELL ANYBODY THAT HE WAS GOING TO KILL THEM?

4 A. NO, SIR.

5 Q. DID HE POINT AT ANYBODY AND TELL THEM THAT THEY WERE
6 GOING TO FALL?

7 A. NO, SIR.

8 Q. LET ME ASK YOU ABOUT THE SHOTS THAT YOU HEARD. YOU
9 ACTUALLY GAVE THE POLICE A STATEMENT ON DECEMBER THE 7TH,
10 DIDN'T YOU?

11 A. YES, SIR.

12 Q. AND EVEN THAT MORNING YOU TOLD THE POLICE THAT THE
13 FIRST SHOT YOU HEARD WAS LIGHTER.

14 A. YEAH.

15 Q. IS THAT RIGHT?

16 A. YES, SIR.

17 Q. AND THEN YOU HEARD SHOTS THAT YOU THOUGHT CAME FROM
18 A MUCH BIGGER GUN.

19 A. YES, SIR.

20 Q. AND THAT'S YOUR TESTIMONY TODAY.

21 A. YES, SIR.

22 Q. OKAY. HOW LONG OF A PAUSE DO YOU THINK THERE WAS
23 BETWEEN THAT LIGHT SHOT AND THE BIGGER SHOTS?

24 A. LIKE PROBABLY A POP, THEN A BOOM, BOOM.

25 Q. AND NO DOUBT IN YOUR MIND THAT THEY SOUNDED LIKE

1 THEY WERE COMING FROM DIFFERENT GUNS?

2 A. YEAH, NO DOUBT.

3 Q. OKAY. ALSO WITH REGARDS TO CARL BEING A CRYPT, DID
4 HE EVER CARRY A GUN?

5 A. NO, SIR.

6 Q. DID YOU EVER SEE HIM TELL THAT HE WAS GOING TO KILL
7 SOMEBODY?

8 A. NO, SIR.

9 Q. AFTER HE HAD EXCHANGED WORDS WITH MR. RAMBERT THAT
10 NIGHT, DID HE CALM DOWN?

11 A. YES, SIR.

12 Q. NOW, HE DID HAVE ANOTHER CONFRONTATION THAT NIGHT
13 THOUGH, DIDN'T HE?

14 A. YES, SIR.

15 Q. AND YOU TOLD THE POLICE IN JANUARY THAT IT WAS WITH
16 THE DEFENDANT, JEROID PRICE, DIDN'T YOU?

17 A. YES, SIR.

18 Q. AND WITH A MAN BY THE NAME OF RYAN BROOKS, DIDN'T
19 YOU?

20 A. YES, SIR.

21 Q. YOU PICKED THEM OUT OF PHOTOGRAPHIC LINE-UPS.

22 A. YES, SIR.

23 Q. THAT MAN RIGHT THERE GOT IN CARL SMALLS' FACE,
24 DIDN'T HE?

25 A. YES, SIR.

1 Q. AND HE DIDN'T APPEAR SCARED, DID HE?

2 A. NO, SIR.

3 Q. AND HE'S NOT NEARLY AS BIG AS MR. SMALLS, IS HE?

4 A. NO, SIR.

5 Q. WAS THAT CONFRONTATION EVENTUALLY BROKEN UP?

6 A. YES, SIR.

7 Q. AND HOW DID CARL ACT AFTER THAT WAS BROKEN UP

8 BETWEEN HIM AND THE DEFENDANT AND MR. BROOKS?

9 A. CARL WAS COOL. HE WAS -- HE WASN'T, YOU KNOW,
10 EXCITED OR NOTHING.

11 Q. DID HE SAY HE WAS GOING TO KILL JEROID PRICE?

12 A. NO, SIR.

13 Q. DID HE SAY HE WAS GOING TO KILL RYAN BROOKS?

14 A. NO, SIR.

15 Q. DID HE SAY HE WAS GOING TO BEAT UP JEROID PRICE OR
16 RYAN BROOKS?

17 A. NO, SIR.

18 Q. THAT HE WAS GOING TO BEAT UP THOSE DUDES THAT GOT IN
19 HIS FACE?

20 A. NO, SIR.

21 Q. HE HAD FORGOTTEN ABOUT IT?

22 A. YES, SIR.

23 MR. PASCOE: THAT'S ALL I HAVE.

24 THE COURT: THANK YOU, SIR. MR. LITTLEJOHN?

25

REDIRECT EXAMINATION

1
2 BY MR. LITTLEJOHN:

3 Q. RACHIM, SO YOU SAW A CONFRONTATION BETWEEN THE
4 DEFENDANT AND CARL SMALLS?

5 A. YES, SIR. IT WAS LIKE CARL WAS THERE AND THERE WAS
6 LIKE A BUNCH OF THEM.

7 Q. OKAY.

8 A. YOU KNOW, EXCHANGING WORDS BACK AND FORTH, BACK AND
9 FORTH. I WENT OVER THERE TO TRY AND CALM IT DOWN. THEN ME
10 AND MY ROOMMATE GOT INTO AN ARGUMENT ABOUT WHY AM I TRYING TO
11 CALM THEM DOWN.

12 Q. ACTUALLY YOU GOT IN AN ARGUMENT WITH CARL SMALLS,
13 DIDN'T YOU?

14 A. NO, MY ROOMMATE.

15 Q. DIDN'T CARL SMALLS NOT WANT YOU TO CALM HIM DOWN?

16 A. NO, MY ROOMMATE DIDN'T WANT ME TO CALM HIM DOWN.

17 Q. SO CARL SMALLS DIDN'T MAKE THAT STATEMENT TO YOU.

18 A. NO, SIR, MY ROOMMATE DID. ME AND MY ROOMMATE WAS
19 ARGUING ABOUT -- YOU KNOW, HE WAS WHY WE AIN'T -- YOU KNOW,
20 GOT HIS BACK OVER THERE. ME AND HIM WERE EXCHANGING WORDS,
21 BUT I DON'T KNOW WHAT'S GOING ON WITH THE CONFRONTATION THAT
22 I WAS TRYING TO, YOU KNOW, CALM DOWN.

23 Q. UH-HUH.

24 A. AND SO ME AND HIM EXCHANGED WORDS, ME AND MY
25 ROOMMATE, AND THEN A GIRL CAME OVER THERE AND LIKE TOLD US TO

1 STOP. WE WAS ROOMMATES; WE DON'T NEED TO BE FUSSING AND ALL
2 THAT. THEN IT WAS OVER BECAUSE THE LIGHTS CAME ON.

3 Q. OKAY. SO THAT'S THE THIRD CONFRONTATION THAT CARL
4 SMALLS HAD THAT NIGHT.

5 A. YES, SIR.

6 Q. SO THERE WEREN'T TWO; THERE WERE THREE.

7 A. YES, SIR.

8 Q. JUST ONE FINAL THING. MR. PASCOE ASKED YOU ABOUT
9 YOUR STATEMENT YOU GAVE IN JANUARY? DO YOU REMEMBER TELLING
10 THE -- TELLING THE SHERIFF'S DEPARTMENT DETECTIVES THAT CARL
11 WAS ACTING WILD THAT NIGHT?

12 A. YES, SIR, I REMEMBER THAT.

13 Q. THOSE WERE YOUR WORDS.

14 A. YES, SIR.

15 MR. LITTLEJOHN: OKAY. NO FURTHER QUESTIONS.

16 THE COURT: THANK YOU, SIR. MR. PASCOE?

17 MR. PASCOE: ONE QUESTION, YOUR HONOR?

18 THE COURT: YES, SIR.

19 RECROSS EXAMINATION

20 BY MR. PASCOE:

21 Q. SO IT WAS RIGHT AFTER THE CONFRONTATION THAT THE
22 DEFENDANT HAD WITH CARL SMALLS -- THAT'S WHEN THE PARTY
23 ENDED? YOU SAID THE LIGHTS HAD COME ON?

24 A. YES, SIR. AFTER THE LIGHTS COME -- AFTER ME AND
25 STEVE GOT INTO A CONFRONTATION AND THEY WERE STILL OVER THERE

1 FUSSING---

2 Q. AT THE SAME TIME.

3 A. YES, SIR.

4 Q. AND NOT LONG AFTER THAT THE LIGHTS CAME ON AND THE
5 PARTY WAS OVER?

6 A. YES, SIR.

7 MR. PASCOE: THAT'S ALL I HAVE. THANK YOU.

8 THE COURT: THANK YOU, SIR. SIR, YOU MAY STEP DOWN.
9 THANK YOU.

10 MR. PASCOE: HE'S EXCUSED, YOUR HONOR?

11 THE COURT: YES, SIR.

12 MR. LITTLEJOHN: NO OBJECTION. YEAH.

13 THE COURT: FREE TO HEAD HOME, SIR.

14 MR. LITTLEJOHN: I CALLED HIM SO...

15 THE COURT: THANK YOU. THAT'S ALL THE DEFENSE HAS
16 FOR THE AFTERNOON?

17 MR. LITTLEJOHN: YES, SIR.

18 THE COURT: LADIES AND GENTLEMEN OF THE JURY, WE'RE
19 GOING TO BREAK FOR THE DAY. YOU ALL GET A GOOD NIGHT'S REST
20 AND WE'LL GET STARTED AGAIN IN THE MORNING AT 9:30. I ASK
21 THAT YOU NOT TALK ABOUT THE TESTIMONY OR EVIDENCE THAT YOU'VE
22 SEEN OR HEARD THUS FAR. WE'LL CONTINUE WITH THE CASE IN THE
23 MORNING. THANK YOU. Y'ALL HAVE A GOOD DAY.

24 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR
25 THE DAY AT 4:01 P.M.)

COLLOQUY

1 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, JUST
2 GROUND RULES: WHEN THE JURY COMES IN AND OUT, EVERYBODY
3 SHOULD BE SEATED. THE DEPUTIES HAVE HAD TO SAY THAT ONE TOO
4 MANY TIMES TODAY. COUNSEL, ANYTHING WE NEED TO TAKE UP ON
5 THE RECORD BEFORE WE BREAK?

6 MR. LITTLEJOHN: NOTHING FROM THE DEFENSE, YOUR
7 HONOR.

8 THE COURT: OKAY.

9 MR. PASCOE: DO YOU WANT TO TALK ABOUT THE JURY
10 CHARGES IN CHAMBERS?

11 THE COURT: YEAH. I THOUGHT -- IF Y'ALL NEED A FEW
12 MINUTES TO PACK UP AND HANDLE ANYTHING ELSE, IF Y'ALL JUST
13 WANT TO COME BACK TO CHAMBERS WHEN Y'ALL GET THAT DONE... I
14 JUST ASSUMED THERE WERE SOME MATTERS WE PROBABLY NEED TO
15 ADDRESS TO THE BEST OF OUR ABILITIES AT THIS POINT, AND
16 CERTAINLY WE'LL TAKE UP ANYTHING ELSE BEFORE THE CLOSE OF THE
17 CASE. BUT I DO WANT TO BE ABLE TO TRY TO GIVE Y'ALL BOTH A
18 HARD COPY OF THE CHARGE IN CASE YOU NEED IT FOR YOUR
19 CLOSINGS. SO IF WE GET STARTED A LITTLE BIT AHEAD OF TIME ON
20 THAT I SHOULD BE ABLE TO DO THAT, BUT WE'LL -- WE'LL BE
21 ADJOURNED UNTIL 9:30 IN THE MORNING AND, COUNSEL, WHENEVER IN
22 A FEW MINUTES Y'ALL GET SITUATED, Y'ALL COME ON BACK.

23 (WHEREUPON, THE TRIAL CONCLUDED FOR THE DAY AT 4:02
24 P.M. AND RESUMED THE FOLLOWING DAY, DECEMBER 18, 2003.)

25 THE COURT: THANK YOU. YOU CAN BE SEATED. ALL

1 RIGHT. COUNSEL, I THINK WE HAVE EVERYBODY.

2 MR. LITTLEJOHN: EXCEPT FOR ONE.

3 THE COURT: I WAS TALKING ABOUT THE JURORS. THEY
4 SHOULD BE BRINGING HIM OUT. ARE Y'ALL DOING ALL RIGHT?

5 (MR. PRICE ENTERS THE COURTROOM.)

6 MR. LITTLEJOHN: APPARENTLY THERE WAS A BACK-UP AT
7 THE SECURITY DESK DOWNSTAIRS, SO I THINK---

8 THE COURT: OKAY.

9 MR. LITTLEJOHN: ---PEOPLE MAY BE FILTERING IN.

10 THE COURT: GOOD MORNING. HOW ARE YOU THIS MORNING?
11 COUNSEL, MS. WALKER HAS A COPY OF THE DEFENDANT'S REQUESTS.
12 I GUESS YOU GUYS DO, TOO.

13 MR. SORENSON: I DON'T THINK SO.

14 THE COURT: WE'LL GET THROUGH THE...

15 MR. SORENSON: DID YOU GIVE US A COPY OF THE
16 REQUESTS TO CHARGE?

17 MR. LITTLEJOHN: I ONLY HAD ONE COPY.

18 THE COURT: WHEN SHE COMES OUT, SHE'LL MAKE -- I'LL
19 GET HER TO MAKE COPIES AND WE'LL DO THAT AND THEN WE'LL GET
20 THROUGH THE DAY AND THEN WE'LL TALK AGAIN ABOUT... ALL
21 RIGHT. BOTH SIDES READY? YES, SIR?

22 MR. LITTLEJOHN: JUST A COUPLE OF THINGS. IN
23 RESPONSE TO THE STATE'S CASE, THE DEFENSE WOULD INTEND TO
24 CALL TWO WITNESSES THAT WERE QUITE FRANKLY NOT ON OUR WITNESS
25 LIST. WE DID NOT KNOW WE WERE GOING TO CALL THEM AT THE

COLLOQUY

1 TIME. ONE IS DON GIRNDT WHO IS A CRIME SCENE RECONSTRUCTION
2 EXPERT.

3 THE COURT: GIRNDT?

4 MR. LITTLEJOHN: GIRNDT. G-I-R-N-D-T. YOUR HONOR,
5 HE'S BEEN ASSISTING US, BUT WE DIDN'T ANTICIPATE CALLING HIM
6 UNTIL WE HEARD THE TESTIMONY FROM MR. MARCUS JONES. YOUR
7 HONOR, THE SECOND WITNESS WE WOULD INTEND TO CALL IS JEFF
8 MERRIMAN -- I MEAN, I'M SORRY, JEFF HOLLIFIELD WHO WE INTEND
9 TO QUALIFY AS A BALLISTICS EXPERT AND WE HAD NOT INTENDED ON
10 CALLING HIM UNTIL WE HEARD LIEUTENANT POWELL'S TESTIMONY.

11 THE COURT: OKAY.

12 MR. LITTLEJOHN: AND SO THERE'S NO QUESTION ABOUT
13 IT, MR. GIRNDT CAME IN YESTERDAY AND I BELIEVE HE SAT IN ON
14 PART OF TWO OF THE WITNESSES THAT WERE CALLED. THEY HAD
15 NOTHING TO DO WITH THE CRIME SCENE. IT WAS C.J. FRYE AND
16 RACHIM MONROE, AND I THINK HE WAS SITTING IN THE COURTROOM
17 AND I TOLD HIM HE COULD NOT COME IN THE COURTROOM.

18 THE COURT: OKAY. ALL RIGHT. ANYTHING FROM THE
19 STATE? I'LL CERTAINLY ASK THE JURORS IF THEY KNOW ANY OF
20 THOSE INDIVIDUALS WHEN WE BRING THEM OUT. AND ANYTHING ELSE
21 BEFORE WE...

22 MR. LITTLEJOHN: I DON'T BELIEVE SO, YOUR HONOR. WE
23 HAD ONE WITNESS WHO WAS COMING IN FROM OUT OF STATE. I DON'T
24 KNOW IF SHE GOT STUCK AT SECURITY, BUT WE HAVE A COUPLE OF
25 WITNESSES WE CAN CALL.

1 THE COURT: WE'LL GET STARTED AND SEE HOW FAR WE GET
2 AND GIVE HER A CHANCE TO GET UP HERE. OKAY. WE'RE READY FOR
3 THE JURY. AND IT IS GIRNDT?

4 MR. LITTLEJOHN: GIRNDT, YES, SIR. YOUR HONOR, THE
5 FIRST WITNESS WE INTEND TO CALL IS RYAN BROOKS AND I THINK
6 THEY'RE BRINGING HIM UP.

7 THE COURT: OKAY.

8 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT
9 9:45 A.M.)

10 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.
11 HOPE YOU ALL HAD A GOOD NIGHT, AND WE'RE READY TO GET STARTED
12 AGAIN. LADIES AND GENTLEMEN, FIRST OF ALL I NEED TO ASK YOU
13 ALL -- THERE ARE TWO WITNESSES THAT MAY POTENTIALLY BE CALLED
14 THAT I DIDN'T ASK YOU ABOUT AT THE BEGINNING OF THE TRIAL:
15 DON GIRNDT AND JEFF HOLLIFIELD AND -- OR IS IT HOLLIFIELD?

16 MR. LITTLEJOHN: HOLLIFIELD.

17 THE COURT: HOLLIFIELD.

18 MR. LITTLEJOHN: DIFFERENT PRONUNCIATION.

19 THE COURT: AND I JUST ASK AGAIN IF ANY MEMBER OF
20 THE JURY IS EITHER RELATED BY BLOOD OR MARRIAGE OR IF ANYBODY
21 KNOWS OR HAVE A PERSONAL RELATIONSHIP WITH EITHER OF THOSE
22 GENTLEMEN. OKAY. LET THE RECORD REFLECT THAT NO JUROR
23 RESPONDED IN THE AFFIRMATIVE. SO, MR. LITTLEJOHN, ARE YOU
24 READY?

25 MR. LITTLEJOHN: YES, YOUR HONOR.

1 THE COURT: YES, SIR.

2 MR. LITTLEJOHN: WE'D CALL RYAN BROOKS.

3 THE COURT: MR. BROOKS, IF YOU'LL COME DOWN, SIR,
4 AND BE SWORN.

5 RYAN C. BROOKS, AFTER BEING DULY SWORN,
6 TESTIFIED AS FOLLOWS:

7 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE
8 YOUR FULL NAME FOR THE COURT.

9 THE WITNESS: RYAN CHRISTOPHER BROOKS.

10 DIRECT EXAMINATION

11 BY MR. LITTLEJOHN:

12 Q. MR. BROOKS, YOU PREVIOUSLY TESTIFIED IN THIS CASE ON
13 MONDAY.

14 A. YES, SIR.

15 Q. I NEED YOU TO CLARIFY JUST A COUPLE OF THINGS, AND
16 I'LL GET RIGHT TO THE POINT. ON THE EARLY MORNING OF
17 DECEMBER 7TH AT THE VODOO CLUB YOU TESTIFIED THAT YOU HAD
18 GONE OUT TO YOUR CAR AND GOTTEN A GUN AND WERE COMING BACK TO
19 THE CLUB.

20 A. YES, SIR.

21 Q. DO YOU REMEMBER THAT?

22 A. (WITNESS NODDED HEAD UP AND DOWN.)

23 Q. WHEN YOU CAME IN THE -- WHEN YOU GOT TO THE EXIT
24 DOOR, DID YOU SEE CARL SMALLS?

25 A. YES.

1 Q. DID YOU SEE JEROID PRICE?

2 A. YES, SIR.

3 Q. OKAY. WHAT WORDS WERE EXCHANGED BETWEEN THOSE TWO?

4 A. PROFANITY.

5 Q. PROFANITY?

6 A. YES, SIR.

7 Q. WHAT DID MR. SMALLS SAY?

8 A. HE SAID F. -- THE F. WORD, FUCK.

9 Q. OKAY.

10 A. IN A LOUD MANNER.

11 Q. WHAT DID JEROID SAY?

12 A. HE SAID, "MAN."

13 Q. LIKE HOW DID HE SAY, "MAN"?

14 A. LIKE A MAN -- LIKE AN, OH, BOY MAN.

15 Q. OKAY. WHAT DID CARL SMALLS DO AT THAT POINT?

16 A. HE LOOKED -- LOOKED AT JEROID PRICE. THEN HE

17 RUSHED.

18 Q. OKAY. THEN WHAT HAPPENED?

19 A. THAT'S WHEN THE TUSSLE WITH THE PISTOL HAPPENED, AND

20 HE WAS POINTING THE GUN TOWARDS MY DIRECTION.

21 Q. ALL RIGHT. LET ME SLOW YOU DOWN A LITTLE BIT. YOU

22 SAY CARL SMALLS RUSHED JEROID PRICE?

23 A. YES.

24 Q. AFTER HE RUSHED HIM, DID YOU SEE THE PISTOL AFTER

25 THAT?

1 A. YES.

2 Q. WHEN DID YOU SEE THE PISTOL?

3 A. WHEN IT WAS POINTED TOWARDS ME.

4 Q. OKAY. WHAT WAS THE POSITION OF CARL SMALLS AND
5 JEROID PRICE WHEN YOU SAW THAT PISTOL?

6 A. JEROID WAS PINNED UP AGAINST THE WALL.

7 Q. PINNED BY WHO?

8 A. MR. SMALLS.

9 Q. HOW WAS HE PINNED UP AGAINST THE WALL?

10 A. HE WAS PINNED TO -- UP AGAINST THE WALL, COULDN'T --
11 IT'S HARD TO SAY. I CAN DEMONSTRATE IT.

12 Q. OKAY. DEMONSTRATE IT FOR ME.

13 A. HE HAD HIM PINNED AGAINST THE WALL LIKE THIS COMING
14 TOWARDS HIM THIS WAY. THE WALL WAS RIGHT HERE.

15 Q. ALL RIGHT. BEFORE HE PINNED HIM UP AGAINST THE
16 WALL, DID YOU SEE THE PISTOL?

17 A. NO.

18 Q. IT WAS ONLY AFTER THAT.

19 A. YES.

20 Q. OKAY. AND YOU SAY AT SOME POINT THE PISTOL WAS
21 POINTED AT YOU?

22 A. YES, SIR.

23 Q. AND THAT'S WHEN YOU DECIDED TO FIRE IT.

24 A. YES, SIR.

25 Q. AFTER YOU FIRED THE PISTOL, THAT'S WHEN YOU LEFT.

1 A. YES, SIR.

2 Q. COULD YOU TELL WHAT MR. SMALLS -- DID MR. SMALLS
3 HAVE HIS HANDS ON THE PISTOL?

4 A. YES, SIR.

5 Q. WHAT WAS HE TRYING TO DO WITH THE PISTOL?

6 A. I BELIEVE HE WAS GOING TO SHOOT ME AND THAT'S WHY I
7 FIRED.

8 MR. LITTLEJOHN: OKAY. IF YOU WOULD GIVE ME JUST A
9 MOMENT, YOUR HONOR.

10 THE COURT: YES, SIR.

11 BY MR. LITTLEJOHN:

12 Q. MR. BROOKS, JUST A COUPLE OF FINAL THINGS. WERE YOU
13 AFRAID YOU WERE GOING TO GET SHOT?

14 A. YES, SIR.

15 Q. IS THAT WHY YOU SHOT HIM?

16 A. YEAH.

17 Q. WERE YOU AFRAID JEROID WAS GOING TO GET SHOT?

18 A. YES, SIR. I WAS AFRAID FOR US BOTH.

19 MR. LITTLEJOHN: THAT'S ALL I HAVE, YOUR HONOR.

20 THE COURT: THANK YOU, SIR. MR. PASCOE?

21 MR. PASCOE: THANK YOU, JUDGE.

22 CROSS-EXAMINATION

23 BY MR. PASCOE:

24 Q. GOOD MORNING, MR. BROOKS.

25 A. HOW ARE YOU DOING?

1 Q. DOING GOOD. YOU TOLD THE POLICE AND BACK IN JANUARY
2 OF LAST YEAR AND THE JURY ON MONDAY THAT THE DEFENDANT HAD A
3 PISTOL IN HIS WAISTBAND; RIGHT?

4 A. IF I SAID IT MONDAY, YES.

5 Q. ISN'T THAT TRUE? THE DEFENDANT HAD A PISTOL IN HIS
6 WAISTBAND THAT HE WAS GOING LIKE THAT. THAT WAS YOUR
7 TESTIMONY.

8 A. I SAID HE REACHED DOWN, YES.

9 Q. RIGHT. AND YOU ALSO TESTIFIED THAT THE VICTIM WENT
10 FOR THE DEFENDANT'S GUN.

11 A. HE RUSHED HIM.

12 Q. TO GO FOR HIS GUN.

13 A. TAKING THE GUN, YEAH.

14 Q. RIGHT. DO YOU HAVE ANY FIRSTHAND KNOWLEDGE OR IDEA
15 WHY THE DEFENDANT WOULD HAVE A GUN ON HIM?

16 A. NO.

17 Q. OKAY. WHERE WAS EXACTLY -- YOU DESCRIBED -- YOU
18 SAID THAT THE VICTIM HAD THE DEFENDANT PINNED UP AGAINST THE
19 WALL.

20 A. YES, SIR.

21 Q. AND THEY WERE AS CLOSE -- STAND UP. AS ME AND YOU
22 RIGHT NOW; RIGHT?

23 A. PROBABLY.

24 Q. REAL -- GOING -- AND THE VICTIM IS GOING FOR THE
25 GUN; CORRECT?

1 A. (WITNESS NODDED HEAD UP AND DOWN.)

2 Q. YOU CAN SIT BACK DOWN. POINT FOR ME ON STATE'S
3 EXHIBIT 1 WHERE THE VICTIM WAS.

4 A. (THE WITNESS COMPLIES.)

5 Q. ALL RIGHT. HERE'S THE EXIT DOOR WHERE YOU WENT;
6 RIGHT? YOU WERE AT THE EXIT DOOR?

7 A. YEAH.

8 Q. WHERE WAS THE VICTIM?

9 A. OVER RIGHT HERE.

10 Q. AND WHERE WAS THE DEFENDANT?

11 A. HE WAS IN FRONT BEFORE THE RUSH HAPPENED.

12 Q. SO THE DEFENDANT HERE AND THE VICTIM IS HERE?

13 A. YES, SIR.

14 Q. OKAY. NOW, LET'S MARK THAT. IT'S BETTER TO USE
15 SOMETHING SMALL. I'M SORRY. YOU TOLD ME THAT THE VICTIM WAS
16 WHERE?

17 A. RIGHT IN HERE.

18 Q. THAT HE WAS HERE. OH, THE VICTIM'S THAT WAY.

19 A. (WITNESS NODDED HEAD UP AND DOWN.)

20 MR. PASCOE: THAT'S RIGHT. YOUR HONOR, CAN I MARK
21 IT BECAUSE THESE THINGS AREN'T STICKING?

22 THE COURT: YES, SIR.

23 MR. PASCOE: THANK YOU.

24 BY MR. PASCOE:

25 Q. I'LL PUT A V. ALL RIGHT? WHERE WAS THE DEFENDANT?

RYAN BROOKS - CROSS-EXAM BY MR. PASCOE

1 IN FRONT OF HIM RIGHT THERE.

2 A. IN FRONT OF THE DOORWAY.

3 Q. OKAY. MORE DOWN HERE.

4 A. YEAH.

5 Q. AND THE VICTIM WAS HERE. RIGHT?

6 A. (WITNESS NODDED HEAD UP AND DOWN.)

7 Q. NOW, LET ME SHOW THE JURY. THE VICTIM IS HERE AND
8 THE DEFENDANT'S BACK IS TO THE WALL; CORRECT?

9 A. YEAH.

10 Q. THIS WALL RIGHT HERE.

11 A. YES, SIR.

12 Q. THE DEFENDANT'S BACK IS SUPPOSEDLY TO THAT WALL
13 RIGHT THERE. OKAY? NOW, YOU, IN FEAR OF YOUR LIFE AND IN
14 FEAR, ACCORDING, YOU KNOW, TO YOUR DIRECT EXAMINATION, OF
15 YOUR FRIEND GETTING HURT, MR. PRICE, SHOT THE VICTIM.

16 A. YES, SIR.

17 Q. HOW OR WHY WOULD YOU SHOOT SOMEONE WHEN THEY ARE
18 THIS CLOSE TO ONE ANOTHER? YOU WERE AT LEAST TWO OR THREE
19 FEET AWAY FROM HIM AT THE EXIT DOOR, WEREN'T YOU?

20 A. YES, SIR, I WAS AT THE EXIT DOOR.

21 Q. SO WHY WOULD YOU SHOOT AT CARL SMALLS WHEN THERE WAS
22 A GOOD CHANCE YOU COULD HAVE SHOT YOUR FRIEND MR. PRICE?

23 A. I SHOT TOWARDS THE RIGHT HAND OF HIS BODY BECAUSE
24 THE OTHER HALF OF HIS BODY WAS PINNING JEROID TO THE WALL.

25 Q. TO THIS WALL. TO THIS WALL. WELL, EXPLAIN TO ME

1 HOW IF HE IS PINNING THE DEFENDANT TO THIS WALL YOU WERE ABLE
2 TO SHOOT THE VICTIM IN THE RIGHT HIP AREA.

3 A. THAT WAS A PART OF THE AREA OF HIS BODY THAT WAS IN
4 FRONT OF ME.

5 Q. BUT HIS BACK IS TO YOU.

6 A. HIS BACK WAS NOT TO HIM. I WAS LOOKING THIS WAY.
7 HIS BACK COULDN'T HAVE BEEN TOWARDS ME. HE WAS RUSHING,
8 HAVING HIM PINNED TO THE WALL.

9 Q. YOU TESTIFIED THAT HE HAD JEROID PRICE PINNED TO
10 THAT WALL, THAT THE VICTIM'S BACK -- THAT CARL SMALLS' BACK
11 WAS TO THAT WALL. HOW COULD YOU HAVE SHOT HIM IN THE RIGHT
12 HIP?

13 A. I NEVER WAS BEHIND HIM FOR HIS BACK I MEAN TO BE
14 BEHIND HIM.

15 Q. HE WASN'T SHOT IN THE BACK, SIR. HE WAS SHOT IN THE
16 FRONT. AND ONE MORE QUESTION. HOW IS IT POSSIBLE THAT THE
17 BULLET THAT YOU SHOT HIM WITH, THE 380, ENDED UP IN THAT
18 CORNER AFTER IT WENT THROUGH HIS BODY? THERE'S ONLY ONE WAY,
19 ISN'T IT, SIR? CARL SMALLS' BACK WAS TO THAT WALL. JEROID
20 PRICE'S BACK WAS GOING THAT WAY. BOTH OF YOU HAD YOUR GUNS
21 OUT AND YOU FIRED INTO CARL SMALLS' RIGHT HIP AREA, WAIST
22 AREA. ISN'T THAT TRUE?

23 A. NO, IT'S NOT.

24 Q. IT'S THE ONLY WAY THAT BULLET GOT IN THAT CORNER.
25 WHY DID YOU RUN?

1 A. I RAN AFTER EVERYBODY TOOK OFF RUNNING. I RAN. WHY
2 WOULD I STAY?

3 Q. BECAUSE YOU WERE GOING TO DEFEND YOUR FRIEND AND
4 YOURSELF, JEROID PRICE.

5 A. WHICH I DID.

6 Q. WHY DID YOU RUN?

7 A. BECAUSE IT WAS TIME TO LEAVE. I DID DEFEND MYSELF.

8 Q. BY SHOOTING HIM ONE TIME?

9 A. YES.

10 Q. YOU DIDN'T WANT TO STICK AROUND? I THOUGHT YOU WERE
11 THERE -- YOU WERE GOING TO DEFEND YOUR FRIEND. WHY DIDN'T
12 YOU STAY AND DEFEND YOUR FRIEND AND MAKE SURE HE WAS GOING TO
13 BE ALL RIGHT? WHY DID YOU RUN?

14 A. I FELT HE WAS ALL RIGHT AFTER THAT. THAT'S WHY. I
15 RAN.

16 Q. IN FACT, TELL THE JURY WHAT REASON YOU EVEN GAVE THE
17 POLICE LAST JANUARY AS TO WHY YOU SHOT CARL SMALLS. DIDN'T
18 YOU TELL THE POLICE BECAUSE YOU WERE HOPING TO CALM HIM DOWN?

19 A. SO HE WOULDN'T SHOOT ME.

20 Q. YOU COULDN'T THINK OF A BETTER WAY TO---

21 A. I'LL JUST SAY THAT.

22 Q. I'M SORRY. GO AHEAD.

23 A. I SAID I ALSO SAID THAT I SHOT HIM SO HE WOULDN'T
24 SHOOT ME.

25 Q. YOU COULDN'T THINK OF A---

1 A. CALM HIM DOWN FROM SHOOTING ME.

2 Q. ---BETTER OF WAY OF CALMING SOMEONE DOWN THAN
3 SHOOTING THEM?

4 A. NOT WHEN HE HAVE A PISTOL POINTED TOWARDS ME, YOU
5 KNOW.

6 Q. WHEN TWO MEN HAD A PISTOL POINTED AT CARL SMALLS?

7 A. WHEN HE HAD A PISTOL POINTED AT ME, THAT'S THE ONLY
8 WAY I CAN CALM HIM DOWN FROM SHOOTING ME.

9 Q. ISN'T IT TRUE THAT THE ONLY REASON YOU RAN IS
10 BECAUSE YOUR GUN JAMMED?

11 A. NO.

12 Q. DIDN'T YOU TELL YOUR ROOMMATE, JAMEL BRYANT, THAT
13 YOUR GUN JAMMED AND THAT'S WHY YOU RAN?

14 A. I TOLD HIM MY GUN JAMMED. THAT WASN'T THE REASON I
15 RAN.

16 MR. PASCOE: BEG THE COURT'S INDULGENCE.

17 THE COURT: YES, SIR.

18 MR. PASCOE: THAT'S ALL I HAVE. THANK YOU, YOUR
19 HONOR.

20 THE COURT: THANK YOU, MR. PASCOE. MR. LITTLEJOHN?

21 MR. LITTLEJOHN: JUST A COUPLE OF THINGS.

22 REDIRECT EXAMINATION

23 BY MR. LITTLEJOHN:

24 Q. MR. BROOKS?

25 A. YES, SIR.

1 Q. EXPLAIN -- YOU SAID YOU SHOT AT CARL SMALLS' HIP
2 AREA.

3 A. YES, SIR, TOWARDS THE BUTTOCKS.

4 Q. WAS HIS HIP UP AGAINST JEROID PRICE?

5 A. WAS HIS HIP UP AGAINST HIM?

6 Q. YES, SIR.

7 A. NO, SIR.

8 Q. IT WAS AWAY FROM JEROID PRICE'S BODY?

9 A. YES, SIR.

10 Q. IS THAT WHY YOU AIMED AT THAT AREA?

11 A. YES, SIR.

12 Q. DID YOU KNOW EXACTLY HOW HE WAS STANDING WHEN YOU
13 FIRED?

14 A. NOT REALLY BUT THAT WAS THE ONLY AREA OF HIS BODY
15 THAT WAS IN FRONT OF ME.

16 Q. OKAY. AND YOU SAY HE HAD JEROID PINNED UP AGAINST
17 THE WALL.

18 A. YES, SIR.

19 Q. OKAY. NOW, MR. PASCOE ASKED YOU ABOUT YOUR
20 STATEMENT THAT YOU GAVE BACK IN JANUARY?

21 A. YES, SIR.

22 Q. AND IN THAT STATEMENT YOU SAID YOU SAW CARL SMALLS
23 RUSH JEROID AND PIN HIM UP AGAINST A WALL, DIDN'T YOU?

24 A. YES, SIR.

25 Q. YOU SAID YOU SAW THE VICTIM TRYING TO PULL JEROID'S

1 GUN OUT OF HIS WAIST?

2 A. YES, SIR.

3 Q. RIGHT? YOU SAID THAT THE VICTIM, CARL SMALLS, WAS
4 PULLING IT UP AND JEROID WAS TRYING TO PULL IT AWAY FROM HIM.

5 A. YES, SIR.

6 Q. AND THEN YOU SAID THAT'S WHEN YOU PULLED OUT YOUR
7 FIREARM, AND YOU USED THE WORD, "MY INTENT WAS TO CALM THE
8 VICTIM DOWN." WAS THAT A GOOD CHOICE OF WORDS - CALM?

9 A. I MEAN, YES, SIR, I TRIED TO CALM HIM DOWN SO HE
10 WOULDN'T SHOOT ME. I DIDN'T KNOW WHAT OTHER WORDS TO PUT IN
11 THERE.

12 Q. OKAY. THEN LATER ON YOU TOLD THE POLICE OFFICERS---

13 MR. PASCOE: OBJECTION, YOUR HONOR.

14 THE COURT: YES, SIR.

15 MR. PASCOE: HE'S JUST GOING OVER THE STATEMENT.

16 CAN WE JUST PUT HIS STATEMENT IN EVIDENCE?

17 THE COURT: ANY OBJECTION?

18 MR. LITTLEJOHN: YOUR HONOR, HE MADE REFERENCE TO
19 IT. I JUST...

20 THE COURT: I'LL LET YOU ASK HIM WHAT HE SAID --

21 WHAT HE TOLD THE POLICE.

22 BY MR. LITTLEJOHN:

23 Q. DIDN'T YOU TELL THE POLICE OFFICERS THAT JEROID'S
24 BACK WAS UP AGAINST THE WALL, THAT CARL SMALLS WAS BENT OVER
25 AND HIT JEROID WITH HIS SHOULDER?

1 A. YES, SIR.

2 Q. OKAY. AND HE WAS PRESSING JEROID AGAINST THE WALL
3 WITH HIS SHOULDER---

4 A. YES, SIR.

5 Q. ---WHILE TRYING TO GET THE GUN WITH HIS HANDS.

6 A. YES, SIR.

7 Q. OKAY. THAT WOULD INDICATE ONE OF HIS SHOULDERS WAS
8 AGAINST JEROID.

9 A. YES, SIR.

10 Q. OKAY. WOULD THAT NOT PUT HIM IN SOME SORT OF A
11 TURNING POSITION?

12 A. YES, IT WOULD.

13 MR. LITTLEJOHN: OKAY. THAT'S ALL I HAVE, YOUR
14 HONOR.

15 THE COURT: MR. PASCOE?

16 MR. PASCOE: THANK YOU.

17 RECROSS EXAMINATION

18 BY MR. PASCOE:

19 Q. AND DIDN'T YOU ALSO TELL THE POLICE THAT JEROID
20 PRICE IS A BLOOD?

21 A. EXCUSE ME?

22 Q. DIDN'T YOU ALSO TELL THE POLICE THAT JEROID IS A
23 BLOOD?

24 MR. LITTLEJOHN: YOUR HONOR, I WOULD OBJECT.

25 THE WITNESS: I DON'T RECALL.

1 MR. LITTLEJOHN: THAT'S NOT IN RESPONSE TO MY
2 REDIRECT.

3 THE COURT: I'LL ALLOW IT.

4 MR. PASCOE: THANK YOU, YOUR HONOR.

5 BY MR. PASCOE:

6 Q. DIDN'T YOU TELL HIM THAT JEROID PRICE IS A BLOOD?

7 A. I DON'T RECALL.

8 Q. YOU DON'T REMEMBER THAT?

9 A. NO.

10 Q. DO YOU HAVE A CODE AMONGST BLOODS THAT YOU'RE NOT
11 ALLOWED TO ADMIT THAT YOU'RE BLOODS?

12 A. I'M NOT A BLOOD, SO, THEREFORE, I WOULD HAVE NO
13 CODES.

14 Q. UH-HUH. AND DIDN'T YOU ALSO TELL THE POLICE THAT
15 CARL SMALLS KEPT CALLING JEROID PRICE A SLOB?

16 A. I DON'T RECALL NONE OF THIS.

17 Q. DIDN'T YOU SAY SOMETHING LIKE---

18 A. I SAID -- WHICH I SAID (UNINTELLIGIBLE WORDS
19 SPOKEN). YES, I CAN SAY SLOB.

20 Q. OKAY. DID HE CALL HIM A SLOB? DID THE VICTIM CALL
21 HIM A SLOB?

22 A. I DON'T RECALL.

23 Q. AND ISN'T IT TRUE THAT IF THE VICTIM HAS, AS YOU
24 ALLEGE, JEROID PRICE PINNED UP AGAINST THE WALL LIKE THIS AND
25 THE EXIT DOOR IS RIGHT THERE WHERE YOU ARE, THERE IS NO WAY

1 THAT YOU COULD HAVE SHOT HIM IN THE FRONT AREA, ESPECIALLY
2 THE RIGHT FRONT AREA.

3 A. YOU SAY THERE WAS NO WAY?

4 Q. THERE'S NO WAY. HE'S GOT HIM PINNED UP AGAINST THE
5 WALL.

6 A. HE HAS HIS SHOULDER INTO HIM. THEREFORE, HIS BODY
7 IS BENT.

8 Q. LIKE THAT?

9 A. YEAH, OUT MORE AND HE'S A TALLER AND BIGGER PERSON.

10 Q. THERE IS NO WAY -- HOW IS IT POSSIBLE THAT YOU COULD
11 HAVE SHOT HIM IN THE HIP IF HE'S PINNED UP LIKE THAT?

12 MR. LITTLEJOHN: I'M GOING TO OBJECT TO THE FORM OF
13 THE QUESTION. I DON'T THINK MR. PASCOE SHOULD ARGUE WITH THE
14 WITNESS. IF HE WANTS TO ASK QUESTIONS, THAT'S ONE THING.

15 THE COURT: I SUSTAIN THAT.

16 MR. PASCOE: THANK YOU.

17 THE COURT: YOU CAN ASK HIM WHAT HAPPENED AND---

18 MR. PASCOE: EXPLAIN TO ME---

19 THE COURT: ---HE CAN GIVE HIS ANSWER.

20 BY MR. PASCOE:

21 Q. ---HOW IT'S POSSIBLE THAT YOU COULD HAVE SHOT HIM
22 FROM OVER THERE ON HIS RIGHT -- INTO HIS RIGHT HIP AREA.

23 A. I WAS IN THE DOORWAY IN FRONT. I WASN'T OVER THERE.

24 Q. AND, FURTHERMORE, HOW IS IT POSSIBLE THAT THE BULLET
25 COULD LAND OVER THERE UNLESS THE VICTIM WAS ACTUALLY STANDING

1 UP AGAINST THE WALL?

2 A. I DON'T KNOW HOW IT'S POSSIBLE WHERE THE BULLET WENT
3 AFTER IT WAS FIRED.

4 MR. PASCOE: THAT'S ALL I HAVE, YOUR HONOR. THANK
5 YOU.

6 THE COURT: THANK YOU. MR. BROOKS, YOU MAY STAND
7 DOWN, SIR. THANK YOU. MR. LITTLEJOHN, CALL YOUR NEXT---

8 MR. LITTLEJOHN: YES, SIR. WE CALL SHONTE BOYD.

9 SHONTE BOYD, AFTER BEING DULY SWORN, TESTIFIED
10 AS FOLLOWS:

11 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE
12 YOUR FULL NAME FOR THE RECORD. COULD YOU SPELL YOUR FIRST
13 NAME, PLEASE?

14 DIRECT EXAMINATION

15 BY MR. LITTLEJOHN:

16 Q. SHONTE, YOU NEED TO STATE YOUR FULL NAME FOR THE
17 RECORD AND SPELL IT.

18 A. SHONTE FREE (PHONETIC) BOYD.

19 COURT REPORTER: SPELL YOUR FIRST NAME.

20 THE WITNESS: S-H-O-N-T-E.

21 BY MR. LITTLEJOHN:

22 Q. I DON'T HAVE TO ASK YOU IF YOU'RE NERVOUS; I KNOW
23 THE ANSWER TO THAT.

24 A. UH-HUH. I AM.

25 Q. SHONTE, WHERE -- WHERE ARE YOU FROM?

SHONTE BOYD - DIRECT EXAM BY MR. LITTLEJOHN

1 A. I'M ORIGINALLY FROM CLOVER, SOUTH CAROLINA.

2 Q. FROM CLOVER?

3 A. (WITNESS NODDED HEAD UP AND DOWN.)

4 Q. OKAY. WHERE ARE YOU LIVING NOW?

5 A. I LIVE IN GREENVILLE, SOUTH CAROLINA.

6 Q. AND ARE YOU A STUDENT?

7 A. NO.

8 Q. ARE YOU WORKING?

9 A. YES.

10 Q. WHERE DO YOU WORK?

11 A. I WORK FOR BB&T.

12 Q. AND WHAT'S YOUR POSITION WITH BB&T?

13 A. I'M A RETAIL SERVICES OFFICER WHICH MEANS I'M A LOAN
14 OFFICER. I DO PERSONAL LOANS.

15 Q. OKAY. AND I THINK YOU JUST GRADUATED YESTERDAY AND
16 GOT YOUR---

17 A. UH-HUH.

18 Q. ---CERTIFICATE?

19 A. YEAH, I DID FROM THE BB&T UNIVERSITY.

20 Q. ALL RIGHT. SHONTE, WERE YOU GOING TO SCHOOL BACK IN
21 DECEMBER OF LAST YEAR?

22 A. YES.

23 Q. WHERE WERE YOU GOING TO SCHOOL?

24 A. THE UNIVERSITY OF SOUTH CAROLINA.

25 Q. OKAY. WERE YOU IN A SORORITY?

1 A. YES, SIR.

2 Q. WHAT SORORITY WERE YOU IN?

3 A. ALPHA KAPPA ALPHA SORORITY, INCORPORATED.

4 Q. OKAY. LET ME REFER YOU TO DECEMBER 6TH AND 7TH OF
5 LAST YEAR. DID YOU HAVE OCCASION TO GO TO THE VODOO LOUNGE
6 OUT ON GARNERS FERRY ROAD?

7 A. YES, SIR.

8 Q. WHAT WERE YOU DOING OUT THERE?

9 A. WE -- MY SORORITY, ALONG WITH ANOTHER FRATERNITY,
10 WERE HOSTING A PARTY.

11 Q. OKAY. AND WERE YOU -- WERE YOU WORKING AT THE -- I
12 MEAN, WERE YOU WORKING AT THE PARTY?

13 A. YES.

14 Q. WHAT WERE YOU DOING?

15 A. I WAS TAKING THE MONEY FROM THE PEOPLE THAT WOULD
16 COME IN. AT THE BEGINNING OF THE NIGHT I TOOK THE MONEY.

17 Q. OKAY. NOW, DO YOU REMEMBER HOW LONG THE PARTY
18 LASTED? JUST ROUGHLY. I'M NOT...

19 A. I DON'T KNOW. PROBABLY ABOUT FOUR OR FIVE HOURS.

20 Q. OKAY. WAS IT OVER ABOUT 2:00 OR SO?

21 A. YES.

22 Q. OKAY. WHEN THE PARTY WAS OVER, WHERE WERE YOU AT
23 THE VODOO LOUNGE?

24 A. I WAS STANDING IN THE FRONT ENTRANCE WHERE THERE'S A
25 LITTLE COUNTER WHERE WE WERE TAKING THE MONEY. WE WERE

1 TALLYING UP THE MONEY TO SEE HOW MUCH WE HAD PROFITED.

2 Q. OKAY. NOW, WERE PEOPLE LEAVING THE PARTY AT THAT
3 POINT?

4 A. UH-HUH. YES.

5 Q. OKAY. DID SOMETHING UNUSUAL HAPPEN?

6 A. YES. GUNSHOTS STARTED FIRING.

7 Q. OKAY. NOW, WHEN THE GUNSHOTS FIRED, AT THAT POINT
8 HAD MOST OF THE PEOPLE LEFT THE PARTY?

9 A. YES, THE MAJORITY HAD ALREADY LEFT.

10 Q. WHEN YOU HEARD THE GUNSHOTS, WHAT WERE YOU DOING?

11 A. I WAS STANDING BEHIND THE COUNTER WITH THE MONEY
12 ALONG WITH THREE OTHER GIRLS.

13 Q. OKAY. TELL US WHAT YOU HEARD AND WHAT YOU DID.

14 A. WE HEARD ABOUT MAYBE FOUR -- I DON'T KNOW HOW MANY
15 GUNSHOTS THERE WERE, AND THEY STARTED FIRING AND WE STARTED
16 RUNNING -- RUNNING AND WE RAN TO LIKE THE INSIDE OF THE CLUB.

17 Q. OKAY. SO YOU DIDN'T RUN OUT TO THE PARKING LOT.
18 YOU WENT TO THE INSIDE OF THE CLUB.

19 A. RIGHT.

20 Q. ALL RIGHT. WAS THERE A DOORWAY THAT YOU HAD TO GO
21 THROUGH?

22 A. YES. THERE WAS A LITTLE DOORWAY FROM THE ENTRANCE
23 TO THE MAIN CLUB---

24 Q. OKAY.

25 A. ---FLOOR.

1 Q. SO YOU HAD HEARD ABOUT FOUR SHOTS AND YOU WENT
2 THROUGH THAT DOORWAY INTO THE MAIN CLUB.

3 A. I DON'T KNOW IF I RAN AFTER I HEARD THE SHOT. I
4 KNOW THAT AFTER THE FIRST SHOT I HEARD I STARTED RUNNING.

5 Q. OKAY. WHAT HAPPENED AFTER YOU WENT THROUGH THAT
6 DOOR?

7 A. WHEN I RAN THROUGH THE DOOR, I JUST HAPPENED TO TURN
8 TO MY LEFT AND I SAW A GUY, LOOKED LIKE HE WAS FALLING TO THE
9 FLOOR, AND I JUST GLANCED AT HIM MAYBE FOR LIKE TWO SECONDS
10 AND I TURNED BACK AROUND AND KEPT ON RUNNING.

11 Q. NOW, WHEN YOU SAW THIS, HAD YOU HEARD THE SHOTS
12 ALREADY?

13 A. YES.

14 Q. OKAY. WHICH WAY WAS THE MAN FALLING?

15 A. LOOKED LIKE HE WAS FALLING FORWARD.

16 Q. OKAY. DID YOU -- DID YOU STOP AND LOOK AT HIM OR
17 ANYTHING?

18 A. I PAUSED TO SEE THAT HE WAS FALLING. I DIDN'T STAND
19 THERE AND WAIT FOR HIM LIKE TO FALL TO THE GROUND, NO. I
20 JUST -- IT WAS SO QUICK. I JUST GLANCED AND I TURNED BACK
21 AROUND AND STARTED RUNNING.

22 Q. WERE YOU WITH A FRIEND AT THAT POINT?

23 A. UH-HUH. I WAS WITH TWO OF MY OTHER SORORITY
24 SISTERS.

25 Q. AND Y'ALL WERE TRYING TO GET BACK INTO THE -- INTO

1 THE NIGHTCLUB AREA.

2 A. UH-HUH. YES.

3 Q. DID YOU SEE ANYBODY ELSE IN THAT AREA WHERE THE MAN
4 WAS FALLING?

5 A. NO, NOT THAT I REMEMBER. I DON'T REMEMBER.

6 Q. COULD THERE HAVE BEEN SOMEBODY THERE?

7 A. THERE COULD HAVE BEEN SOMEBODY THERE. I DON'T
8 REMEMBER IF THERE WAS.

9 Q. OKAY. ALL RIGHT. SHONTE, LET ME -- I'M GOING TO
10 SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT NUMBER 1, AND I
11 REALIZE YOU HAVE NEVER SEEN THIS BEFORE IN YOUR LIFE. BUT IF
12 I MAY, YOUR HONOR... THIS HAS BEEN REPRESENTED AS A DIAGRAM
13 OF THE VODOO CLUB AREA. OKAY? AND LET ME JUST POINT OUT
14 FOR YOU THIS, IT'S BEEN INDICATED, IS THE FRONT ENTRANCE,
15 CASH TICKET ENTRANCE AREA. WAS THAT WHERE YOU WERE LOCATED
16 WHEN YOU HEARD THE SHOTS?

17 A. YES.

18 Q. AND RIGHT HERE, IS THAT THE DOOR THAT YOU WENT
19 THROUGH?

20 A. YES.

21 Q. OKAY. YOU SAID YOU LOOKED TO YOUR LEFT, SO THAT
22 WOULD BE DOWN IN THIS AREA?

23 A. RIGHT.

24 Q. ALL RIGHT. AND WHERE DID YOU GO AFTER YOU LOOKED
25 AND SAW THE MAN FALLING ON HIS FRONT?

1 A. WE RAN AROUND THE CORNER AND WE HID LIKE RIGHT HERE
2 IN THIS CORNER RIGHT HERE..

3 Q. RIGHT IN THERE. OKAY. AND DID YOU STAY THERE UNTIL
4 THE POLICE GOT THERE?

5 A. YES.

6 Q. OKAY. AND LATER ON, SHONTE, DID YOU GIVE A
7 STATEMENT TO THE SHERIFF'S DEPARTMENT ABOUT WHAT YOU SAW?

8 A. YES.

9 Q. AND DID YOU -- SHORTLY AFTER THAT, DID YOU SEE THE
10 MAN AGAIN THAT YOU HAD SEEN FALLING? DID YOU GO BACK AND SEE
11 THE MAN THAT WAS LAYING THERE?

12 A. NO.

13 Q. DID NOT?

14 A. I DIDN'T GO BACK.

15 MR. LITTLEJOHN: OKAY. IF YOU WOULD GIVE ME JUST A
16 SECOND, YOUR HONOR.

17 THE COURT: YES, SIR.

18 MR. LITTLEJOHN: THAT'S ALL I HAVE. SHONTE, PLEASE
19 ANSWER ANY QUESTIONS MR. SORENSON MAY HAVE FOR YOU.

20 THE COURT: THANK YOU, SIR. MR. SORENSON?

21 MR. SORENSON: MAY IT PLEASE THE COURT, YOUR HONOR?

22 THE COURT: YES, SIR.

23 CROSS-EXAMINATION

24 BY MR. SORENSON:

25 Q. GOOD MORNING, MS. BOYD.

1 A. HELLO.

2 Q. I JUST HAVE A FEW QUESTIONS FOR YOU. THIS PARTY AT
3 CLUB VODOO'S BACK LAST DECEMBER WAS A COLLEGE FRATERNITY
4 SLASH SORORITY PARTY; IS THAT CORRECT?

5 A. YES, SIR.

6 Q. IT WAS FOR COLLEGE STUDENTS?

7 A. RIGHT.

8 Q. OKAY. OBVIOUSLY AS A COLLEGE PARTY, AT ANY PARTY,
9 THERE WEREN'T SUPPOSED TO BE ANY GUNS INSIDE THAT CLUB;
10 RIGHT?

11 A. RIGHT.

12 Q. AND I BELIEVE YOU SAID THAT YOU WERE THERE WHEN THE
13 PARTY FINISHED?

14 A. RIGHT.

15 Q. AND WHAT TIME WAS THAT? DO YOU KNOW?

16 A. I REALLY DON'T REMEMBER. IT WAS SOMETIME THE NEXT
17 MORNING. I DON'T KNOW: 1:00, 2:00, EVEN 3:00 IN THE
18 MORNING; IT WAS SOMETIME.

19 Q. YOU'RE NOT EXACTLY SURE WHAT TIME IT WAS?

20 A. NO, SIR.

21 Q. YOU HAD INDICATED WHEN YOU HEARD THE GUNSHOTS THOUGH
22 THAT MOST OF THE PEOPLE HAD ALREADY LEFT THE CLUB; IS THAT
23 CORRECT?

24 A. RIGHT.

25 Q. THE PARTY WAS OVER AT THAT POINT IN TIME.

1 A. RIGHT.

2 Q. THE LIGHTS HAD BEEN TURNED ON. THE MUSIC HAD
3 STOPPED. IN FACT, THE D.J. WAS ALREADY PACKING UP, GETTING
4 READY TO GO HOME; IS THAT CORRECT?

5 A. RIGHT.

6 Q. WAS THERE SUPPOSED TO BE ANYBODY INSIDE THE CLUB
7 STILL THAT WASN'T A MEMBER OF ALPHA KAPPA ALPHA OR ALPHA PHI
8 ALPHA?

9 A. NO. THERE WERE THE PEOPLE WHO I GUESS OWNED THE
10 CLUB; THEY WERE THERE. I MEAN, WE DIDN'T KNOW ALL OF THEM,
11 SO I MEAN, ONE OF THOSE KIDS COULD HAVE BEEN THERE AND WE
12 MIGHT NOT HAVE KNOWN EXACTLY WHO IT WAS.

13 Q. BUT AT THAT POINT IN TIME ONCE THE PARTY WAS OVER
14 AND THE LIGHTS CAME ON AND THE MUSIC STOPPED, NONE OF THE
15 PARTY-GOERS, SO TO SPEAK, SHOULD HAVE BEEN IN THERE; IS THAT
16 CORRECT?

17 A. RIGHT.

18 Q. I MEAN, BASICALLY IT WAS Y'ALL COUNTING MONEY, THE
19 D.J. PACKING UP AND, OF COURSE, THE OWNER OF THE CLUB OR
20 WHATEVER IN THERE DOING WHATEVER THEY HAVE TO DO TO CLOSE THE
21 BUSINESS DOWN. IS THAT CORRECT?

22 A. RIGHT.

23 Q. NOW, YOU SAID THAT YOU HEARD -- YOU HEARD FOUR
24 GUNSHOTS OR SO?

25 A. (WITNESS NODDED HEAD UP AND DOWN.)

1 Q. DO YOU REMEMBER IF THOSE GUNSHOTS WERE ALL ONE AFTER
2 ANOTHER OR IF THERE WERE ANY PAUSES IN BETWEEN ANY OF THOSE
3 GUNSHOTS?

4 A. THE WAY I REMEMBER IT, IT SEEMS LIKE THEY WERE
5 CONSECUTIVE LIKE ONE AFTER ANOTHER.

6 Q. AND YOU WERE -- AND I APOLOGIZE. I DIDN'T GET UP IN
7 TIME TO SEE EXACTLY WHERE YOU WERE POINTING, MS. BOYD. BUT
8 WHERE WERE -- IF YOU COULD JUST FOR ME POINT OUT WHERE WERE
9 YOU WHEN YOU HEARD THE GUNSHOTS.

10 A. AT THE---

11 Q. THAT'S KIND OF THE FRONT ENTRANCE DOOR THERE.
12 HERE'S THE EXIT DOOR. HERE'S KIND OF A HALLWAY AND, OF
13 COURSE, LEADING OUT INTO THE CLUB.

14 A. WE WERE I THINK STANDING AT THIS COUNTER OVER HERE
15 COUNTING THE MONEY. WE RAN THROUGH THIS DOORWAY AND I HID.
16 WE WERE HIDING RIGHT HERE UNTIL THE POLICE CAME.

17 Q. AND YOU RAN WHEN YOU HEARD THE GUNSHOTS?

18 A. RIGHT.

19 Q. RIGHT WHEN YOU FIRST HEARD THE GUNSHOTS?

20 A. UH-HUH.

21 Q. BUT I BELIEVE YOU TESTIFIED ON DIRECT THAT YOU
22 THOUGHT THE GUNSHOTS WERE OVER BY THE TIME YOU GOT OUT THE
23 DOOR HERE?

24 A. YEAH. TO ME, YEAH, I GUESS THEY WERE OVER.

25 Q. AND THAT NIGHT, MA'AM, IT WAS A PRETTY SCARY

1 EXPERIENCE, WASN'T IT?

2 A. YES.

3 Q. YOU TESTIFIED THAT WHEN YOU ROUNDED THE CORNER YOU
4 LOOKED OVER TO YOUR LEFT AND YOU SAW SOMEBODY FALLING?

5 A. RIGHT. YES.

6 Q. DID YOU SEE THEM FALL ALL THE WAY FROM A TOTALLY
7 STANDING-UP POSITION LIKE I AM ALL THE WAY TO THE -- ALL THE
8 WAY TO THE FLOOR?

9 A. NO.

10 Q. WHERE WERE THEY? HOW WERE THEY?

11 A. WHEN I TURNED THEY WERE -- THEY WEREN'T UPRIGHT.
12 THEY WERE IN THE PROCESS OF GOING DOWN, AND I TURNED BACK
13 AROUND AND THEY WERE STILL GOING DOWN. I DIDN'T SEE HIM
14 ACTUALLY HIT THE FLOOR.

15 Q. YOU HADN'T ACTUALLY SEEN THE SHOOTING; IS THAT
16 CORRECT---

17 A. RIGHT.

18 Q. ---MA'AM? SO YOU DON'T KNOW WHAT POSITION HE MAY
19 HAVE BEEN IN FIVE SECONDS BEFORE YOU CAME OUT OF THAT
20 DOORWAY, WHETHER HE WAS ON THE GROUND AT THAT TIME, DO YOU?

21 A. NO, I DON'T.

22 Q. NOW -- AND I BELIEVE YOU TESTIFIED ON DIRECT TO MR.
23 LITTLEJOHN THAT WHEN YOU -- WHEN YOU CAME AROUND THE CORNER
24 AND SAW HIM -- THAT MAN GOING TOWARDS THE GROUND, YOU DIDN'T
25 SEE ANYBODY ELSE IN THAT HALLWAY. THAT'S A PRETTY NARROW

1 HALLWAY, ISN'T IT, RIGHT THERE?

2 A. YES. THE WAY I REMEMBER IT, IT WAS SMALL THOUGH.
3 IT WASN'T A LARGE AREA.

4 Q. YOU DIDN'T SEE ANYBODY ELSE AT ALL IN THAT HALLWAY
5 AT THAT TIME.

6 A. NOT THAT I REMEMBER, NO.

7 MR. SORENSON: BEG THE COURT'S INDULGENCE.

8 THE COURT: YES, SIR.

9 MR. SORENSON: THANK YOU, MS. BOYD.

10 THE COURT: THANK YOU. MR. LITTLEJOHN, ANYTHING?

11 MR. LITTLEJOHN: NO FURTHER QUESTIONS, YOUR HONOR.

12 THE COURT: OKAY. MA'AM, YOU MAY STEP DOWN. THANK
13 YOU.

14 MR. LITTLEJOHN: WE'D ASK THAT MS. BOYD BE EXCUSED.

15 THE COURT: OKAY. NO REASON TO NOT EXCUSE HER.

16 MR. PASCOE: NO, SIR. THANK YOU.

17 THE COURT: THANK YOU, COUNSEL. MA'AM, YOU MAY COME
18 AND GO AS YOU PLEASE. THANK YOU. MR. LITTLEJOHN?

19 MR. LITTLEJOHN: MAY IT PLEASE THE COURT? WE CALL
20 DAVID COLLINS.

21 DAVID J. COLLINS, AFTER BEING DULY SWORN,
22 TESTIFIED AS FOLLOWS:

23 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE
24 YOUR FULL NAME FOR THE RECORD.

25 THE WITNESS: DAVID JEFFERY COLLINS.

DIRECT EXAMINATION

BY MR. LITTLEJOHN:

Q: GOOD MORNING, MR. COLLINS.

A. GOOD MORNING.

Q. I BELIEVE WE MET EARLIER THIS MORNING. WHAT'S YOUR
TITLE?

A. I'M A FIREARMS EXAMINER OR FORENSICS INVESTIGATOR
WITH RICHLAND COUNTY SHERIFF'S DEPARTMENT.

Q. AND PRIOR TO THAT WHO DID YOU WORK FOR?

A. PRIOR TO THAT, I WORKED FOR THE STATE LAW
ENFORCEMENT DIVISION COMMONLY KNOWN AS S.L.E.D. ALSO AS A
FIREARMS EXAMINER.

Q. CAN YOU TELL THE JURY WHAT YOUR BACKGROUND IN THE
AREA OF FIREARMS EXAMINATION IS?

A. AFTER BECOMING EMPLOYED AT S.L.E.D. IN 1990 AS A
FIREARMS EXAMINER, I ENTERED A TRAINING PROGRAM THAT THEY
OFFER IN THAT DISCIPLINE. THE ONLY WAY THAT YOU CAN RECEIVE
THAT TYPE OF TRAINING IS THROUGH THAT TYPE OF PROGRAM. IT'S
ESSENTIALLY AN ON-THE-JOB-TRAINING PROGRAM. THERE ARE NO
COLLEGE COURSES TO TEACH YOU HOW TO BE A FIREARMS EXAMINER.

AFTER COMPLETION OF THAT COURSE WHICH LASTS
APPROXIMATELY TWO YEARS, I WAS CERTIFIED BY S.L.E.D. AS A
FIREARMS EXAMINER. AT THAT POINT IN TIME I COULD BEGIN DOING
CASE WORK ON MY OWN, AND I ALSO JOINED OUR PROFESSIONAL
ASSOCIATION WHICH IS THE ASSOCIATION OF FIREARMS AND TOOL

1 MARKS EXAMINERS. THROUGH THAT ASSOCIATION I'VE RECEIVED
2 CONTINUING TRAINING AND EDUCATION IN MY FIELD. I'VE ALSO
3 ATTENDED AND COMPLETED FIREARMS PREPARED COURSES OFFERED BY
4 THE GLOCK, SIG, BERETTA, COLT, AND HIGHPOINT MANUFACTURERS.

5 Q. OKAY. AND HAVE YOU -- HOW MANY TIMES HAVE YOU RUN
6 FIREARMS EXAMINATIONS OR BALLISTIC COMPARISONS?

7 A. THOUSANDS OF TIMES.

8 Q. OKAY. AND HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S
9 DEPARTMENT?

10 A. I'VE BEEN WITH THE SHERIFF'S DEPARTMENT FOR JUST
11 OVER A YEAR.

12 Q. OKAY. AND HAVE YOU BEEN QUALIFIED IN COURT BEFORE
13 AS AN EXPERT IN THE FIELD OF FIREARMS EXAMINATION?

14 A. YES. I QUALIFIED AS AN EXPERT IN FIREARMS
15 EXAMINATION IN EXCESS OF 200 TIMES IN SOUTH CAROLINA.

16 MR. SORENSON: YOUR HONOR?

17 THE COURT: YES, SIR.

18 MR. SORENSON: THE STATE WILL STIPULATE TO HIS
19 QUALIFICATIONS IF IT WILL SAVE TIME.

20 MR. LITTLEJOHN: THAT WAS MY NEXT QUESTION.

21 THE COURT: OKAY. WE'LL QUALIFY YOU AS AN EXPERT,
22 SIR.

23 BY MR. LITTLEJOHN:

24 Q. MR. COLLINS, WERE YOU WORKING FOR THE RICHLAND
25 COUNTY SHERIFF'S DEPARTMENT BACK IN DECEMBER OF LAST YEAR?

1 A. YES, I WAS.

2 Q. OKAY. AND ARE YOU SOMEWHAT FAMILIAR WITH THE CASE
3 THAT AROSE ON DECEMBER 7TH AT THE VODOO LOUNGE?

4 A. YES, SIR.

5 Q. OKAY. WERE YOU ASKED TO MAKE CERTAIN OR EXAMINE
6 CERTAIN ITEMS THAT WERE COLLECTED AT THAT CRIME SCENE?

7 A. YES, I WAS.

8 Q. OKAY. WOULD YOU TELL THE JURY BASICALLY WHAT TYPE
9 ITEMS YOU WERE ASKED TO EXAMINE?

10 A. I RECEIVED AS PART OF MY INITIAL EXAMINATION ONE
11 FIRED BULLET CORE FRAGMENT; THAT'S A PIECE FROM THE INSIDE OF
12 A BULLET. ANOTHER CONTAINER THAT CONTAINED FOUR SMALL METAL
13 BULLET FRAGMENTS; A TOTAL OF FOUR FIRED 380 AUTO CALIBER
14 CARTRIDGE CASINGS; TWO FIRED 40 S&W CALIBER CARTRIDGE
15 CASINGS. THERE WERE -- THERE WAS A BULLET RECOVERED FROM THE
16 VICTIM AT AUTOPSY. THERE WAS A BULLET JACKET FRAGMENT THAT
17 WAS RECOVERED FROM THE SCENE. THAT'S A PORTION OF THE
18 OUTSIDE OF THE BULLET, AND A BULLET -- AND A TACKED
19 (PHONETIC) FIRED BULLET FROM THE SCENE. SLIGHTLY LATER I
20 ALSO RECEIVED ANOTHER FIRED 380 CALIBER CARTRIDGE CASE AND A
21 TOTAL OF 16 UNFIRED 380 AUTO CALIBER CARTRIDGES.

22 Q. NOW, MR. COLLINS, LET ME SHOW YOU WHAT'S BEEN MARKED
23 STATE'S EXHIBIT NUMBER 46, AND I BELIEVE THIS CORRESPONDS
24 WITH YOUR ITEM NUMBER 3. WOULD YOU TELL US WHAT THAT -- OR
25 IF YOU HAD OCCASION TO EXAMINE---

1 A. YES. THIS---

2 Q. ---THAT EXHIBIT?

3 A. THIS CONTAINER WOULD CONTAIN THE FIRED -- THE SMALL
4 METAL FRAGMENTS, THE BULLET FRAGMENTS THAT WERE RECOVERED
5 FROM THE SCENE. IT BEARS MARKINGS I PLACED ON IT IN THE
6 LABORATORY. AND THE FRAGMENTS WOULD BE HERE IN MY HAND IN
7 THIS VIAL AND ALSO THERE'S A SEPARATE FRAGMENT -- TWO
8 SEPARATE FRAGMENTS. I'M SORRY.

9 Q. NOW, DID YOU HAVE OCCASION TO EXAMINE THOSE
10 FRAGMENTS TO DETERMINE IF THEY HAD BEEN FIRED FROM ANY
11 PARTICULAR GUN?

12 A. I EXAMINED THEM. THE -- SOME OF THE FRAGMENTS ARE
13 BEING -- ARE CONSISTENT WITH BEING THE PORTIONS OF THE INSIDE
14 OF A BULLET OR THE CORE OF THE BULLET, AND THEY DID NOT COME
15 INTO CONTACT WITH ANY PORTION OF THE FIREARM THAT FIRED THEM.
16 IN ORDER TO IDENTIFY A PROJECTILE TO A PARTICULAR FIREARM,
17 THAT PROJECTILE HAS TO HAVE COME IN CONTACT WITH THE BARREL
18 OF THE FIREARM THAT FIRED IT.

19 WHEN A FIREARM IS MANUFACTURED, THERE ARE VARIOUS
20 MACHINE PROCESSES EMPLOYED THAT LEAVE MICROSCOPIC
21 IMPERFECTIONS ON SURFACES SUCH AS THE INSIDE OF THE FIREARM
22 OR THE BARREL. WHEN A BULLET PASSES THROUGH THAT BARREL,
23 THOSE IMPERFECTIONS SCRATCH THE SURFACE OF THAT BULLET IN A
24 WAY THAT'S UNIQUE TO THAT PARTICULAR FIREARM. NO TWO
25 FIREARMS WILL LEAVE THE SAME MARKS ON A BULLET.

1 WHAT I WAS ABLE TO DO WITH THESE PARTICULAR
2 FRAGMENTS WAS EXAMINE THEM TO DETERMINE THAT ALL BUT ONE OF
3 THEM WERE ABSOLUTELY UNSUITABLE FOR COMPARISON WITH A
4 PARTICULAR FIREARM BECAUSE THEY SIMPLY JUST DID NOT HAVE ANY
5 MARKINGS ON THEM, EITHER DUE TO DAMAGE OR DUE TO THE FACT
6 THAT THEY WERE JUST NOT FULLY COMING IN CONTACT WITH THE
7 BARREL.

8 IF I COULD REFER TO MY NOTES FOR A MOMENT, JUST LET
9 ME... THERE WAS A FOURTH FRAGMENT THERE THAT WAS CONSISTENT
10 WITH BEING A PIECE OF BULLET JACKET THAT DID HAVE SOME
11 MARKINGS LEFT ON IT BY THE BARREL THAT FIRED -- THAT FIRED
12 IT. HOWEVER, I WAS UNABLE TO DETERMINE WHAT TYPE OF FIREARM
13 COULD HAVE FIRED THAT DUE TO THE SMALL SIZE OF IT AND
14 INCOMPLETE INFORMATION THAT I HAD FROM THE...

15 Q. BUT WAS THERE ONE FRAGMENT THAT WAS SUITABLE FOR
16 COMPARISON?

17 A. IT COULD HAVE BEEN SUITABLE FOR COMPARISON WITH A
18 PARTICULAR FIREARM. YOU NEVER KNOW UNTIL YOU ACTUALLY HAVE
19 THE SUSPECT FIREARM AVAILABLE TO COMPARE IT TO.

20 Q. OKAY. WERE -- WERE YOU ABLE TO COMPARE THAT WITH
21 OTHER EVIDENCE YOU FOUND THAT WAS DISCOVERED AT THE SCENE?

22 A. YES. I WAS ABLE TO COMPARE IT WITH OTHER BULLET
23 FRAGMENTS OR BULLETS THAT WERE RECOVERED FROM THE SCENE.

24 Q. OKAY. LET'S GET TO THAT. MR. COLLINS, LET ME SHOW
25 YOU NOW WHAT'S BEEN MARKED STATE'S EXHIBIT NUMBER 45, AND I

1 BELIEVE THAT CORRESPONDS TO YOUR ITEM 8.

2 A. UH-HUH. YES. THIS IS THE INTACT BULLET THAT WAS
3 RECOVERED AT THE SCENE.

4 Q. OKAY. AND WAS THAT BULLET SUITABLE FOR COMPARISON
5 TO OTHER BULLETS?

6 A. YES, IT WAS.

7 Q. OKAY. NOW, LET ME SHOW YOU WHAT'S PREVIOUSLY BEEN
8 MARKED STATE'S EXHIBIT NUMBER 5 WHICH WAS IDENTIFIED AS THE
9 BULLET REMOVED FROM MR. SMALLS' BODY. DID YOU HAVE OCCASION
10 TO EXAMINE THAT ITEM?

11 A. YES. I HAVE EXAMINED THIS FIRED BULLET ALSO.

12 Q. OKAY. ALL RIGHT. NOW, WHAT WERE YOU ABLE TO
13 DETERMINE FROM EXAMINING THOSE THREE AND COMPARING THE THREE
14 OF THEM?

15 A. BASED ON CERTAIN FACTORS, SPECIFICALLY THE WIDTHS OF
16 THE RIFLING GROOVE IMPRESSIONS ON THE BULLETS, LET ME -- LET
17 ME EXPLAIN THAT FIRST. WHEN THEY MANUFACTURE A PISTOL BARREL
18 OR A RIFLE BARREL, THEY CREATE OR FORM SPIRALING GROOVES IN
19 THAT BARREL CALLED RIFLING. THE PURPOSE OF THAT RIFLING IN
20 THE BARREL IS TO CAUSE THE BULLET TO SPIN AS IT EXITS THE
21 BARREL AND THIS STABILIZES THE BULLET IN FLIGHT, CAUSES IT
22 JUST TO FLY STRAIGHTER AND MORE ACCURATELY.

23 WHAT YOU CAN DO IN THE LABORATORY WHEN YOU HAVE
24 BULLETS SUBMITTED AND YOU DON'T HAVE A SUSPECT FIREARM IS
25 THAT YOU CAN COUNT THE NUMBER OF RIFLING IMPRESSIONS THAT ARE

1 PRESENT ON THE BULLET TO DETERMINE HOW MANY RIFLING GROOVES
2 WERE IN THE BARREL OF THE GUN THAT FIRED IT. YOU CAN LOOK AT
3 THE DIRECTION THAT THEY TWIST. DO THEY TWIST TO THE RIGHT OR
4 TO THE LEFT? THEN YOU CAN LOOK AT THE ACTUAL DIMENSIONS OF
5 THOSE GROOVES TO GET AN IDEA AS TO WHAT THE DIMENSIONS OF THE
6 RIFLING GROOVES ARE IN THE BARREL OF THE FIREARM.

7 WITH THAT INFORMATION, YOU CAN OFTEN - EVEN IF YOU
8 DON'T HAVE A FIREARM SUBMITTED - EXCLUDE THE POSSIBILITY OF
9 CERTAIN BULLETS AS HAVING BEEN FIRED BY THE SAME GUN. IN
10 THIS PARTICULAR CASE ON STATE'S EXHIBIT 45, FOR INSTANCE, I
11 WAS ABLE TO EXAMINE THIS BULLET AND DETERMINE THAT IT WAS
12 CONSISTENT WITH BEING A -- FROM A 380 AUTO CALIBER CARTRIDGE
13 AND I WAS ABLE TO PROVIDE A LIST OF FIREARMS THAT COULD HAVE
14 FIRED THAT -- THIS PROJECTILE BY INPUTTING THAT DATA THAT I
15 MENTIONED BEFORE, THE NUMBER OF LANDS AND GROOVES, THE
16 DIMENSIONS AND DIRECTIONAL TWISTS INTO A DATABASE THAT GIVES
17 ME A LIST OF POSSIBLY MANUFACTURERS THAT COULD HAVE FIRED
18 THAT BULLET. THAT DATABASE IS PROVIDED TO US FROM -- BY THE
19 F.B.I.

20 I WAS ALSO ABLE TO DETERMINE THAT STATE'S EXHIBIT 5
21 WAS CONSISTENT WITH BEING A 40 SMITH AND WESSON CALIBER
22 BULLET. THAT ALONE IS ENOUGH TO SAY THAT STATE'S EXHIBIT 5
23 AND STATE'S EXHIBIT 45 WERE NOT FIRED BY THE SAME GUN.
24 THEY'RE DIFFERENT CALIBER FIREARMS. WHEN I COMPARED THESE
25 ITEMS WITH STATE'S EXHIBIT 46 OR WITH THE ONE FRAGMENT IN

1 STATE'S EXHIBIT 46 THAT WAS SUITABLE FOR EXAMINATION OR
2 SUITABLE FOR COMPARISON PURPOSES, I WAS ABLE TO DETERMINE
3 THAT THE DIMENSIONS OF THE RIFLING GROOVES WERE DIFFERENT ON
4 THAT FRAGMENT FROM STATE'S EXHIBIT 46 THAN THEY WERE ON
5 STATE'S EXHIBIT 45 AND STATE'S EXHIBIT 5. THEREFORE, AT
6 LEAST THAT ONE FRAGMENT WAS FIRED FROM A DIFFERENT FIREARM
7 THAN THAT WHICH FIRED STATE'S EXHIBIT 45 AND A DIFFERENT
8 FIREARM THAN FIRED STATE'S EXHIBIT 5.

9 Q. SO, IN OTHER WORDS, THERE WERE THREE DIFFERENT GUNS
10 THAT FIRED THOSE THREE DIFFERENT PROJECTILES.

11 A. YES, SIR. THAT IS CORRECT.

12 Q. NOW, MR. COLLINS, IN REGARD TO STATE'S EXHIBIT 46,
13 YOUR ITEM THREE---

14 A. THAT'S CORRECT.

15 Q. ---BULLET FRAGMENTS, DO YOU KNOW WHAT CAUSES THOSE
16 -- THAT PROJECTILE TO BECOME BULLET FRAGMENTS? DO YOU KNOW
17 WHAT IT HIT?

18 A. ONLY FROM MY DISCUSSIONS WITH CRIME SCENE PERSONNEL.
19 I DID NOT---

20 Q. IN YOUR EXAMINATION.

21 A. DURING MY -- FROM MY EXAMINATION I HAVE ABSOLUTELY
22 NO MEANS OF DETERMINING WHAT CAUSED THAT BULLET TO FRAGMENT.

23 Q. I DIDN'T MEAN TO CUT YOU OFF. YOU DIDN'T GO TO THE
24 SCENE AND DO ANY SORT OF EXAMINATION---

25 A. NO, SIR.

1 Q. ---OR COMPARISON EITHER.

2 A. NO, SIR, I DID NOT GO TO THE SCENE.

3 Q. OKAY. INsofar AS THAT -- THOSE BULLET FRAGMENTS,
4 DID YOU RUN ANY SORT OF TESTS TO DETERMINE IF THERE WAS ANY
5 BLOOD---

6 A. NO, I DID NOT.

7 Q. ---ON ANY OF THOSE PROJECTILES?

8 A. NO. I DO A VISUAL EXAMINATION OF THEM UNDER
9 MAGNIFICATION, LOOKING FOR TRACE EVIDENCE. I DIDN'T DETECT
10 ANY TRACE EVIDENCE DURING MY EXAMINATION UNDER MAGNIFICATION,
11 BUT I DID NOT SPECIFICALLY TEST THEM FOR THE PRESENCE OF
12 BLOOD.

13 Q. OR D.N.A.

14 A. NO, SIR.

15 Q. AND JUST A COUPLE OF FINAL THINGS. MR. COLLINS,
16 WERE YOU ALSO ASKED TO EXAMINE SOME SHELL CARTRIDGES?

17 A. I HAD---

18 Q. SOME EMPTY CARTRIDGES?

19 A. I HAD SOME FIRED CARTRIDGE CASES SUBMITTED AND SOME
20 UNFIRED CARTRIDGES SUBMITTED TO ME, YES.

21 Q. OKAY. OKAY. LET ME SHOW YOU WHAT'S BEEN MARKED
22 STATE'S EXHIBITS 42, 43, AND 44.

23 A. (THE WITNESS LOOKS AT THE ITEMS.) YES, I'VE
24 EXAMINED ALL THREE OF THESE FIRED CARTRIDGE CASINGS.

25 Q. ALL RIGHT. AND WERE YOU ABLE -- IN YOUR EXAMINATION

1 OR IN YOUR WORK IN THIS CASE, WERE YOU ABLE TO COMPARE THOSE
2 TO ANY PARTICULAR FIREARM?

3 A. WE DID NOT HAVE A FIREARM SUBMITTED FOR TESTING
4 PURPOSES TO COMPARE ANY OF THESE ITEMS TO.

5 Q. OKAY. I BELIEVE YOU DID COMPARE THE 380 AUTO
6 CALIBER CARTRIDGE CASE TO A KNOWN CARTRIDGE CASE. THAT WOULD
7 BE YOUR ITEM 17?

8 A. YES, I HAD A -- ITEM 17 WAS A 380 AUTO CALIBER
9 CARTRIDGE CASE THAT WAS SUBMITTED TO ME AND THEN PACKAGED
10 THAT INDICATED THAT IT WAS A TEST-FIRE FROM A PARTICULAR
11 FIREARM. WHAT IS OFTEN DONE IN SOME -- BY SOME MANUFACTURERS
12 IS THEY'LL TEST-FIRE A GUN IN THE FACTORY AND SUBMIT WITH
13 THAT GUN A PACKAGE WITH THAT GUN, A CARTRIDGE CASE, THAT
14 THEY'VE TEST-FIRED FROM IT. THAT IS SO THAT WHEN IT ARRIVES
15 IN THE UNITED STATES THERE ARE CERTAIN LOCATIONS THAT REQUIRE
16 THAT THOSE BE INPUT INTO A FORENSIC DATABASE AND THEY BE
17 IMAGED AND SCANNED INTO WHAT IS KNOWN AS THE I.B.I.S. OR
18 INTEGRATED BALLISTICS IDENTIFICATION SYSTEM.

19 SOUTH CAROLINA DOES NOT REQUIRE THAT. HOWEVER,
20 THERE ARE SOME STATES THAT DO. SO NOT KNOWING WHERE THAT GUN
21 IS GOING TO END UP BEING SOLD, THEY PACKAGE THAT WITH IT WHEN
22 IT'S SENT IN. I COMPARED THE 380 CARTRIDGE CASE WHICH WOULD
23 BE MY ITEM 4 OR STATE'S EXHIBIT 42. I COMPARED THAT
24 CARTRIDGE CASE WITH THE 380 CARTRIDGE CASE THAT WAS SENT IN
25 THAT FACTORY ENVELOPE, AND MY RESULTS WERE THAT THESE TWO

1 WERE NOT -- THEY WERE NOT FIRED BY THE SAME GUN.

2 MR. LITTLEJOHN: IF YOU WOULD GIVE ME JUST A MOMENT,
3 YOUR HONOR.

4 THE COURT: YES, SIR.

5 MR. LITTLEJOHN: THAT'S ALL I HAVE. PLEASE ANSWER
6 ANY QUESTIONS MR. SORENSON MAY HAVE.

7 THE COURT: THANK YOU, MR. LITTLEJOHN. MR.
8 SORENSON?

9 MR. SORENSON: MAY IT PLEASE THE COURT?

10 THE COURT: YES, SIR.

11 CROSS-EXAMINATION

12 BY MR. SORENSON:

13 Q. GOOD MORNING, AGENT COLLINS.

14 A. GOOD MORNING.

15 Q. YOU HAD INDICATED YOU HAD SEVERAL ITEMS SUBMITTED TO
16 YOU FOR YOUR ANALYSIS; IS THAT CORRECT, SIR?

17 A. THAT'S CORRECT.

18 Q. OKAY. I WANT TO KIND OF GO THROUGH ALL THOSE ITEMS,
19 SPECIFICALLY THE ONES THAT WERE RECOVERED OUT THERE AT THE
20 SCENE. I THINK SOME OF THEM ARE UP THERE. LET ME ASK YOU
21 FIRST OF ALL, SIR, IN YOUR LINE OF WORK, IN YOUR FIELD OF
22 WORK, ARE YOU ABLE TO TAKE SHELL CASINGS THAT ARE EITHER
23 DISCHARGED FROM A SEMIAUTOMATIC OR SHELL CASINGS THAT WERE
24 RECOVERED FROM A REVOLVER AND COMPARE THOSE SHELL CASINGS TO
25 EACH OTHER TO DETERMINE WHETHER THEY WERE FIRED BY THE SAME

1 WEAPON?

2 A. YES, WE ARE.

3 Q. ADDITIONALLY, ARE YOU ABLE TO TAKE PROJECTILES THAT
4 MAY BE RECOVERED EITHER AT A SCENE SUCH AS THIS CASE OR
5 FROM -- FROM THE VICTIM AT AUTOPSY OR IN THE HOSPITAL AND
6 COMPARE THOSE PROJECTILES TO EACH OTHER TO DETERMINE WHETHER
7 THEY WERE FIRED BY THE SAME WEAPON?

8 A. YES, WE CAN.

9 Q. ADDITIONALLY, IF YOU HAVE THE FIREARM, IF YOU
10 ACTUALLY HAVE THE FIREARM THAT'S SUBMITTED, ARE YOU ABLE TO
11 TEST-FIRE THAT FIREARM AND THEN COMPARE A SHELL CASING FROM
12 THAT TEST-FIRE TO A SHELL CASING RECOVERED AT THE SCENE TO
13 DETERMINE WHETHER THAT FIREARM DISCHARGED THAT PARTICULAR
14 SHELL CASING?

15 A. YES, WE CAN.

16 Q. ALONG THE SAME LINES, ARE YOU ABLE TO THEN TEST-FIRE
17 THAT FIREARM AND TAKE THAT BULLET AND COMPARE IT TO A BULLET
18 THAT MAY HAVE BEEN RECOVERED AT THE SCENE OR FROM THE VICTIM
19 TO DETERMINE WHETHER THAT PARTICULAR FIREARM FIRED THAT
20 BULLET?

21 A. YES, WE CAN. THOSE ARE OUR MOST COMMONLY REQUESTED
22 EXAMINATIONS.

23 Q. ONCE AGAIN, FOR THOSE LAST TWO THINGS YOU NEED A
24 FIREARM TO DO THAT. IS THAT CORRECT?

25 A. THAT IS CORRECT.

1 Q. IN THIS CASE NO FIREARMS WERE EVER SUBMITTED TO YOU
2 FOR COMPARISON TO ANY OF THE SHELL CASINGS OR PROJECTILES
3 THAT WERE RECOVERED, WERE THEY?

4 A. NO, I NEVER RECEIVED A FIREARM TO COMPARE IN THIS
5 CASE.

6 Q. I BELIEVE YOU TESTIFIED THAT THERE WERE THREE SHELL
7 CASINGS THAT WERE SUBMITTED FOR YOUR COMPARISON, FOR YOUR
8 ANALYSIS, THAT WERE RECOVERED ACTUALLY INSIDE THE CLUB?

9 A. THAT IS MY UNDERSTANDING IS THE LOCATION OF THE
10 RECOVERY, YES.

11 Q. AND THAT WOULD BE YOUR -- LET ME SEE -- I WANT TO
12 PUT SOME MARK TO SOME OF THESE UP ON THE BOARD UP THERE.
13 STATE'S EXHIBIT NUMBER 42, 43, AND 44. I BELIEVE YOU HAVE
14 THOSE THREE ITEMS UP THERE?

15 A. YES. YES, I DO, AND THAT IS THE CORRECT STATE'S
16 EXHIBIT NUMBERS.

17 Q. STATE'S EXHIBIT -- EXHIBIT NUMBER 42, 43, AND 44?
18 IS THAT WHAT I JUST SAID?

19 A. YES, SIR. THAT'S CORRECT.

20 Q. IS THAT CORRECT? OKAY. AND STATE'S EXHIBIT NUMBER
21 42 HAS A CORRESPONDING NUMBER THEN THAT YOU GAVE IT I GUESS.
22 IS THAT CORRECT?

23 A. THAT IS CORRECT. IT WOULD BE MY ITEM 4.

24 Q. YOUR ITEM 4? AND THAT THEN HAS A CORRESPONDING
25 MARKER NUMBER WHICH IS MARKER NUMBER 3. IS THAT CORRECT? I

1 BELIEVE THAT'S ACTUALLY LISTED ON THE -- I BELIEVE IT'S
2 LISTED ON THE EXHIBIT; IS THAT CORRECT?

3 A. YES. THAT'S CORRECT.

4 Q. MARKER NUMBER 3?

5 A. MARKER NUMBER 3, YES.

6 Q. 42 IS FROM MARKER 3? MARKER NUMBER 3. AND THE
7 RESULTS OF YOUR ANALYSIS OF STATE'S EXHIBIT NUMBER 42 IS
8 WHAT, SIR?

9 A. THAT WAS A 380 AUTO CALIBER CARTRIDGE CASE.

10 Q. A 380 AUTO CALIBER CARTRIDGE CASE?

11 A. THAT'S CORRECT.

12 Q. ALL RIGHT. AND OBVIOUSLY THAT MEANS THAT THAT SHELL
13 CASING WAS EJECTED FROM A 380 CALIBER HANDGUN?

14 A. THAT IS WHAT ONE WOULD ASSUME, YES.

15 Q. LET ME ASK YOU THIS. OBVIOUSLY YOU DON'T KNOW HOW
16 IT GOT THERE BUT A -- CAN A 380 CALIBER BULLET BE FIRED IN A
17 40 CALIBER PISTOL?

18 A. NO, NOT -- NOT WITHOUT A LOT OF WORK AND A LOT OF
19 MANIPULATION OF THAT PARTICULAR ITEM. NONE OF THESE SHOWED
20 THAT TYPE OF...

21 Q. TYPICALLY IF YOU HAD A 380 CALIBER FIRED CARTRIDGE
22 CASING, IT WOULD HAVE BEEN FIRED BY A 380 CALIBER HANDGUN.

23 A. THAT IS CORRECT. IT IS POSSIBLE TO FIRE A 380 AUTO
24 CALIBER CARTRIDGE CASING IN A 9 MILLIMETER CALIBER FIREARM.
25 HOWEVER, THE CARTRIDGE CASING WOULD SHOW SIGNS OF THAT, AND

1 IN THIS CASE THIS DOES NOT SHOW ANY SIGNS OF BEING FIRED IN
2 ANYTHING EXCEPT A 380 AUTO CALIBER FIREARM.

3 Q. SO YOU WOULD -- TO DO ANY COMPARISON WITH THAT
4 CALIBER, THAT CARTRIDGE CASE, YOU WOULD HAVE BEEN LOOKING FOR
5 A 380 PISTOL TO COMPARE IT TO ESSENTIALLY; IS THAT CORRECT?

6 A. THAT IS CORRECT.

7 Q. AND THEN STATE'S EXHIBIT NUMBER 43 AND---

8 A. THAT'S GOING TO BE MY ITEM NUMBER 5 AND SCENE MARKER
9 NUMBER 4.

10 Q. SO THAT'S THAT CARTRIDGE CASE FOUND RIGHT THERE AT
11 THE VIC -- BASICALLY AT THE VICTIM'S FOOT? IS THAT CORRECT?

12 A. IF THAT'S -- THAT'S WHAT I DEDUCED FROM THE
13 PACKAGING, YES, SIR. I DIDN'T PLACE THE SCENE MARKER---

14 Q. I UNDERSTAND, BUT THAT'S -- ALL THIS HAS BEEN
15 TESTIFIED ABOUT. I'M JUST TRYING TO KIND OF CORRELATE TO
16 WHAT THE ITEMS ARE WITH YOUR -- YOUR ANALYSIS. AND WHAT ARE
17 -- WHAT WERE THE RESULTS OF YOUR ANALYSIS ON STATE'S EXHIBIT
18 NUMBER 43, SIR?

19 A. STATE'S EXHIBIT 43 IS A 40 SMITH AND WESSON CALIBER
20 FIRED CARTRIDGE CASE, AND IT WAS COMPARED WITH STATE'S
21 EXHIBIT 44 WHICH IS ANOTHER 40 CALIBER CARTRIDGE CASE, AND MY
22 CONCLUSION WAS THEY WERE BOTH FIRED BY THE SAME GUN.

23 Q. AND STATE'S EXHIBIT NUMBER 44, THAT IS FROM SCENE
24 MARKER NUMBER 5? IS THAT CORRECT?

25 A. THAT IS CORRECT.

1 Q. AND ONCE AGAIN SHOWING STATE'S EXHIBIT NUMBER 17,
2 MARKERS 4 AND 5 APPEAR TO BE ALMOST RIGHT NEXT TO THE --
3 PRETTY MUCH IN FRONT OF EACH OTHER; IS THAT CORRECT?

4 A. YES, SIR. YES, SIR.

5 Q. AND THAT WAS ALSO THEN A 40 CALIBER SMITH AND WESSON
6 CARTRIDGE CASE?

7 A. YES, IT WAS.

8 Q. AND I BELIEVE YOU JUST TESTIFIED THAT YOU COMPARED
9 THOSE TWO TOGETHER WITH EACH OTHER?

10 A. YES. THOSE WERE -- BASED ON MARKINGS THAT ARE
11 PLACED ON THEM WHEN THEY'RE FIRED IN THE FIREARM, THE FIREARM
12 MARKED THEM IN A MANNER THAT I WAS ABLE TO DETERMINE THAT
13 THEY WERE BOTH FIRED BY THE SAME GUN.

14 Q. ALL RIGHT. ONCE AGAIN, YOU DID NOT HAVE ANY 40
15 CALIBER HANDGUNS SUBMITTED TO YOU TO DETERMINE WHETHER A
16 PARTICULAR 40 CALIBER GUN FIRED STATE'S EXHIBITS 43 AND 44.

17 A. NO, I DID NOT HAVE A 40 CALIBER -- I DID NOT HAVE
18 ANY FIREARMS SUBMITTED TO ME.

19 Q. NOW, I BELIEVE YOU ALSO TESTIFIED THAT YOU RECOVERED
20 OR HAD SUBMITTED TO YOU A COUPLE OF PROJECTILES? IS THAT
21 CORRECT?

22 A. THERE WERE TWO INTACT PROJECTILES RECOVERED AND
23 SUBMITTED TO ME; YES, SIR.

24 Q. AND SPECIFICALLY THE FIRST ONE IS STATE'S EXHIBIT
25 NUMBER 45? IS THAT CORRECT?

1 A. YES. THAT'S CORRECT, STATE'S EXHIBIT NUMBER 45.

2 Q. AND WHICH MARKER NUMBER DOES STATE'S EXHIBIT NUMBER
3 45 INDICATE ON THERE THAT WAS---

4 A. SCENE MARKER NUMBER 7.

5 Q. OKAY. SCENE MARKER NUMBER 7 IS GOING TO BE KIND OF
6 IN THE CORNER THERE AT THE EXIT SIGN IN THE PLASTIC CUPS?

7 A. YES, SIR. I SEE 7 MARKER THERE; YES, SIR.

8 Q. OKAY. ACTUALLY WHERE MY FINGER IS, DOES THAT APPEAR
9 TO BE THE PROJECTILE---

10 A. YES, SIR, IT DOES.

11 Q. ---RIGHT THERE AT MY FINGER? ALL RIGHT. AND WHAT
12 WERE THE RESULTS OF YOUR EXAMINATION ONCE AGAIN OF STATE'S
13 EXHIBIT NUMBER 45?

14 A. THAT WAS A 380 AUTO CALIBER FIRED BULLET OR IT'S A
15 BULLET CONSISTENT WITH HAVING BEEN FIRED FROM A 380 AUTO
16 CALIBER CARTRIDGE.

17 Q. NOW, LET ME ASK YOU: STATE'S EXHIBIT NUMBER 45,
18 COULD THAT HAVE COME FROM STATE'S EXHIBIT 42?

19 A. YES, IT COULD.

20 Q. SO THE SAME GUN COULD HAVE FIRED -- THAT FIRED THAT
21 BULLET COULD HAVE THEN DISCHARGED THAT SHELL CASING UPON
22 FIRING STATE'S EXHIBIT NUMBER 45?

23 A. YES, IT COULD.

24 Q. OKAY. AND THEN I BELIEVE THE OTHER PROJECTILE YOU
25 RECEIVED IS STATE'S EXHIBIT NUMBER 5? IS THAT CORRECT? AND

1 THAT'S ACTUALLY GOING TO BE FROM THE AUTOPSY. IS THAT
2 CORRECT?

3 A. THAT IS CORRECT.

4 Q. AND THE RESULTS OF YOUR ANALYSIS OF STATE'S EXHIBIT
5 NUMBER 5?

6 A. STATE'S EXHIBIT NUMBER 5 WAS EXAMINED AND FOUND TO
7 BE A 40 SMITH AND WESSON CALIBER OR CONSISTENT WITH BEING
8 FROM A 40 SMITH AND WESSON OR A 10 MILLIMETER AUTO CALIBER
9 FIREARM. A 40 SMITH AND WESSON CALIBER FIREARM IS MUCH MORE
10 COMMON THAN 10 MILLIMETER AUTO CALIBER FIREARMS.

11 Q. SO THAT'S ALSO A FIRED BULLET?

12 A. THAT IS CORRECT.

13 Q. ONCE AGAIN THEN THAT BULLET THAT WAS RECOVERED,
14 THAT'S A BIGGER -- A LARGER BULLET THAN STATE'S EXHIBIT
15 NUMBER 45. IS THAT CORRECT?

16 A. THAT IS CORRECT. IT IS A LARGER DIAMETER BULLET.
17 IT'S -- WHEN YOU LOOK AT 40, THAT IS -- 40 REFERS TO ACTUALLY
18 THE DIAMETER OF THE BARREL OF THE FIREARM, THE BULLET BEING
19 FOUR-TENTHS OR 40 ONE-HUNDREDTHS OF AN INCH IN DIAMETER,
20 WHEREAS A 380 IS .38 OR 38 ONE-HUNDREDTHS OF AN INCH IN
21 DIAMETER. SO THERE IS THOSE TWO DIFFERENCES.

22 Q. OKAY. AND ONCE AGAIN, STATE'S EXHIBIT NUMBER 5,
23 THAT 40 SMITH AND WESSON CALIBER FIRED BULLET, COULD IT HAVE
24 COME FROM EITHER STATE'S EXHIBITS 43 OR 44, THOSE SPENT
25 CARTRIDGE CASINGS?

1 A. IT COULD HAVE ORIGINATED FROM EITHER ONE OF THOSE
2 CARTRIDGE CASINGS.

3 Q. ONCE AGAIN, THESE BULLETS WERE BOTH SUITABLE FOR
4 COMPARISON IF YOU HAD A -- HAD A FIREARM TO COMPARE THEM TO;
5 IS THAT CORRECT?

6 A. THEY MAY HAVE BEEN SUITABLE FOR IDENTIFICATION WITH
7 A SUSPECT FIREARM, SHOULD -- IF ONE HAD BEEN RECOVERED AND
8 SUBMITTED TO ME.

9 Q. AND ADDITIONALLY TO THOSE -- THOSE INTACT BULLETS,
10 YOU ALSO RECEIVED SEVERAL -- SEVERAL BULLET FRAGMENTS. IS
11 THAT CORRECT?

12 A. THAT IS CORRECT.

13 Q. ALL RIGHT. AND IF YOU COULD KIND OF PULL THEM OUT
14 IF YOU WOULD, SIR. I BELIEVE THAT'S GOING TO BE STATE'S
15 EXHIBITS 46, 47, AND 48. IS THAT CORRECT?

16 A. YES, SIR. THAT'S STATE'S EXHIBITS 46, 47, AND 48.

17 Q. ALL RIGHT. AND STARTING WITH STATE'S EXHIBIT NUMBER
18 46, WHAT -- IS THERE A CORRESPONDING MARKER?

19 A. YES, IT'S MARKER NUMBER 8.

20 Q. ALL RIGHT. AND MARKER NUMBER 8 IS GOING TO BE
21 BASICALLY RIGHT AT THAT HOLE IN THE FLOOR? IS THAT CORRECT?
22 IN THE CARPET?

23 A. THAT'S CORRECT.

24 Q. OKAY.

25 MR. LITTLEJOHN: WHAT IS THE ITEM NUMBER, PLEASE?

1 MR. SORENSON: IT'S 46, I BELIEVE. IS THAT CORRECT?

2 MR. LITTLEJOHN: NO. MR. COLLINS---

3 THE WITNESS: THAT WOULD BE -- THAT WOULD BE
4 CORRESPONDING WITH MY ITEM NUMBER 3.

5 MR. LITTLEJOHN: THANK YOU.

6 BY MR. SORENSON:

7 Q. AND THOSE ARE THE FRAGMENTS THAT YOU TESTIFIED ABOUT
8 ON DIRECT. I BELIEVE YOU INDICATED THERE WERE FOUR FRAGMENTS
9 IN THERE?

10 A. THAT IS CORRECT.

11 Q. IS THAT CORRECT? AND OUT OF THOSE FOUR BULLET
12 FRAGMENTS, WHAT WOULD CAUSE A BULLET TO FRAGMENT?

13 A. A BULLET BEING MADE OF LEAD AND SOMEWHAT SOFT METAL
14 MATERIAL IS GOING TO TEND TO WANT TO FRAGMENT ON STRIKING ANY
15 TYPE OF HARD OBJECT, ANYTHING THAT WOULD -- IT'S MOVING AT A
16 FAIRLY HIGH VELOCITY, AND IF IT STILL RETAINS THAT VELOCITY
17 AT IMPACT IT'S GOING TO -- IT CAN COME APART.

18 Q. LET ME ASK YOU THIS: WOULD A CONCRETE FLOOR BE
19 CONSIDERED A HARD OBJECT?

20 A. OH, YES.

21 Q. WOULD YOU EXPECT A BULLET THAT STRUCK A CONCRETE
22 FLOOR TO FRAGMENT?

23 A. IT COULD FRAGMENT OR BE OTHERWISE BADLY DAMAGED,
24 YES.

25 Q. ALL RIGHT. AND I BELIEVE YOU INDICATED THAT UPON

1 LOOKING AT STATE'S EXHIBIT NUMBER 46, THOSE FOUR FRAGMENTS,
2 ONE OF THEM WAS SUITABLE FOR -- FOR SOME SORT OF
3 IDENTIFICATION POSSIBLY?

4 A. IT MAY HAVE BEEN SUITABLE, YES.

5 Q. WHAT YOU WERE ABLE TO DETERMINE, HOWEVER, WAS THAT
6 IT WAS NOT FIRED BY THE SAME GUN THAT FIRED STATE'S EXHIBIT
7 NUMBER 45 OR STATE'S EXHIBIT NUMBER 5; IS THAT CORRECT?

8 A. THAT IS CORRECT.

9 Q. AND, THEREFORE, SUGGESTING THAT ASSUMING ALL THIS
10 STUFF WAS ACTUALLY RELATED TO OUR HOMICIDE THAT THERE WERE
11 THREE WEAPONS FIRED?

12 A. THAT WOULD BE -- THAT WOULD INDICATE TO ME THAT AT
13 SOME POINT IN TIME THREE FIREARMS HAD BEEN DISCHARGED IN THAT
14 HALLWAY.

15 Q. ONCE AGAIN, YOU DON'T KNOW EXACTLY WHEN THEY WERE.

16 A. NO, SIR, I DO NOT.

17 Q. ALL RIGHT. NOW, HOWEVER, THAT ONE FRAGMENT THAT CAN
18 BE IDENTIFIED, ARE YOU ABLE TO DETERMINE ANYTHING AS FAR AS
19 WHAT CALIBER WEAPON COULD HAVE FIRED THAT ONE FRAGMENT?

20 A. I DID NOT HAVE ENOUGH INFORMATION THERE ON THAT ONE
21 FRAGMENT TO BE ABLE TO DETERMINE WHAT TYPE OF FIREARM COULD
22 HAVE FIRED IT.

23 Q. ALL RIGHT. ALL RIGHT. NOW, STATE'S EXHIBIT NUMBER
24 47?

25 A. YES.

1 Q. WHAT CORRESPONDING MARKER IS 47?

2 A. THAT WOULD BE MARKER NUMBER 6.

3 Q. MARKER NUMBER 6 WAS FOUND BASICALLY BACK UP THE
4 HALLWAY A LITTLE WAYS; IS THAT CORRECT? AT LEAST ACCORDING
5 TO THE PHOTOGRAPHS?

6 A. YES. THAT'S CORRECT.

7 Q. OKAY. AND WHAT WAS THE RESULTS OF YOUR ANALYSIS OF
8 STATE'S EXHIBIT NUMBER 47, MARKER NUMBER 6?

9 A. IF I COULD REFER TO MY NOTES, PLEASE, SIR?

10 Q. YES, SIR.

11 A. FIRST OFF, YEAH, I COMPARED -- I COMPARED STATE'S
12 EXHIBIT 47 TO THE OTHER FIRED BULLETS, THE ONE -- THE 380
13 BULLET FROM THE CORNER AND THE 40 CALIBER BULLET FROM THE
14 AUTOPSY AND WAS ABLE TO DETERMINE THAT STATE'S EXHIBIT 47 WAS
15 NOT FIRED BY THE SAME GUN THAT FIRED THOSE TWO BULLETS. I
16 COMPARED IT WITH THE ITEM THREE FRAGMENTS -- OR EXCUSE ME.
17 THAT WOULD BE STATE'S EXHIBIT 46, THE ONE FRAGMENT THAT WAS
18 SUITABLE FOR COMPARISON, AND IT COULD HAVE BEEN FIRED BY THE
19 SAME FIREARM THAT FIRED THAT FRAGMENT. HOWEVER, AGAIN I DID
20 NOT HAVE ENOUGH INFORMATION TO BE ABLE TO POSITIVELY CONCLUDE
21 THAT IT HAD BEEN FIRED BY THE SAME GUN, BUT IT WAS POSSIBLE.

22 Q. SO IT'S POSSIBLE THEN THAT THESE FRAGMENTS FROM
23 STATE'S 46 AND THIS FRAGMENT FROM STATE'S 47 WERE ONCE ONE
24 BULLET?

25 A. IT'S POSSIBLE, YES.

1 Q. COULD HAVE BEEN MULTIPLE BULLETS ALSO; IS THAT
2 POSSIBLE ALSO?

3 A. IT'S POSSIBLE, YES. I HAD NO -- I HAD NO SCIENTIFIC
4 MEANS OF LINKING THEM TOGETHER TO DETERMINE IF THEY WERE
5 FIRED BY -- FROM ONE BULLET.

6 Q. NOW, AS FAR AS STATE'S EXHIBIT NUMBER 47, WERE YOU
7 ABLE TO DETERMINE ANYTHING ON AT LEAST THE POSSIBLE LIST OF
8 CALIBER BULLETS THAT THAT FRAGMENT COULD BE?

9 A. AT THE TIME THAT I ISSUED MY INITIAL REPORT I DID
10 NOT HAVE -- I DID NOT ISSUE A LIST OF POSSIBLE BRANDS OR
11 CALIBERS OF FIREARMS THAT COULD HAVE FIRED THAT BULLET.
12 SIMPLY, I COULDN'T DETERMINE WHAT THE ORIGINAL CALIBER OF THE
13 BULLET WAS BASED ON SIMPLY AN EXAMINATION OF THAT ITEM BY
14 ITSELF. UNDER CIRCUMSTANCES SUCH AS THAT, I DON'T ISSUE A
15 LIST OF POSSIBLE CALIBERS AND BRANDS OR MAKES OF FIREARMS AS
16 IT WOULD BE REALLY TOO BROAD TO BE OF MUCH INVESTIGATIVE
17 VALUE. AT A LATER TIME I JUST -- JUST USING THE INFORMATION
18 BASED ON THE WIDTHS OF THOSE RIFLING GROOVES THAT I MENTIONED
19 BEFORE, I DID GENERATE A LIST FOR MY NOTES, BUT I DID NOT
20 ISSUE THAT AS A REPORT.

21 Q. AND I'M GOING TO GET BACK TO THAT IN A SECOND. LET
22 ME GET TO STATE'S EXHIBIT NUMBER 48 HERE. WHAT MARKER NUMBER
23 IS THAT?

24 A. STATE'S EXHIBIT 48 WOULD BE FROM SCENE MARKER NUMBER
25 1.

1 Q. AND SCENE MARKER NUMBER 1 IS GOING TO BE FOUND
2 BASICALLY RIGHT AT THAT HOLE IN THE FLOOR THAT WAS MARKED AS
3 STATE'S EXHIBIT NUMBER -- MARKER NUMBER 8?

4 A. THAT IS CORRECT.

5 Q. THAT'S BASICALLY WHAT -- THAT'S THE CORRESPONDING
6 HOLE IN THE CARPET; IS THAT CORRECT?

7 A. THAT'S CORRECT.

8 Q. AND WHAT -- WHAT WERE THE RESULTS OF YOUR
9 EXAMINATION OF STATE'S EXHIBIT NUMBER 48?

10 A. STATE'S---

11 MR. LITTLEJOHN: I'M SORRY. WHAT IS THE ITEM NUMBER
12 THERE?

13 THE WITNESS: THIS WOULD BE MY ITEM NUMBER 2.

14 MR. LITTLEJOHN: OKAY.

15 THE WITNESS: THAT -- MY EXAMINATION OF THAT ITEM
16 REVEALED IT TO BE A FIRED LEAD BULLET CORE. IT'S FROM THE
17 INSIDE OF A BULLET. IT'S FLATTENED OUT AND THERE WAS NO --
18 THERE WERE NO WHAT WE CALL INDIVIDUAL CHARACTERISTICS THAT I
19 COULD USE TO COMPARE WITH A SUSPECT FIREARM OR WITH OTHER
20 BULLETS. THERE WAS NOTHING THERE THAT I COULD USE TO
21 DETERMINE IF IT HAD BEEN FIRED BY THE SAME FIREARM THAT FIRED
22 ANY OF THE OTHER ITEMS. I WAS ABLE TO DETERMINE THAT IT WAS
23 CONSISTENT WITH HAVING COME FROM A 40 OR LARGER CALIBER
24 PROJECTILE.

25

1 BY MR. SORENSON:

2 Q. OKAY. SO IT COULD HAVE BEEN FIRED -- COME FROM A 40
3 CALIBER?

4 A. OR LARGER.

5 Q. OKAY. AND WHAT -- IS A 357 LARGER THAN A 40,
6 SMALLER THAN A 40 OR THE SAME SIZE AS A 40?

7 A. A 357 WOULD BE A SMALLER DIAMETER BULLET THAN A 40.

8 Q. NOW, LOOKING BACK, SIR, AT THE FRAGMENTS THAT YOU
9 FOUND, WERE YOU ABLE TO GENERATE ULTIMATELY THEN A LIST OF
10 GUNS OR CALIBER WEAPONS THAT COULD HAVE FIRED -- PRODUCED
11 STATE'S EXHIBITS 46, 47, OR 48?

12 A. THERE WAS NOT ENOUGH INFORMATION ON STATE'S EXHIBIT
13 48 TO GENERATE ANY TYPE OF A LIST OF THAT NATURE. STATE'S
14 EXHIBIT 47, AS I STATED BEFORE, JUST FROM MY NOTES I
15 GENERATED A LIST JUST TO SEE WHAT POSSIBLE CALIBER RANGE
16 COULD HAVE FIRED THAT PARTICULAR FRAGMENT AND THERE WAS A
17 VERY -- A FAIRLY WIDE CALIBER RANGE THAT COULD HAVE BEEN
18 RESPONSIBLE FOR THAT FRAGMENT.

19 Q. COULD IT HAVE BEEN A 32 CALIBER?

20 A. IF I COULD AGAIN REFER TO MY NOTES?

21 Q. YES, SIR.

22 A. YES, 32 AUTO AND 32 SMITH AND WESSON, 32 SMITH AND
23 WESSON LONG, 32-20 WINCHESTER ARE ALL BRANDS -- ARE ALL
24 CALIBERS THAT THE DATABASE INDICATED WERE POSSIBLE SOURCES
25 FOR THAT FRAGMENT.

1 Q. HOW ABOUT A 357? COULD IT HAVE BEEN A 357?

2 A. YES, 357 MAGNUM WAS ALSO ON THE LIST.

3 Q. COULD IT HAVE BEEN A 380?

4 A. ACTUALLY A 380 DOES NOT APPEAR ON MY LIST.

5 Q. WHAT ABOUT 40 CALIBER?

6 A. YES, 40 CALIBER IS ON THE LIST.

7 Q. LET ME ASK YOU THIS: COULD THIS LEAD BULLET CORE
8 HERE THAT YOU INDICATED WAS A 40 CALIBER OR LARGER, COULD
9 THAT LEAD BULLET CORE HAVE COME FROM EITHER ONE OF THESE
10 CARTRIDGE CASINGS?

11 A. IT COULD HAVE COME FROM EITHER ONE, BUT I HAVE NO
12 MEANS OF DETERMINING THAT BASED ON JUST THAT ITEM OF
13 EVIDENCE, IT BEING JUST ESSENTIALLY A CHUNK OF LEAD AND I WAS
14 -- BUT THE WAY I DETERMINED IT WAS CONSISTENT WITH BEING A 40
15 CALIBER OR LARGER IS THERE'S A -- AN IMPRESSION FROM THE BASE
16 OF THE BULLET REMAINING ON THE INSIDE ON THE -- WHAT WOULD BE
17 THE INSIDE OF THE CORE, AND BASED ON MEASUREMENTS OF THAT I
18 WAS ABLE TO DETERMINE IT WAS CONSISTENT WITH 40 OR LARGER.

19 Q. LET ME ASK YOU: AS FAR AS THE FRAGMENTS, A COUPLE
20 OTHER -- A COUPLE OTHER QUESTIONS ABOUT THEM, STATE'S
21 EXHIBITS NUMBER 46 AND 47. COULD THOSE FRAGMENTS HAVE BEEN
22 -- COME FROM A NINE MILLIMETER BULLET?

23 A. YES, THEY COULD HAVE. NINE MILLIMETER IS ON MY
24 LIST.

25 MR. SORENSON: YOUR HONOR, AT THIS TIME I BELIEVE

1 THIS WAS OFFERED EARLIER AND IT WAS DENIED. WE'D NOW RE-
2 OFFER STATE'S EXHIBIT NUMBER 75 WHICH IS THE NINE MILLIMETER
3 CASINGS THAT---

4 THE COURT: IT'S THE NINE MILLIMETERS. MR.
5 LITTLEJOHN?

6 MR. LITTLEJOHN: YOUR HONOR, SAME OBJECTION AS
7 BEFORE.

8 THE COURT: OKAY.

9 MR. LITTLEJOHN: I DON'T THINK THERE'S BEEN ANY...

10 THE COURT: I NOTE YOUR EXCEPTION.

11 MR. LITTLEJOHN: IT'S KIND OF SPECULATIVE AT THIS
12 TIME.

13 THE COURT: I NOTE YOUR EXCEPTION. I'LL MARK THEM
14 AND ADMIT THEM.

15 (STATE'S EXHIBIT 75 WAS RECEIVED IN EVIDENCE.)

16 MR. SORENSON: THANK YOU.

17 BY MR. SORENSON:

18 Q. THAT'S STATE'S EXHIBIT NUMBER 75. LET ME ASK YOU
19 ONE OTHER -- ONE OTHER TYPE OF CALIBER GUN THAT COULD HAVE
20 PRODUCED THOSE... HOW ABOUT A 38 SPECIAL?

21 A. YES, 38 SPECIAL IS ALSO ON MY LIST.

22 MR. SORENSON: YOUR HONOR, AT THIS TIME WE'D OFFER
23 THIS ONCE AGAIN AS ONE OF THEM THAT WAS OFFERED EARLIER. IT
24 NEEDS ANOTHER EVIDENCE NUMBER ON IT, BUT WE'D OFFER THIS BOX
25 OF 38 SPECIAL AMMO.

1 THE COURT: SAME OBJECTION.

2 MR. LITTLEJOHN: YOUR HONOR, SAME OBJECTION. NO
3 CONNECTION.

4 THE COURT: I NOTE YOUR SAME OBJECTION TO THE
5 EVIDENCE. I'LL ADMIT IT OVER THE OBJECTION.

6 MR. SORENSON: IT'S GOING TO BE STATE'S EXHIBIT 92,
7 YOUR HONOR.

8 (STATE'S EXHIBIT 92 WAS RECEIVED IN EVIDENCE.)

9 MR. SORENSON: BEG THE COURT'S INDULGENCE.

10 THE COURT: YES, SIR.

11 MR. SORENSON: ADDITIONALLY, YOUR HONOR, WE'D OFFER
12 STATE'S EXHIBIT NUMBER 73 WHICH WAS THE NINE MILLIMETER GUN
13 BOX THAT WAS OFFERED EARLIER.

14 THE COURT: SUBJECT TO THE SAME OBJECTION.

15 MR. LITTLEJOHN: SAME OBJECTION.

16 THE COURT: IT'S ADMITTED.

17 MR. SORENSON: THANK YOU, YOUR HONOR.

18 (STATE'S EXHIBIT 73 WAS RECEIVED IN EVIDENCE.)

19 BY MR. SORENSON:

20 Q. LET ME ASK YOU -- LET ME SHOW YOU STATE'S EXHIBIT
21 NUMBER 79 AND ASK YOU TO TAKE A LOOK AT THAT ITEM AND IF YOU
22 CAN TELL WHAT THAT ITEM IS.

23 A. THIS IS A PISTOL MAGAZINE ASSEMBLY IS ALL I CAN
24 STATE IN THE EXAMINATION. I'VE NEVER ACTUALLY EXAMINED THIS
25 IN THE LABORATORY, SO I CAN'T TELL YOU WHAT CALIBER IT IS. I

1 CAN'T TELL YOU WHAT TYPE OF GUN IT'S MANUFACTURED TO PUT INTO
2 WITHOUT ACTUALLY DOING SOME TESTING ON IT, BUT THIS IS A --
3 WHAT WE WOULD CONSIDER TO BE A HIGH CAPACITY---

4 MR. LITTLEJOHN: YOUR HONOR, I WOULD OBJECT TO ANY
5 FURTHER TESTIMONY AS FAR AS THIS IS CONCERNED.

6 THE COURT: YES, SIR.

7 MR. SORENSON: WE'LL WITHDRAW THAT---

8 THE COURT: OKAY.

9 MR. SORENSON: ---SINCE HE DOESN'T KNOW WHAT CALIBER
10 IT IS. THANK YOU, AGENT COLLINS.

11 REDIRECT EXAMINATION

12 BY MR. LITTLEJOHN:

13 Q. MR. COLLINS, JUST ONE FINAL THING. THE ITEMS THAT
14 WE'VE BEEN TALKING ABOUT THIS MORNING APPARENTLY COLLECTED ON
15 DECEMBER 7TH OF LAST YEAR...

16 A. THAT IS CORRECT. YES.

17 Q. OKAY. YOU DON'T KNOW WHAT THE CONNECTION IS WITH
18 ANY EVENTS ON DECEMBER 7TH OR ANY EVENT PRIOR TO THAT, DO
19 YOU?

20 A. NO, SIR, I DO NOT.

21 Q. DID YOU DO ANY RESEARCH TO SEE IF THERE WERE ANY
22 OTHER SHOOTINGS OR ANYTHING LIKE THAT AT THIS PLACE?

23 A. NO, SIR, I DIDN'T DO ANY RESEARCH ON THE MATTER.

24 MR. LITTLEJOHN: OKAY. THAT'S ALL I HAVE.

25 THE COURT: THANK YOU, SIR. MR. SORENSON, ANYTHING

1 FURTHER?

2 MR. SORENSON: NO, SIR.

3 THE COURT: SIR, YOU MAY STEP DOWN. THANK YOU, SIR.

4 MR. LITTLEJOHN?

5 MR. LITTLEJOHN: YOUR HONOR, COULD WE -- COULD I ASK
6 THE COURT IF WE COULD TAKE OUR RECESS THIS MORNING?

7 THE COURT: YES, SIR.

8 MR. LITTLEJOHN: I HAVE A WITNESS THAT WAS RUNNING
9 LATE.

10 THE COURT: YES, SIR, WE CAN DO THAT. LADIES AND
11 GENTLEMEN, WE'RE GOING TO TAKE A SHORT BREAK. IF YOU'LL GO
12 TO THE JURY ROOM. DO NOT DISCUSS THE EVIDENCE OR TESTIMONY
13 YOU'VE SEEN OR HEARD THUS FAR, AND WE'LL BRING YOU BACK OUT
14 SHORTLY.

15 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT
16 10:54 A.M.)

17 THE COURT: OKAY. THANK YOU, SIR. WE'LL BE IN
18 RECESS ABOUT 10 OR 15 MINUTES. MR. LITTLEJOHN, IF Y'ALL JUST
19 WANT TO LET ME KNOW WHEN YOUR WITNESS GETS HERE AND WE'LL BE
20 READY TO GO.

21 MR. LITTLEJOHN: THANK YOU.

22 THE COURT: THANK YOU, COUNSEL.

23 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

24 THE COURT: THANK YOU. YOU CAN BE SEATED. MR.
25 LITTLEJOHN?

1 MR. LITTLEJOHN: YES, YOUR HONOR.

2 THE COURT: WE'RE READY FOR THE JURY.

3 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT
4 11:31 A.M.)

5 MR. LITTLEJOHN: YOUR HONOR, MAY WE APPROACH?

6 THE COURT: YES, SIR.

7 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

8 THE COURT: THANK YOU, LADIES AND GENTLEMEN. WE'LL
9 BE WITH YOU IN A MOMENT.

10 (THE BENCH CONFERENCE CONTINUED.)

11 THE COURT: MR. LITTLEJOHN?

12 MR. LITTLEJOHN: THANK YOU, YOUR HONOR. WE CALL
13 JEFF HOLLIFIELD.

14 JEFFREY M. HOLLIFIELD, AFTER BEING DULY SWORN,
15 TESTIFIED AS FOLLOWS:

16 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE
17 YOUR FULL NAME FOR THE RECORD. WOULD YOU PLEASE SPELL YOUR
18 LAST NAME?

19 THE WITNESS: MY NAME IS JEFFREY MORRIS HOLLIFIELD.
20 H-O-L-L-I-F-I-E-L-D.

21 DIRECT EXAMINATION

22 BY MR. LITTLEJOHN:

23 Q. MR. HOLLIFIELD, WHERE ARE YOU FROM, PLEASE, SIR?

24 A. GREENVILLE.

25 Q. AND WHAT IS YOUR EMPLOYMENT?

1 A. I OWN AND OPERATE MICROANALYTICAL WHICH IS A PRIVATE
2 FORENSICS LAB IN GREENVILLE, AND I ALSO TEACH CHEMISTRY AND
3 FORENSIC SCIENCE AT GREENVILLE TECHNICAL COLLEGE AS AN
4 ADJUNCT INSTRUCTOR.

5 Q. HOW LONG HAVE YOU BEEN SO EMPLOYED?

6 A. MICROANALYTICAL IS SIX AND A HALF YEARS OLD, AND I
7 TAUGHT AT TECH FOR FIVE AND A HALF YEARS.

8 Q. PRIOR TO THAT, BY WHOM WERE YOU EMPLOYED?

9 A. BEFORE THAT I WAS -- FOR ONE YEAR I WAS A FULL-TIME
10 STUDENT AT MCCRONE RESEARCH INSTITUTE IN CHICAGO STUDYING
11 FORENSIC MICROSCOPY, AND THEN BEFORE THAT I WORKED FOR TEN
12 YEARS WITH THE STATE LAW ENFORCEMENT DIVISION AS AN ANALYST
13 AT THE CRIME LAB HERE IN COLUMBIA.

14 Q. ALL RIGHT. AND I BELIEVE YOUR PARTICULAR FIELD OF
15 EXPERTISE IS TRACE EVIDENCE EXAMINATION?

16 A. THAT'S CORRECT.

17 Q. WOULD YOU EXPLAIN TO THE JURY WHAT THAT FIELD OF --
18 FIELD OF STUDY IS?

19 A. TRACE EVIDENCE IS THE AREA OF FORENSICS THAT
20 INVOLVES TRACE OR VERY SMALL PIECES OF EVIDENCE INCLUDING
21 ITEMS SUCH AS HAIR, ANIMAL HAIRS, HUMAN HAIRS, TEXTILE
22 FIBERS, EXPLOSIVE RESIDUES, INSULATION, SOIL SAMPLES, AND IT
23 ALSO INCLUDES GUNSHOT RESIDUE ANALYSIS TO DETERMINE WHETHER
24 OR NOT SOMEONE MAY HAVE FIRED A WEAPON OR TO DETERMINE THE
25 DISTANCE FROM A WEAPON AN INDIVIDUAL WAS WHEN THEY WERE --

1 WHEN THEY WERE SHOT.

2 Q. OKAY. WOULD YOU EXPLAIN TO THE JURY WHAT TRAINING
3 OR EXPERIENCE YOU HAVE HAD IN THIS FIELD AND IN PARTICULAR
4 WITH GUNSHOT -- GUNSHOT RESIDUE EXAMINATIONS?

5 A. OKAY. I RECEIVED A BACHELOR'S DEGREE IN CHEMISTRY
6 AND ALSO A MASTER'S IN CHEMISTRY FROM FURMAN UNIVERSITY IN
7 '84 AND '86. I'VE WORKED AT S.L.E.D. FOR TEN YEARS. SEVEN
8 OF THOSE YEARS WERE IN THE TRACE EVIDENCE DEPARTMENT AT
9 S.L.E.D., DOING TRACE EVIDENCE EXAMINATIONS INCLUDING GUNSHOT
10 RESIDUE ANALYSES. OUR DEPARTMENT DID ABOUT 400 CASES PER
11 YEAR. I'VE BEEN TO SEVERAL SPECIALTY CLASSES, ONE-WEEK
12 COURSES FROM TIME TO TIME IN PARTICULAR AREAS OF TRACE
13 ANALYSIS, AND IN CHICAGO I STUDIED MICROSCOPY WHICH IS USING
14 THE MICROSCOPE TO GAIN CHEMICAL INFORMATION ABOUT TRACE
15 EVIDENCE SAMPLES.

16 Q. OKAY. HAVE YOU BEEN QUALIFIED IN COURT BEFORE AS AN
17 EXPERT IN THAT FIELD?

18 A. I HAVE. I'VE TESTIFIED 146 TIMES IN LOCAL, STATE,
19 AND FEDERAL COURTS.

20 Q. OKAY. IT WASN'T ABOUT 146. IT WAS 146?

21 A. 146.

22 MR. LITTLEJOHN: OKAY. YOUR HONOR, AT THIS TIME I'D
23 OFFER MR. HOLLIFIELD AS AN EXPERT IN THE FIELD OF TRACE
24 EVIDENCE EXAMINATION AND PARTICULARLY GUNSHOT RESIDUE
25 EXAMINATIONS.

1 THE COURT: MR. SORENSON, ANY OBJECTION?

2 MR. SORENSON: NO OBJECTION, YOUR HONOR.

3 THE COURT: WITHOUT OBJECTION.

4 BY MR. LITTLEJOHN:

5 Q. MR. HOLLIFIELD, AT OUR REQUEST DID YOU HAVE OCCASION
6 TO EXAMINE A LAB REPORT PREPARED BY S.L.E.D. INVOLVING A
7 GUNSHOT RESIDUE TEST RUN ON ONE CARL SMALLS?

8 A. I DID. I READ THE FORMAL LABORATORY REPORT WHICH
9 WAS SIGNED BY KIMBERLY BLACK AND ALSO LOOKED AT THE
10 ANALYTICAL DATA OR THE COMPUTER PRINT-OUT THAT HAD THE VALUES
11 OF THE METALS THAT WERE DETECTED IN THE GUNSHOT RESIDUE
12 SAMPLES.

13 Q. ARE THESE FORMS YOU'RE FAMILIAR WITH?

14 A. THEY ARE.

15 Q. OKAY. AND TELL ME THIS: CAN YOU -- CAN YOU EXAMINE
16 THE REPORT THAT WAS GENERATED BY S.L.E.D. AND TELL SOMETHING
17 FROM THE CASE?

18 A. YOU CAN. SURE.

19 Q. DO YOU HAVE TO ACTUALLY LOOK AT THE GUNSHOT RESIDUE
20 TESTS OR THE HAND OR ANYTHING OF THAT NATURE?

21 A. WELL, WHAT I'VE BEEN ASKED TO DO IS INTERPRET WHAT
22 THE DATA REPRESENTS OR WHAT IT MEANS, AND I DO THAT THE SAME
23 WAY A S.L.E.D. ANALYST WOULD AND THAT IS TO LOOK AT THE
24 COMPUTER PRINT-OUT OR THE DATA FROM THE ACTUAL TEST THAT WAS
25 RUN TO MAKE AN INTERPRETATION.

1 Q. OKAY. SO YOU'RE USING THE SAME INFORMATION THAT THE
2 S.L.E.D. ANALYSIS WOULD USE.

3 A. THAT'S CORRECT.

4 Q. OKAY. WHAT CAN YOU TELL US ABOUT THE GUNSHOT
5 RESIDUE TEST THAT WAS RUN ON CARL SMALLS?

6 A. THIS TEST IS FOR -- SPECIFICALLY IT'S FOR WHAT'S
7 REFERRED TO AS GUN PRIMER RESIDUE WHICH IS DIFFERENT
8 TECHNICALLY THAN GUN POWDER. IT'S A TEST FOR THE VARIOUS
9 METALS WHICH ARE PRESENT ON AN INDIVIDUAL'S HANDS WHEN THEY
10 EITHER FIRE A WEAPON OR HAVE THEIR HANDS NEAR A WEAPON WHEN
11 IT'S DISCHARGED. THE TEST ITSELF IS RUN ON AN INSTRUMENT
12 CALLED AN I.C.P., AND THE PURPOSE OF THE TEST IS TO DETECT
13 THE THREE METALS WHICH ARE, AS I SAID, ARE IN GUN PRIMER:
14 LEAD, ANTIMONY, AND BARIUM.

15 Q. OKAY. WHAT IS THE DIFFERENCE -- EXPLAIN TO US THE
16 DIFFERENCE IN -- BETWEEN PRIMER RESIDUE AND GUN POWDER.

17 A. OKAY. IN A BULLET THE ANATOMY OF A BULLET IF YOU
18 LOOK AT THAT HAS TWO OR THREE SEPARATE CHAMBERS. THE REAR
19 MOST PART OF THE BULLET HAS A LITTLE CUP INSIDE THAT CONTAINS
20 WHAT'S CALLED GUN PRIMER, AND THERE ARE VARIOUS SALTS THERE
21 INCLUDING LEAD BARIUM AND ANTIMONY SALTS WHICH HAVE A VERY
22 LOW FLASH POINT. SO WHEN THE FIRING PAN HITS THAT, IT
23 IGNITES.

24 THE PRIMER, IN TURN, GETS HOT ENOUGH OR GENERATES
25 ENOUGH HEAT TO BURN THE GUN POWDER WHICH IS IN A SEPARATE

1 PART OF THE BULLET. THE GUN POWDER THEN BURNS AND BUILDS UP
2 -- GENERATES GASES AND HEAT AND THAT'S WHAT EXPELS THE BULLET
3 FROM THE CARTRIDGE -- CARTRIDGE CASING. GUN POWDER IS MOSTLY
4 NITRATES. IT'S NITROCELLULOSE, NITROGLYCERIN,
5 NITROGUANIDINE. IT HAS A LOT OF NITRATE COMPOUNDS, BUT IT IS
6 A -- IT'S IN A SEPARATE PART OF THE BULLET AND IT --
7 CHEMICALLY IT'S DIFFERENT FROM THE GUN PRIMER.

8 Q. OKAY. LET ME IF I MAY -- WOULD IT ASSIST YOU IF YOU
9 HAD AN UNFIRED BULLET TO EXPLAIN THIS? LET ME JUST FOR
10 DEMONSTRATIVE PURPOSES...

11 A. THAT WOULD BE FINE.

12 MR. LITTLEJOHN: YOUR HONOR, I'M REMOVING PART OF
13 STATE'S EXHIBIT 92 FOR THE RECORD.

14 THE COURT: YES, SIR.

15 BY MR. LITTLEJOHN:

16 Q. THAT'S THE BULLET YOU'RE TALKING ABOUT SUCH AS...

17 A. YES, SIR. THE SILVER PART WHICH IS IN THE CENTER OF
18 THE BACK OF THE BULLET, THAT'S THE BASE OF THE CUP THAT
19 CONTAINS THE GUN PRIMER AND THEN THE GUN POWDER IS IN FRONT
20 OF THAT. THE GUN PRIMER WHICH CONTAINS THE METALS IS -- IS
21 WHAT IS DEPOSITED ON ONE'S HANDS WHEN THEY EITHER FIRE A
22 WEAPON OR HAVE THEIR HANDS NEAR A WEAPON WHEN IT'S -- WHEN
23 IT'S DISCHARGED. GUN POWDER IS USED TO EXAMINE CLOTHING WHEN
24 A DISTANCE DETERMINATION IS BEING ATTEMPTED.

25 Q. OKAY. NOW, MR. HOLLIFIELD, WHAT WERE YOU ABLE TO

1 TELL ABOUT THE LEVELS OF PRIMER RESIDUE THAT WERE FOUND AS A
2 RESULT OF THE GUNSHOT RESIDUE TESTS ON CARL SMALLS' HANDS?

3 A. THE SAMPLES ARE SUBMITTED AS FOUR SAMPLES FROM AN
4 INDIVIDUAL, THOSE BEING THE PALM ON THE RIGHT HAND, THE BACK
5 OF THE RIGHT HAND, LEFT PALM, AND BACK OF THE LEFT HAND. SO
6 WE HAVE DATA FOR ALL THREE METALS ON ALL FOUR PARTS OF THE
7 HANDS, SO THERE ARE 12 -- 12 NUMBERS, 12 DATA SETS.

8 WHAT I LEARNED FROM LOOKING AT THE DATA IS THAT ON
9 THE LEFT HAND, BOTH THE PALM AND THE BACK OF THE LEFT HAND,
10 THERE ARE EXTREMELY HIGH LEVELS OF ALL THREE METALS ON BOTH
11 THE PALM AND THE BACK OF THE LEFT HAND. SO THAT HAND IS
12 DEFINITELY POSITIVE FOR BEING AROUND THE GUN OR NEAR THE GUN
13 WHEN THE GUN WENT OFF.

14 ON THE RIGHT HAND THE -- THERE ARE SOME SMALL
15 AMOUNTS OF THOSE METALS ON THE FRONT AND BACK OF THE RIGHT
16 HAND, BUT THEY ARE BELOW WHAT ARE CALLED THRESHOLD LEVELS OR
17 ENVIRONMENTAL LEVELS THAT YOU WOULD FIND ON ANYONE'S HANDS.
18 SO THE BOTTOM LINE IS THE LEFT HAND IS POSITIVE BOTH ON THE
19 BACK AND THE FRONT, AND THE RIGHT HAND IS NEGATIVE ON BOTH
20 THE BACK AND THE FRONT.

21 Q. OKAY. WHAT -- INSOFAR AS THE LEFT HAND, WHAT WOULD
22 THOSE RESULTS AND THOSE LEVELS INDICATE TO YOU AS TO THE
23 POSITION OF MR. SMALLS' LEFT HAND IN RELATION TO A FIRED
24 WEAPON?

25 A. THE LEVELS ON THE LEFT HAND ARE VERY HIGH, AND THAT

1 WOULD INDICATE TO ME THAT THAT LEFT HAND WAS SOMEWHERE IN THE
2 CLOUD OF GUNSHOT RESIDUE OR SMOKE THAT SURROUNDS THE GUN WHEN
3 THE GUN'S FIRED.

4 Q. OKAY. HOW BIG WOULD THIS CLOUD BE?

5 A. THE CLOUD IS GOING TO VARY DEPENDING ON THE WEAPON
6 ITSELF, THE MANUFACTURER OF THE WEAPON, WHAT AMMUNITION IS
7 USED, WHAT CALIBER THE WEAPON IS, WHAT CALIBER THE AMMUNITION
8 IS. SO THERE ARE A LOT OF VARIABLES, BUT A RULE OF THUMB
9 JUST IN GENERAL IS THAT THE CLOUD THAT SURROUNDS THE GUN IS
10 ROUGHLY ABOUT A FOOT IN DIAMETER.

11 Q. OKAY. NOW, BASED ON THE INFORMATION THAT YOU HAD IN
12 THE S.L.E.D. LAB REPORT, COULD YOU TELL IF MR. SMALLS' HAND
13 WAS ANY GREATER DISTANCE FROM THE DISCHARGED WEAPON?

14 A. THERE'S REALLY NOTHING TO BASE THAT ON BECAUSE WHAT
15 -- WHAT THIS INFORMATION TELLS US IS THAT THE HAND IS IN THE
16 CLOUD. SO THE QUESTION IS: HOW BIG IS THE CLOUD? AND IN
17 ORDER TO DETERMINE THAT, ONE WOULD HAVE TO EITHER, NUMBER
18 ONE, TAKE A HIGH-SPEED PHOTOGRAPH OF THE GUN BEING FIRED OR
19 TO MAKE A DISTANCE DETERMINATION, A DISTANCE EXAM, WHICH SO
20 FAR AS I KNOW HAS NOT BEEN DONE IN THIS CASE.

21 Q. HOW WOULD YOU NORMALLY DO A DISTANCE EXAM?

22 A. TO DO A DISTANCE EXAM, EITHER THE WEAPON IN QUESTION
23 OR A SIMILAR WEAPON OF THE SAME CALIBER WITH SIMILAR
24 AMMUNITION WOULD BE TEST-FIRED ON TO BLANK PIECES OF CLOTH AT
25 VARIOUS DISTANCES. THE TYPICAL DISTANCES THAT ARE USED FOR

1 THAT TEST ARE CONTACT WHERE THE WEAPON IS FLUSH AGAINST THE
2 CLOTH, SIX INCHES AWAY, ONE FOOT AWAY, TWO FEET, THREE FEET,
3 EVERY FOOT UP TO ABOUT SIX FEET. MOST GUNS WILL DEPOSIT
4 ANYWHERE BETWEEN TWO TO FIVE FEET AND -- BUT THAT'S GUN
5 POWDER. THOSE POWDER PATTERNS WOULD THEN BE COMPARED SIDE BY
6 SIDE TO A PATTERN THAT'S DEVELOPED FROM THE VICTIM'S SHIRT OR
7 JACKET BY DOING A CHEMICAL TEST, AND THEN THE TEST PATTERNS
8 COMPARED WITH THE VICTIM'S CLOTHING WOULD BE USED TO
9 DETERMINE A SPECIFIC DISTANCE.

10 Q. OKAY. AND THAT WOULD BE DONE TO ASCERTAIN THE
11 AMOUNT OF GUN POWDER.

12 A. RIGHT.

13 Q. OKAY. BUT THE PRIMER METALS YOU SAY WOULD -- THOSE
14 WERE WHAT WAS FOUND ON CARL SMALLS' LEFT HAND.

15 A. THAT'S CORRECT.

16 Q. AND NORMALLY THAT WOULD INDICATE THAT HIS HAND WAS
17 IN THIS CLOUD THAT YOU HAVE DESCRIBED.

18 A. YES, SIR. THESE ARE VERY HIGH LEVELS AND WOULD BE
19 WHAT YOU WOULD EXPECT ON A SHOOTER'S HAND OR SOMEONE WHO HAS
20 THEIR HAND EITHER AROUND THE GUN OR IMMEDIATELY IN THE
21 VICINITY OF THE GUN.

22 Q. OKAY. ARE THE TESTS FOR A GUN POWDER RESIDUE ON
23 CLOTHING -- ARE THOSE NORMALLY -- IS THAT A TEST THAT'S
24 NORMALLY DONE?

25 A. THAT'S A ROUTINE TEST.

1 MR. LITTLEJOHN: IF YOU WOULD INDULGE ME JUST A
2 MOMENT, YOUR HONOR.

3 THE COURT: YES, SIR.

4 MR. LITTLEJOHN: THAT'S ALL I HAVE. PLEASE ANSWER
5 ANY QUESTIONS MR. SORENSON MAY HAVE.

6 THE COURT: THANK YOU, SIR. MR. SORENSON?

7 MR. SORENSON: THANK YOU, YOUR HONOR.

8 CROSS-EXAMINATION

9 BY MR. SORENSON:

10 Q. GOOD MORNING, MR. HOLLIFIELD.

11 A. GOOD MORNING.

12 Q. I JUST HAVE JUST A COUPLE OF QUESTIONS FOR YOU. YOU
13 SAID YOU WORKED OUT AT STATE LAW ENFORCEMENT DIVISION FOR
14 ABOUT TEN YEARS?

15 A. I DID.

16 Q. SEVEN OF THAT, I GUESS, IN THE TRACE DEPARTMENT?

17 A. YES, SIR.

18 Q. SO YOU WOULD HAVE WORKED WITH JOE POWELL.

19 A. YES, I KNOW JOE POWELL. YES.

20 Q. YOU ALL WORKED PRETTY MUCH SIDE BY SIDE OUT THERE?

21 A. YES, SIR.

22 Q. WAS HE EVER YOUR SUPERVISOR OUT THERE?

23 A. HE WAS.

24 Q. AND THERE ARE BASICALLY THREE WAYS YOU CAN GET
25 GUNSHOT RESIDUE ON YOUR HAND; IS THAT CORRECT? YOU CAN FIRE

1 A WEAPON?

2 A. TRUE.

3 Q. HANDLE A WEAPON?

4 A. RIGHT.

5 Q. OR YOU CAN BE IN CLOSE VICINITY TO A WEAPON THAT'S
6 BEEN FIRED; IS THAT CORRECT?

7 A. YEAH.

8 Q. AND IN THIS CASE I BELIEVE YOU TESTIFIED THAT MR.
9 SMALLS -- THE RESULT OF MR. SMALLS' EXAMS: NEGATIVE FOR THE
10 RIGHT HAND, FRONT AND BACK.

11 A. CORRECT.

12 Q. POSITIVE ON THE LEFT HAND. THOSE RESULTS WERE VERY
13 HIGH, ESPECIALLY ON THE BACK OF HIS HANDS. IS THAT CORRECT?

14 A. I WOULD CONSIDER THOSE VERY HIGH LEVELS, YES.

15 Q. AND I BELIEVE YOUR TESTIMONY WAS THAT THAT WOULD
16 SUGGEST TO YOU THAT HIS HAND WAS SOMEWHERE WITHIN THAT CLOUD
17 THAT COMES OUT THE END OF -- THE END OF THE GUN WHEN IT'S
18 FIRED? IS THAT CORRECT?

19 A. IT COMES OUT NOT ONLY AT THE END OF THE GUN BUT ALSO
20 AROUND THE CYLINDER AND TRIGGER -- CYLINDER GAP AND TRIGGER
21 IF IT'S A REVOLVER OR AROUND THE EJECTION PORT IF IT'S A
22 SEMIAUTOMATIC OR AUTOMATIC WEAPON.

23 Q. WOULD YOU AGREE WITH THE STATEMENT THOUGH THAT THE
24 VERY HIGH LEVELS THAT WERE FOUND SPECIFICALLY ON THE BACK OF
25 MR. SMALLS' LEFT HAND WOULD SUGGEST MORE SO THAT HE WAS IN

1 THE -- WITHIN THAT CLOUD AS OPPOSED TO HOLDING THE WEAPON
2 WHEN IT WAS FIRED?

3 A. WELL, IF YOU'RE HOLDING THE WEAPON, YOU'RE IN THE
4 CLOUD. THE CLOUD LITERALLY SURROUNDS THE GUN, NOT -- IT
5 DOESN'T ALL JUST COME OUT OF THE FRONT OF THE GUN. A LOT OF
6 IT -- A LOT OF IT COMES OUT THE FRONT OF THE GUN, BUT IT
7 SOMETIMES COMES BACK AROUND AND ENGULFS THE GUN AND THERE'S
8 ALSO POWDER COMING OUT THE SIDES OF THE GUN.

9 Q. IF YOU'RE HOLDING IT, WOULD YOU EXPECT TO GET MORE
10 ON YOUR PALM THAN THE BACK OF YOUR HAND?

11 A. IF YOU'RE HOLDING IT, YOU WOULD EXPECT TO HAVE
12 HIGHER LEVELS ON THE BACKS THAN THE PALMS WHICH, IN FACT, IS
13 WHAT WE HAVE HERE. IF YOU HAVE -- IF YOU HAVE HIGH LEVELS ON
14 THE PALMS AND VERY LITTLE TO NONE ON THE BACKS OF THE HANDS,
15 THAT WOULD INDICATE HANDLING A DIRTY WEAPON, A WEAPON THAT'S
16 BEEN FIRED. BUT IF YOUR HANDS ARE IN THE CLOUD, YOU'RE GOING
17 TO HAVE IT ON BOTH THE PALMS AND THE BACKS OF THE HANDS, AND
18 IF YOU'RE HOLDING THE GUN YOU WOULD -- YOU GENERALLY SEE A
19 LITTLE MORE ON THE BACK OF THE HAND THAN THE PALM BECAUSE THE
20 PALM IS SOMEWHAT PROTECTED BECAUSE IT'S AGAINST THE GUN OR
21 AGAINST -- AGAINST THE FIST.

22 Q. LET ME ASK YOU: DOES IT MAKE A DIFFERENCE WHETHER
23 IT'S A REVOLVER OR A SEMIAUTOMATIC?

24 A. IT DOES. SEMIAUTOMATICS WOULD NOT HAVE AS MUCH AS A
25 GENERAL RULE OF THUMB AROUND THE EJECTION PORT AS A REVOLVER

1 WOULD AROUND A CYLINDER.

2 Q. NOT AS MUCH THAT WOULD COME OUT AROUND THE GUN AS
3 OPPOSED TO THE FRONT ON A SEMIAUTOMATIC; IS THAT CORRECT?

4 A. IN GENERAL THEY'RE A LITTLE TIGHTER, THE WAY THEY'RE
5 MANUFACTURED, BUT EVERY GUN IS DIFFERENT, EVEN OF THE SAME
6 CALIBER.

7 Q. LET ME SHOW YOU STATE'S EXHIBIT NUMBER 70. HAVE YOU
8 SEEN THAT PHOTOGRAPH BEFORE?

9 A. I HAVE NOT.

10 Q. DO YOU SEE THAT WOUND TO THE LEFT FOREARM?

11 A. I DO.

12 Q. WOULD THAT BE CONSISTENT WITH SOMEBODY OBVIOUSLY
13 HAVING THEIR LEFT HAND AND THEIR LEFT FOREARM IN THE PATH OF
14 A BULLET?

15 A. I'M NOT A PATHOLOGIST OR MEDICAL EXAMINER. LOOKS
16 LIKE -- LOOKS LIKE A LITTLE BIT OF BLOOD WHICH COULD BE A
17 GRAZE WOUND PERHAPS.

18 Q. IF THE TESTIMONY FROM THE PATHOLOGIST THAT TESTIFIED
19 EARLIER IN FRONT OF THE JURY WAS THAT THAT -- IT WAS, IN
20 FACT, WHAT THAT WAS, A GRAZE WOUND---

21 A. A GRAZE WOUND?

22 Q. ---WOULD THAT THEN BE CONSISTENT WITH HIS HAND BEING
23 IN THE PATH OF A BULLET, HIS LEFT HAND WHERE THOSE HIGH
24 LEVELS OF GUNSHOT RESIDUE WERE FOUND?

25 A. OBVIOUSLY THE LEFT WRIST OR ARM AREA WHERE THE --

1 WHERE THE WOUND IS WOULD HAVE TO BE IN THE PATH OF THE BULLET
2 IF IT'S A GRAZE WOUND, YES.

3 Q. OF COURSE, THAT'S SOMETHING YOU'D WANT TO KNOW
4 BEFORE RENDERING AN OPINION ON WHETHER MR. SMALLS, THE VICTIM
5 IN THIS CASE, HANDLED THE WEAPON, FIRED A WEAPON OR WAS, IN
6 FACT, WITHIN THAT CLOUD COMING OUT OF THE BARREL OF THE
7 WEAPON. IS THAT CORRECT?

8 A. I HAVE NO WAY OF KNOWING WHEN THAT WOUND OCCURRED
9 AND I DON'T BASE MY CONCLUSIONS ON THAT. I BASE MY
10 CONCLUSIONS ON THE ANALYTICAL DATA FROM THE GUNSHOT RESIDUE
11 TEST WHICH IS DESIGNED SPECIFICALLY TO DETERMINE THE PRESENCE
12 OR ABSENCE OF GUNSHOT RESIDUE.

13 Q. OKAY. SO THE HISTORY OF WHEN AND WHERE MR. SMALLS
14 MAY HAVE BEEN SHOT WOULDN'T PLAY INTO YOUR OPINION AT ALL,
15 SIR?

16 A. WHAT PLAYS INTO MY OPINION---

17 Q. I BELIEVE YOU---

18 THE COURT: HOLD ON ONE SECOND.

19 MR. SORENSON: I'M SORRY.

20 THE COURT: LET'S LET HIM FINISH.

21 THE WITNESS: WELL, MY OPINION, AS I SAID TO BEGIN
22 WITH, IS BASED SPECIFICALLY ON THE ANALYTICAL DATA FROM THE
23 GUNSHOT RESIDUE SWABBINGS THAT WERE TAKEN FROM THIS
24 INDIVIDUAL IN RESPONSE TO THIS INCIDENT.

25

1 BY MR. SORENSON:

2 Q. AND I BELIEVE YOU TESTIFIED THAT THE CLOUD THAT
3 COMES OUT OF THE END OF A -- END OF A HANDGUN CAN BE UP TO
4 TWO TO FIVE FEET FROM THE END OF THE HANDGUN? I BELIEVE
5 THAT'S WHAT YOU TESTIFIED?

6 A. GUN POWDER---

7 Q. GUN POWDER.

8 A. ---CAN BE -- CAN BE DEPOSITED ANYWHERE FROM TWO TO
9 FIVE FEET ON TO CLOTHING OF A VICTIM.

10 Q. HOW ABOUT ON TO A HAND? I MEAN, IS THAT...

11 A. SURE. POWDER IS GOING TO BE ON THE HANDS, TOO, BUT
12 THE CLOUD THAT THE METALS ARE FOUND IN IS GOING TO BE
13 IMMEDIATELY AROUND THE GUN WHICH WOULD ALSO BE IN FRONT OF
14 THE GUN.

15 Q. YES, SIR. OF COURSE, THE HIGHER THE CALIBER
16 HANDGUN, THE FARTHER OUT IT'S GOING TO GO; IS THAT CORRECT?

17 A. IN GENERAL, YES, BUT IT MAY OR MAY NOT DEPENDING ON
18 THE PARTICULAR WEAPON. IT WOULD HAVE TO BE TEST-FIRED.

19 Q. AND A 40 CALIBER IS A FAIRLY HIGH -- HIGH-CALIBER
20 WEAPON?

21 A. IT'S A PRETTY HIGH CALIBER; RIGHT.

22 Q. AND, OF COURSE, THAT -- THAT IS MY NEXT POINT; I
23 WANT TO GET TO THERE, MR. HOLLIFIELD. IN ORDER TO ACCURATELY
24 DETERMINE THOSE PATTERNS THAT YOU WERE TALKING ABOUT, YOU
25 WANT TO HAVE THE WEAPON THAT FIRED IT---

1 A. IDEALLY---

2 Q. ---IDEALLY.

3 A. ---YES. ABSOLUTELY.

4 MR. SORENSON: OKAY. THANK YOU, SIR.

5 THE COURT: THANK YOU, MR. SORENSON. MR.

6 LITTLEJOHN?

7 MR. LITTLEJOHN: JUST A COUPLE OF THINGS, YOUR
8 HONOR.

9 THE COURT: YES, SIR.

10 REDIRECT EXAMINATION

11 BY MR. LITTLEJOHN:

12 Q. MR. HOLLIFIELD, THE INFORMATION THAT YOU EXAMINED, I
13 BELIEVE YOU INDICATED THAT THAT WAS THE SAME INFORMATION THAT
14 THE S.L.E.D. ANALYSIS WOULD USE?

15 A. THEY WOULD USE THIS INFORMATION TO MAKE THE
16 DETERMINATION. THEY MAY HAVE HAD OTHER INFORMATION AS WELL;
17 I DON'T KNOW THAT.

18 Q. OKAY. MR. SORENSON MADE REFERENCE TO THE CLOUD
19 COMING OUT OF THE BARREL. JUST SO IT'S PERFECTLY CLEAR,
20 WHERE WE'RE TALKING ABOUT THE PRIMER RESIDUE, WHERE IS THE
21 CLOUD IN RELATION TO THE GUN?

22 A. THE CLOUD -- THE CLOUD IS -- SURROUNDS THE GUN.

23 Q. OKAY.

24 A. AND AS I SAID, A LOT OF IT COMES OUT THE FRONT OF
25 THE GUN, BUT IT ALSO ENGULFS THE GUN. IT'S ABOUT A FOOT

1 ROUGHLY IN DIAMETER AROUND THE GUN IN ALL DIRECTIONS:
2 BEHIND, FRONT, SIDES, TOP, BOTTOM.

3 MR. LITTLEJOHN: OKAY. THANK YOU, SIR.

4 THE COURT: THANK YOU, SIR. ANYTHING FURTHER, MR.
5 SORENSON?

6 MR. SORENSON: NO, SIR.

7 THE COURT: SIR, YOU MAY STEP DOWN. THANK YOU.

8 THE WITNESS: THANK YOU.

9 MR. LITTLEJOHN: MAY IT PLEASE THE COURT? WE CALL
10 DON GIRNDT.

11 THE COURT: SIR, IF YOU'LL JUST COME DOWN FRONT AND
12 BE SWORN.

13 DONALD C. GIRNDT, AFTER BEING DULY SWORN,
14 TESTIFIED AS FOLLOWS:

15 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE
16 YOUR FULL NAME FOR THE RECORD.

17 THE WITNESS: MY NAME IS DONALD C. GIRNDT, LAST NAME
18 SPELLED G-I-R-N-D-T.

19 DIRECT EXAMINATION

20 BY MR. LITTLEJOHN:

21 Q. WHERE DO YOU LIVE, MR. GIRNDT?

22 A. HERE IN COLUMBIA.

23 Q. OKAY. AND WHAT IS YOUR OCCUPATION?

24 A. I'M SELF-EMPLOYED AS A FORENSIC CONSULTANT. I
25 SPECIALIZE IN AREAS OF CRIME SCENE ANALYSIS, FINGERPRINT

1 IDENTIFICATION, FOOTWEAR IDENTIFICATION, AND BLOODSTAIN
2 PATTERN INTERPRETATION AND EVIDENCE COLLECTION.

3 Q. OKAY. WOULD YOU TELL THE JURY A LITTLE BIT ABOUT
4 YOUR TRAINING AND EXPERIENCE IN THE FIELD OF CRIME SCENE
5 ANALYSIS?

6 A. YES. I'VE BEEN SELF-EMPLOYED FOR THE PAST NINE
7 YEARS, BUT PRIOR TO THAT IN 1985 TO 1994 I WAS EMPLOYED AS AN
8 AGENT IN THE STATE LAW ENFORCEMENT DIVISION WHERE I WORKED IN
9 THE LATENT FINGERPRINT AND CRIME SCENE UNIT WHICH IS THE UNIT
10 THAT ASSISTS OTHER AGENCIES AROUND THE STATE IN COLLECTING
11 EVIDENCE AND IN PROSECUTING CRIMES. I PROCESSED THE EVIDENCE
12 IN THE LABORATORY. FROM '79 TO '85 PRIOR TO THAT I WAS A
13 DEPUTY WITH THE RICHLAND COUNTY SHERIFF'S DEPARTMENT IN
14 CHARGE OF THE FUGITIVE WARRANT DIVISION, AND PRIOR TO THAT I
15 WAS A ROAD DEPUTY WITH LEXINGTON AND PRIOR TO THAT I WAS WITH
16 S.L.E.D. AGAIN IN THE COMMUNICATIONS SECTION SO...

17 Q. WHAT SORT OF TRAINING HAVE YOU HAD IN THE AREA OF
18 CRIME SCENE ANALYSIS?

19 A. CRIME SCENE ANALYSIS -- WELL, TO BEGIN WITH, WHEN AN
20 AGENT GOES INTO THE CRIME SCENE UNIT, HE HAS A TWO-YEAR
21 TRAINING PROGRAM ASSIGNED TO ANOTHER AGENT. DURING THAT TIME
22 PERIOD YOU GO TO VARIOUS CLASSES INCLUDING BASIC EVIDENCE
23 COLLECTION LIKE AT THE POLICE ACADEMY, FINGERPRINT
24 IDENTIFICATION, FOOTWEAR IDENTIFICATION, THAT TYPE OF THING.

25 THEN FROM THERE IT PROGRESSES TO LIKE THE SOUTHERN

1 POLICE INSTITUTE, HOMICIDE SCHOOL AT THE UNIVERSITY OF
2 LOUISVILLE, KENTUCKY. TWO SEPARATE COURSES WITH BLOODSTAIN
3 PATTERN INTERPRETATION: ONE AT S.L.E.D. AND ANOTHER ONE AT
4 VALENCIA COMMUNITY COLLEGE IN ORLANDO, FLORIDA. SO A WIDE
5 VARIETY OF ONGOING COURSES...

6 Q. OKAY. AND YOU'VE HAD TRAINING IN BLOODSTAIN
7 PATTERN?

8 A. BLOODSTAIN PATTERN INTERPRETATION, YES. THERE'S TWO
9 -- TWO INDIVIDUAL COURSES IN THAT, AND IN ALL THESE AREAS
10 I'VE TESTIFIED AT ONE TIME OR ANOTHER APPROXIMATELY 130
11 TIMES.

12 Q. OKAY. AND THAT WOULD INCLUDE EVIDENCE COLLECTION?

13 A. YES. I'VE TESTIFIED IN NORTH CAROLINA, SOUTH
14 CAROLINA, MARYLAND, AND GEORGIA.

15 Q. ABOUT HOW MANY TIMES HAVE YOU BEEN QUALIFIED AS AN
16 EXPERT?

17 A. THAT'S WHAT I JUST SAID, APPROXIMATELY 130.

18 Q. OKAY.

19 A. IN ANY ONE OR ALL OF THOSE AREAS.

20 MR. LITTLEJOHN: YOUR HONOR, AT THIS TIME I'D LIKE
21 TO OFFER MR. GIRNDT AS AN EXPERT IN THE FIELD OF CRIME SCENE
22 ANALYSIS INCLUDING BLOODSTAIN PATTERN INTERPRETATION AND
23 EVIDENCE COLLECTION.

24 THE COURT: MR. SORENSON, ANY OBJECTION?

25 MR. SORENSON: NO OBJECTION.

1 THE COURT: WITHOUT OBJECTION YOU'RE SO QUALIFIED,
2 SIR.

3 BY MR. LITTLEJOHN:

4 Q. MR. GIRNDT, AT OUR REQUEST DID YOU HAVE OCCASION TO
5 EXAMINE SOME OF THE MATERIALS THAT WERE COLLECTED IN THIS
6 CASE?

7 A. YES, I DID. PRIMARILY I LOOKED AT PHOTOGRAPHS,
8 AUTOPSY REPORT, INCIDENT REPORT, SOME EVIDENCE COLLECTION,
9 FORENSIC REPORT, SOME OF THE SHERIFF'S DEPARTMENT AND SOME
10 LABORATORY REPORTS FROM S.L.E.D.

11 Q. OKAY. AND SO YOU SAID YOU HAD EXAMINED PHOTOGRAPHS?
12 DESCRIBE THE PHOTOGRAPHS IF YOU WOULD.

13 A. CRIME SCENE PHOTOGRAPHS, PHOTOGRAPHS TAKEN AT THE
14 CRIME SCENE.

15 Q. OKAY. NOW, I TELL YOU WHAT, MR. GIRNDT. LET ME
16 JUST SHOW YOU THIS.

17 A. COULD I HAVE A GLASS OF WATER?

18 Q. THERE'S SOME RIGHT BEHIND YOU.

19 A. OKAY. THANK YOU.

20 Q. LET ME SHOW YOU A FOLDER OF PHOTOGRAPHS THAT
21 APPARENTLY WERE TAKEN AT THE CRIME SCENE SO YOU CAN REFER TO
22 THEM. MR. GIRNDT, ARE YOU FAMILIAR WITH THE PHOTOGRAPHS
23 WHICH DEPICT WHERE MR. SMALLS' BODY WAS FOUND?

24 A. YES.

25 Q. OKAY. PARTICULARLY BASED ON THE EXAMINATION OF THE

1 FILE AND THE PHOTOGRAPHS THAT YOU'VE SEEN, WERE YOU ABLE TO
2 FORM AN OPINION AS TO WHETHER MR. SMALLS OR -- WHETHER MR.
3 SMALLS WAS SHOT OR WHAT POSITION MR. SMALLS WAS SHOT BASED ON
4 THOSE PHOTOGRAPHS?

5 A. WELL, THE PRIMARY QUESTION WAS: WAS HE SHOT LYING
6 ON THE FLOOR?

7 Q. OKAY.

8 A. AND THE OPINION I FORMED OF THAT WAS, NO, THAT HE
9 WAS NOT AND FOR A NUMBER OF REASONS. ONE IS, OF COURSE, HE
10 HAS THREE WOUNDS TO HIS FRONT. ANOTHER IS HE IS FOUND LYING
11 FACEDOWN, AND TO ME THERE'S NO APPARENT MOVEMENT OF THE BODY.
12 IT DOESN'T LOOK TO ME LIKE HE'S BEEN ROLLED OVER.

13 ONE THING THAT POINTS TO THAT IS TYPICALLY WHEN YOU
14 ROLL SOMEONE OVER, THE LEGS TEND TO CROSS. IN THIS
15 PARTICULAR INSTANCE HIS LEGS ARE NOT CROSSED. AND ANOTHER
16 WITH THE BLOODSTAIN PATTERN INTERPRETATION: IF A PERSON IS
17 LYING ON THEIR BACK, THE BLOOD WOULD TEND TO POOL OR BE
18 ABSORBED MORE BY THE SHIRT THAN, SAY, LIKE A CIRCULAR PATTERN
19 AROUND THE WOUND. WE DON'T SEE THAT HERE. THE SHIRT IS
20 FAIRLY CLEAR OF BLOOD. ALSO---

21 Q. THAT'S ON HIS BACK?

22 A. THAT'S ON HIS BACK; RIGHT.

23 Q. OKAY.

24 A. AND THEN ONCE HE IS MOVED, OF COURSE, YOU CAN SEE
25 THE BLOOD THAT -- THAT HE'S -- THAT'S COLLECTED ON THE SHIRT

1 IN THE FRONT. ALSO HE'S -- THERE'S -- DOESN'T APPEAR TO BE
2 ANY ROOM IN THIS SMALL CORRIDOR TO ROLL HIM OVER, TO MOVE HIM
3 AROUND. SO MY OPINION IS THAT HE'S RIGHT WHERE HE FELL.

4 WHAT WE KNOW IS THAT WHEN PEOPLE FALL THEY TEND TO
5 FALL IN THE DIRECTION THAT THEIR MOMENTUM IS CARRYING THEM,
6 AND I UNDERSTAND THAT HE WEIGHS -- THAT HE WAS A PRETTY BIG
7 GUY, LIKE 280 POUNDS. SO IF HE'S MOVING FORWARD, THEN HIS
8 MOMENTUM IS GOING TO LET HIM FALL FORWARD. THE BULLET'S NOT
9 GOING TO CHANGE HIS DIRECTION AT ALL. HE'S GOING TO FALL IN
10 THE DIRECTION THAT HIS MOMENTUM IS CARRYING HIM.

11 SO THOSE ARE THE PRIMARY -- THOSE ARE THE PRIMARY
12 THINGS, AND THEN SECONDARILY THERE IS SOME BLOOD SPATTER ON
13 THE WALL JUST TO HIS LEFT. IT DOESN'T SHOW IN THIS STATE'S
14 EXHIBIT 16, BUT THERE IS SOME -- AND THERE ARE SOME CLOSE-UP
15 PHOTOGRAPHS OF THE BLOOD, AND ONE OF THE SPOTS OF BLOOD IS
16 TRAVELING AT APPROXIMATELY -- JUST A LITTLE OFF OF 90
17 DEGREES, SO IT'S NOT GOING EXACTLY STRAIGHT, BUT IT IS NOT
18 FAR OFF FROM 90 DEGREES. AND THE ONLY SOURCE OF BLOOD IN
19 THAT AREA THAT I SEE IS HE DID HAVE SOME BLOOD IN HIS MOUTH
20 FOR WHATEVER REASON, FROM FALLING FLAT ON HIS FACE ON THE
21 FLOOR OR FOR WHATEVER REASON, BUT THERE WAS A LITTLE BIT OF
22 BLOOD THERE.

23 SOMETIMES THAT'S ASSOCIATED WITH WHAT WE REFER TO AS
24 EXPIRATED (PHONETIC) BLOOD. EXPIRATED BLOOD IS WHEN A PERSON
25 HAS BLOOD IN THEIR MOUTH AND THEY'LL COUGH OR CHOKE AND THEN

1 THAT BLOOD WILL COME OUT. SO THE FIRST THING WE LOOK FOR IN
2 ORDER TO TALK ABOUT EXPIRATED BLOOD WOULD BE: DID HE HAVE,
3 YOU KNOW, ANY BLOOD AROUND THE MOUTH? AND WE CAN SEE IN THE
4 PHOTOGRAPHS THAT ONCE HE IS ROLLED OVER HE DOES HAVE SOME
5 BLOOD IN HIS MOUTH.

6 ONE OTHER FACTOR IN THIS WAS THAT I AM AWARE THAT
7 THERE WAS A BULLET THAT STRUCK THE FLOOR, BUT EVEN -- YOU
8 KNOW, THERE'S NO WAY TO ROLL HIM OVER TO ASSOCIATE THAT
9 BULLET IN THE FLOOR WITH ANY OF THE WOUNDS THAT HE HAS. SO,
10 I MEAN, I JUST DON'T SEE ANY WAY THAT HE WAS SHOT WHILE HE
11 WAS LYING ON THE FLOOR. I THINK HE'S JUST FALLEN. HE'S SHOT
12 AND HE'S FALLEN IN THE POSITION THAT HE'S IN, AND HE HAS NOT
13 BEEN MOVED.

14 Q. OKAY. MR. GIRNDT, BASED ON YOUR INVESTIGATION HERE,
15 DID YOU LEARN THAT THERE WERE VARIOUS ITEMS THAT WERE FOUND
16 IN VARIOUS PLACES IN THAT HALLWAY?

17 A. YES, CARTRIDGE CASES AND BULLET FRAGMENTS.

18 Q. OKAY. HOW COULD THOSE -- HOW COULD THOSE ITEMS END
19 UP WHERE THEY WERE?

20 A. WELL, I MEAN, THERE'S OBVIOUSLY A LOT OF ACTIVITY,
21 YOU KNOW, I GUESS WITH E.M.S. COMING AND GOING AND THE POLICE
22 COMING AND GOING AND PEOPLE RUNNING IN AND OUT THE DOOR.
23 THOSE THINGS TEND TO GET KICKED AROUND. THERE'S NO WAY TO
24 KNOW TYPICALLY WHERE THEY'RE GOING TO BE.

25 Q. LET ME ASK YOU ONE OTHER THING BEFORE WE GO ON TO

1 THE POSITION OF THE BODY. IF MR. SMALLS HAD BEEN LAYING ON
2 HIS BACK WHEN HE WAS SHOT, WHAT WOULD YOU -- IN YOUR OPINION,
3 WHAT WOULD HAPPEN TO THE BULLET THAT WENT THROUGH HIM?

4 A. TYPICALLY WHAT HAPPENS -- IT'S CALLED A SHORED-UP
5 WOUND. WE SEE IT A LOT WITH PEOPLE THAT ARE LYING ON THE
6 GROUND WHEN THEY'RE SHOT OR PEOPLE LYING ON THE FLOOR OR
7 SOMETIMES ON A BED OR A COUCH OR THINGS LIKE THAT. WHAT
8 HAPPENS IS THE BULLET WILL HAVE JUST ENOUGH ENERGY TO GET
9 THROUGH THE PERSON BUT NOT OUT THE OTHER SIDE.

10 I'VE ATTENDED AUTOPSIES WHERE YOU'LL SEE A BULGE IN
11 THE SKIN. THE PATHOLOGIST WILL CUT THAT AND THE BULLET WILL
12 BE RIGHT UNDER THE SKIN. SOMETIMES IT'S LIKE THAT.
13 SOMETIMES IT GOES THROUGH AND GETS CAUGHT UP IN THE CLOTHING,
14 BUT IT'S -- TYPICALLY YOU CAN SEE IT'S A SHORED-UP WOUND. IT
15 WOULD BE UNDER -- YOU KNOW, IF HE HAD NOT MOVED AND WAS LYING
16 THERE, IT WOULD BE UNDER THE BODY. IT'S JUST A TYPICAL THING
17 THAT WE TEND TO SEE, SO IT'S NOT UNUSUAL.

18 Q. ALL RIGHT. ANOTHER THING I FAILED TO ASK YOU ABOUT:
19 I BELIEVE THERE'S A PICTURE IN THERE OF MR. SMALLS LAYING ON
20 HIS BACK AFTER THEY -- THEY HAD MOVED HIM?

21 A. RIGHT.

22 Q. IS THERE ANYTHING IN THOSE PICTURES THAT WOULD
23 INDICATE THAT HE WAS NOT SHOT WHILE LAYING ON HIS BACK?

24 A. STATE'S 24 AND 25 ARE THE CLOSEST ONES THAT I HAD
25 ANY INTEREST IN. WHAT I WAS LOOKING FOR WAS ON HIS -- ON THE

1 SIDE OF THE FACE, AND I DON'T REALLY SEE THAT BECAUSE IF HE'S
2 ON HIS BACK AND HE HAS BLOOD COMING OUT OF THIS MOUTH,
3 TYPICALLY WHAT HAPPENS WITH THE GRAVITATIONAL FLOW IS THAT IT
4 WILL FLOW DOWN THE SIDE OF HIS MOUTH AND COLLECT ALONG THE
5 SIDE OF THE NECK, AND HERE WE DON'T SEE THAT. OF COURSE,
6 THERE AREN'T ANY PHOTOGRAPHS THAT WERE TAKEN SPECIFICALLY FOR
7 THAT PURPOSE, BUT THESE ARE THE TWO THAT SHOW THE SIDE OF HIS
8 FACE, AND IT ALSO SHOWS HIM KIND OF CRAMMED UP IN THAT CORNER
9 OVER THERE. SO IT DOESN'T APPEAR THAT HE COULD HAVE BEEN
10 ROLLED EITHER WAY.

11 Q. OKAY. I GUESS, MR. GIRNDT, WE HAVE TO USE THE
12 PHOTOGRAPHS WE'RE GIVEN FOR THIS TYPE OF ANALYSIS; IS THAT
13 CORRECT?

14 A. YES, SIR.

15 Q. DEFENDANT'S 3 AND 4 IS PARTICULARLY WHAT I WAS
16 LOOKING AT.

17 A. RIGHT. THREE AND FOUR -- THREE SHOWS, OF COURSE,
18 THE SHIRT'S GATHERED UP SOME AND THERE'S SOME BLOOD ON THE
19 HANDS, BUT THAT'S -- AND THEN YOU SEE THE -- THERE'S -- BLOOD
20 HAS BEEN ABSORBED BY THE SHIRT AND THAT'S FROM LYING ON THE
21 TOP OF IT, YOU KNOW, FROM LYING ON THE BLOOD. AND THEN FOUR
22 PROBABLY WASN'T TAKEN FOR THIS PURPOSE, BUT WHAT IT SHOWS IS
23 THAT APPARENTLY HE HAS, YOU KNOW, RELIEVED HIMSELF IN HIS
24 PANTS, WET, AND IT'S ALL ON THE FRONT WHERE HE'S BEEN LYING
25 IN IT AND THERE'S -- STATE'S 24 SHOWS THAT ON THE BACK OF HIS

1 PANTS THAT ARE DRY. SO ONCE AGAIN YOU WOULD THINK FROM
2 GRAVITY THAT HE HAD BEEN ON HIS BACK WHEN THIS HAPPENED, BUT
3 IT WOULD HAVE FLOWED THE OTHER WAY SO...

4 Q. MR. GIRNDT, FROM THE MATERIALS YOU'VE REVIEWED AND
5 THE INCIDENT REPORTS, ET CETERA, WAS THERE ANY INDICATION
6 THAT THE CLOTHES WERE EVER -- MR. SMALLS' CLOTHES WERE EVER
7 ANALYZED?

8 A. NO, I DON'T BELIEVE THEY WERE.

9 Q. HOW ABOUT THE BLOOD SPATTERS THAT WERE FOUND ON THE
10 WALL?

11 A. WELL, THEY WERE NOTED IN THAT THEY WERE
12 PHOTOGRAPHED, BUT I DIDN'T SEE ANY ANALYSIS IN THERE.

13 MR. LITTLEJOHN: IF YOU WOULD BEAR WITH ME JUST A
14 MOMENT, YOUR HONOR.

15 THE COURT: YES, SIR.

16 MR. LITTLEJOHN: MR. GIRNDT, PLEASE ANSWER ANY
17 QUESTIONS MR. SORENSON MAY HAVE.

18 THE COURT: THANK YOU, SIR. MR. SORENSON?

19 CROSS-EXAMINATION

20 BY MR. SORENSON:

21 Q. GOOD AFTERNOON, MR. GIRNDT.

22 A. GOOD AFTERNOON.

23 Q. HOW MANY TIMES DID YOU INDICATE YOU TESTIFIED
24 BEFORE, SIR?

25 A. APPROXIMATELY 130, BUT THAT'S IN ALL THE DIFFERENT

1 FIELDS.

2 Q. 130 TIMES?

3 A. YES, SIR.

4 Q. OVER THE LAST NINE YEARS YOU HAVE PRIMARILY BEEN --
5 I SAY PRIMARILY -- ALMOST ENTIRELY A WITNESS FOR THE DEFENSE.
6 IS THAT CORRECT?

7 A. THAT'S RIGHT.

8 Q. HOW MANY OF THOSE 130 TIMES HAVE YOU TESTIFIED FOR
9 THE DEFENSE?

10 A. LESS THAN 15.

11 Q. LESS THAN 15?

12 A. THREE OF THOSE TIMES WITHIN ONE TRIAL, SO...

13 Q. THAT'S PRIMARILY WHAT YOU DO FULL-TIME NOW IS
14 CONSULT WITH DEFENSE ATTORNEYS. IS THAT CORRECT?

15 A. OH, YEAH..

16 Q. I BELIEVE YOU INDICATED YOU HAD AN OPPORTUNITY TO
17 LOOK AT PHOTOGRAPHS, AUTOPSY REPORTS, LAB REPORTS, EVIDENCE
18 SHEETS BEFORE RENDERING AN OPINION HERE TODAY; IS THAT
19 CORRECT?

20 A. YES.

21 Q. HAVE YOU HAD AN OPPORTUNITY TO LOOK THROUGH ALL THE
22 STATEMENTS THAT WERE GIVEN BY THE WITNESSES?

23 A. I LOOKED THROUGH WHAT WAS PROVIDED TO ME BY THE
24 DEFENSE. I DON'T KNOW IF THAT'S EVERYTHING.

25 Q. DO YOU RECALL LOOKING AT ANY -- ANY WITNESS

1 STATEMENTS?

2 A. I DID SEE A COUPLE OF STATEMENTS.

3 Q. ARE YOU AWARE THAT THROUGH THOSE WITNESS STATEMENTS
4 THERE ARE ACTUALLY WITNESSES THAT GAVE STATEMENTS INDICATING
5 THAT THE VICTIM'S BODY WAS MOVED BEFORE---

6 MR. LITTLEJOHN: YOUR HONOR, I'M GOING TO OBJECT TO
7 THIS.

8 THE COURT: I WILL SUSTAIN THAT. I'LL LET YOU ASK
9 HIM ABOUT WHAT HE RECALLS THE STATEMENTS HAVING BEEN WITHOUT
10 CHARACTERIZING THEM.

11 MR. LITTLEJOHN: YOUR HONOR, MAY WE APPROACH THE
12 BENCH?

13 THE COURT: YES, SIR.

14 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

15 THE COURT: THANK YOU, COUNSEL. THE OBJECTION IS
16 SUSTAINED.

17 MR. SORENSON: I'M GOING TO SHOW YOU A COUPLE OF
18 STATEMENTS HERE AND ASK IF YOU'VE HAD AN OPPORTUNITY TO SEE
19 THOSE STATEMENTS.

20 MR. LITTLEJOHN: YOUR HONOR, COULD I ASK THE STATE
21 TO IDENTIFY THOSE STATEMENTS?

22 MR. SORENSON: IT WAS ANDRE DAVIS AND RONALD
23 HAMILTON.

24 THE WITNESS: OKAY.

25

1 BY MR. SORENSON:

2 Q. I'M GOING TO COME BACK TO THAT IN A MOMENT. NOW,
3 SIR, MR. GIRNDT, YOU -- YOU'RE NOT A PATHOLOGIST; IS THAT
4 CORRECT?

5 A. NO.

6 Q. NOT A BALLISTICS EXPERT; IS THAT CORRECT?

7 A. WHAT'S YOUR DEFINITION OF BALLISTICS?

8 Q. YOU'RE NOT A FIREARM EXAMINER.

9 A. I'M NOT A FIREARMS EXAMINER, NO.

10 Q. NOW, LET ME ASK YOU THIS, SIR: HOW DO YOU KNOW --
11 YOU CAME IN HERE AND RENDERED AN OPINION THAT THE VICTIM WAS
12 NOT SHOT LYING DOWN. IS THAT CORRECT? THAT THAT WAS YOUR
13 OPINION?

14 A. RIGHT.

15 Q. OKAY. HOW DO YOU KNOW THE VICTIM DIDN'T MOVE
16 HIMSELF AFTER HE WAS SHOT?

17 A. I DON'T SEE ANY INDICATION OF ANY MOVEMENT. I DON'T
18 SEE ANY BLOOD ANYWHERE ELSE. IT'S ALL JUST RIGHT THERE.

19 Q. YOU'RE SAYING THAT WHEN HE WAS SHOT THERE WOULD HAVE
20 BEEN LARGE AMOUNTS OF BLOOD---

21 A. NO, I'M NOT SAYING THAT. I SAID, YOU KNOW, YOU CAN
22 -- YOU CAN TELL TYPICALLY IF A PERSON MOVES VERY MUCH AFTER
23 THEY'VE BEEN WOUNDED.

24 Q. AND YOU'RE AWARE FROM WHETHER -- THE FACT THAT THE
25 PATHOLOGIST TESTIFIED THAT HE WOULD HAVE, IN FACT, BEEN

1 CAPABLE OF AFTER BEING SHOT HAVING GOTTEN BACK UP AND
2 POSSIBLY COLLAPSED BACK ON THE FLOOR---

3 MR. LITTLEJOHN: YOUR HONOR, I'M GOING TO OBJECT.
4 OF COURSE, HE WAS NOT IN HERE FOR THAT TESTIMONY, AND I DON'T
5 THINK HE SHOULD PIT ONE WITNESS AGAINST ANOTHER.

6 MR. SORENSON: I THINK I'M---

7 THE COURT: I'LL LET YOU REPHRASE THAT. PART OF THE
8 PROBLEM IS CHARACTERIZING ANOTHER WITNESS'S TESTIMONY TO HIM.
9 I'LL LET YOU REPHRASE IT.

10 MR. SORENSON: LET ME ASK YOU: WOULD THE FACT -- IF
11 YOU WERE INFORMED THAT THE PATHOLOGIST HAD TESTIFIED THAT MR.
12 SMALLS COULD HAVE, IN FACT---

13 MR. LITTLEJOHN: YOUR HONOR, I WOULD OBJECT. THAT'S
14 THE SAME QUESTION.

15 THE COURT: HE'S AN EXPERT. I'LL LET HIM ASK THE
16 HYPOTHETICAL.

17 MR. SORENSON: THANK YOU.

18 BY MR. SORENSON:

19 Q. WOULD THE FACT THAT THE PATHOLOGIST IN THIS CASE
20 TESTIFIED THAT MR. SMALLS COULD HAVE BEEN SHOT ON THE FLOOR,
21 COULD HAVE GOTTEN UP AFTER HAVING BEEN SHOT AND THEN
22 COLLAPSED BACK ON THE FLOOR, I MEAN, WOULD THAT POSSIBLY
23 CHANGE YOUR OPINION AT ALL AS TO WHETHER HE WAS SHOT ON THE
24 FLOOR?

25 A. NO. I MEAN, I'M JUST TESTIFYING FROM THE PHYSICAL

1 EVIDENCE THAT'S PRESENT IN THE PHOTOGRAPHS, AND I DON'T SEE
2 ANY INDICATION OF THAT.

3 Q. OKAY. AND, IN FACT, FROM LOOKING AT THAT, PRETTY
4 MUCH THE PHOTOGRAPHS SHOW THAT MR. SMALLS HAD DIED LYING ON
5 HIS STOMACH. IS THAT CORRECT?

6 A. THAT APPEARS TO BE, YEAH.

7 Q. OKAY. COULD HAVE BEEN SHOT ON HIS BACK, ROLLED OVER
8 ON TO HIS STOMACH.

9 A. I DON'T SEE ANY INDICATION OF THAT. I DON'T SEE ANY
10 INDICATION THAT HE'S BEEN ROLLED AT ALL, AND NEITHER ONE OF
11 THESE STATEMENTS SAY THAT EITHER SO...

12 Q. SO HE COULD NOT HAVE ROLLED OVER HIMSELF?

13 A. WE'RE TALKING ABOUT PHYSICAL EVIDENCE. I DON'T SEE
14 ANY INDICATION THAT HE'S ROLLED OVER. WHAT I SEE IS THAT
15 ONCE HE GOT IN THIS POSITION HE DIDN'T CHANGE THIS POSITION.

16 Q. AND IF SOMEONE WOULD HAVE ROLLED FROM THEIR BACK ON
17 TO THEIR STOMACH, WHAT WOULD YOU EXPECT TO FIND?

18 A. WELL, IN THIS PARTICULAR CASE I'D SAY HE'S GASPING
19 FOR AIR. THERE MAY BE---

20 Q. THAT WASN'T MY QUESTION, SIR. MY QUESTION WAS, SIR:
21 IF SOMEONE WERE TO ROLL -- WERE TO BE SHOT ON THEIR BACK AND
22 ROLLED OVER ON TO THEIR STOMACH, WHAT EVIDENCE WOULD YOU
23 EXPECT TO FIND IF THEY HAD BEEN SHOT ON THE FLOOR WHILE ON
24 THEIR BACK AND THEY HAD ROLLED AFTER THAT ON TO THEIR
25 STOMACH?

1 A. THEY HAD ROLLED OVER? I JUST EXPLAINED IT TO YOU
2 THAT THERE'S SOME STATEMENT THAT HE WAS GASPING FOR AIR WHICH
3 WOULD BE INDICATIVE OF EXPIRATED BLOOD. WE MAY SEE LARGE
4 AMOUNTS OF EXPIRATED BLOOD. WE MAY SEE A TRAIL GOING FROM
5 ONE SIDE TO THE OTHER.

6 Q. WOULD YOU POSSIBLY FIND THE HOLE UNDERNEATH WHERE HE
7 WAS BEFORE HE ROLLED OVER FROM WHERE THE BULLET STRUCK?

8 A. NO, I DIDN'T -- THAT'S -- I CAN'T ASSOCIATE THAT
9 BULLET HOLE WITH ANY OF THE WOUNDS THAT HE HAS. YOU'RE
10 SPEAKING OF THE ONE THAT WAS FOUND DOWN BY HIS WAIST? I
11 MEAN, THAT -- THAT'S NOT ASSOCIATED WITH ANYTHING.

12 Q. YOU CAN'T ASSOCIATE THAT WITH THE BULLET THAT WENT
13 THROUGH HIS CHEST AND EXITED OUT HIS LEFT LOWER BACK.

14 A. NO, NOT THE WAY THESE ARE, NOT THE WAY THE... IF I
15 TOOK HIM THE WAY HE IS RIGHT NOW AND ROLL -- HOW WOULD I ROLL
16 HIM? IF I ROLLED HIM TO THE RIGHT, HE'D BE UP AGAINST THE
17 WALL. IF I ROLLED HIM TO THE LEFT, HE WOULD BE TWO FEET AWAY
18 FROM WHERE THE BULLET HOLE... I MEAN, I CAN'T EXPLAIN IT. I
19 DON'T EVEN KNOW IF THAT BULLET HOLE HAS GOT ANYTHING TO DO
20 WITH THIS OR NOT.

21 Q. OF COURSE, YOU'RE AWARE THAT A BULLET DID GO
22 THROUGH -- THAT THERE WERE TWO THROUGH-AND-THROUGH WOUNDS
23 THROUGH MR. SMALLS; IS THAT CORRECT?

24 A. RIGHT.

25 Q. OKAY. AND THAT THERE WAS A 38 -- 380 CALIBER BULLET

1 THAT WAS FOUND IN THE CORNER, STATE'S EXHIBIT NUMBER 45.

2 YOU'RE AWARE OF THAT; RIGHT?

3 A. RIGHT.

4 Q. AND THAT THERE WAS ALSO A FIRED LEAD BULLET CORE
5 FOUND RIGHT NEXT TO THE VICTIM'S BODY.

6 A. RIGHT.

7 Q. RIGHT NEXT TO THAT HOLE IN THE FLOOR. YOU'RE AWARE
8 OF THAT.

9 A. RIGHT. YEAH, I'M AWARE OF THAT.

10 Q. OF COURSE, THERE WAS ANOTHER 40 CALIBER BULLET THAT
11 DIDN'T GO THROUGH HIM.

12 A. RIGHT.

13 Q. THAT STAYED IN HIM.

14 A. THAT'S RIGHT.

15 Q. OKAY. AND THAT'S SOMETHING THAT YOU TESTIFIED WOULD
16 BE SOMETHING CONSISTENT WITH SOMEBODY ON THE FLOOR, THE
17 BULLET NOT MAKING IT THROUGH; IS THAT CORRECT?

18 A. WELL, IF IT'S RIGHT UNDER THE SKIN. I UNDERSTAND
19 THAT ONE LODGED IN HIS THIGH OR SOMETHING LIKE THAT.

20 Q. IN HIS THIGH?

21 A. WELL, WHEREVER IT WAS, IN THE HIP, BUT I CAN'T MOVE
22 HIM THE WAY HE IS NOW IN ANY POSITION THAT I CAN SEE THAT
23 WOULD ACCOMMODATE THAT.

24 Q. HE COULDN'T HAVE ROLLED OVER AND CRAWLED FORWARD A
25 LITTLE BIT, PUTTING HIMSELF IN THE CORNER?

1 A. I DON'T SEE THAT HE WAS EVER ON HIS BACK. I MEAN,
2 IF YOU HAVE SOMETHING CONTRARY TO THAT, I'LL BE GLAD TO LOOK
3 AT IT.

4 Q. LET ME SHOW YOU A COUPLE MORE STATEMENTS, SIR. I
5 SHOW YOU THE STATEMENT OF MARCUS MARTIN. I ASK YOU IF YOU'VE
6 HAD AN OPPORTUNITY TO REVIEW THAT STATEMENT AND ALSO THE
7 STATEMENT OF HENRY PHILLIPS.

8 A. I READ IT, BUT I MEAN IT DOESN'T -- IT STILL DOESN'T
9 SAY ANYTHING.

10 Q. OKAY. I'LL HAND YOU THAT ONE.

11 A. I MEAN, IT DOESN'T -- SEE, THIS DOESN'T GO WITH THE
12 FORENSIC EVIDENCE.

13 Q. IT DOES INDICATE THAT HE WAS SHOT WHILE HE WAS ON
14 THE FLOOR.

15 MR. LITTLEJOHN: YOUR HONOR, I'M GOING TO OBJECT.
16 CAN WE APPROACH?

17 THE COURT: YES, SIR.

18 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

19 BY MR. SORENSON:

20 Q. LET ME ASK YOU THIS, MR. GIRNDT. YOU INDICATED THAT
21 YOU REVIEWED -- REVIEWED THE FILE; IS THAT CORRECT?

22 A. I REVIEWED WHAT WAS GIVEN TO ME. I DON'T KNOW THAT
23 IT WAS---

24 Q. REVIEWED WHAT WAS GIVEN TO YOU, WHAT MR. LITTLEJOHN
25 GAVE TO YOU I ASSUME?

1 A. YES, SIR.

2 Q. WHERE WAS MR. SMALLS SHOT? YOU INDICATED YOU
3 REVIEWED THE AUTOPSY REPORT; IS THAT CORRECT? WHERE WAS HE
4 SHOT?

5 A. AS I RECALL, HE HAD -- ONE SHOT HAD PASSED THROUGH
6 ON HIS SIDE AND ONE SHOT -- I'M TRYING TO RECALL -- IN THE
7 CHEST AND THEN ONE SHOT THROUGH THE ABDOMEN THAT ENDED UP --
8 WENT THROUGH HIS ABDOMINAL AREA. I'M NOT SURE EXACTLY WHERE
9 IT ENDED UP.

10 MR. SORENSON: THAT'S ALL I HAVE, YOUR HONOR.

11 THE COURT: THANK YOU, MR. SORENSON. ANYTHING
12 FURTHER, MR. LITTLEJOHN?

13 MR. LITTLEJOHN: IF YOU WOULD INDULGE ME JUST A
14 MOMENT.

15 THE COURT: YES, SIR.

16 MR. LITTLEJOHN: NO FURTHER QUESTIONS.

17 THE COURT: OKAY. THANK YOU.

18 MR. LITTLEJOHN: WE ASK MR. GIRNDT BE EXCUSED.

19 THE COURT: YOU MAY STEP DOWN. THANK YOU. NO
20 REASON TO KEEP HIM HERE, IS THERE?

21 MR. SORENSON: (SHOOK HEAD FROM SIDE TO SIDE.)

22 THE COURT: SIR, YOU'RE FREE TO COME AND GO AS YOU
23 PLEASE. THANK YOU.

24 THE WITNESS: THANK YOU.

25 THE COURT: MR. LITTLEJOHN, THE DEFENSE ASKS FOR A

COLLOQUY

1 BREAK?

2 MR. LITTLEJOHN: YES, SIR.

3 THE COURT: LADIES AND GENTLEMEN, THIS IS A GOOD
4 TIME TO BREAK FOR LUNCH AND WE'LL MAKE SURE TO HAVE LUNCH
5 SHORTLY. WE'LL BREAK UNTIL 1:30, AND YOU ALL ENJOY YOUR
6 LUNCH. DO NOT TALK ABOUT THE CASE OR ANY OF THE EVIDENCE OR
7 TESTIMONY YOU'VE HEARD THUS FAR. YOU SAY THAT A MILLION
8 TIMES AND YOU GET A LITTLE TONGUE-TIED, BUT Y'ALL ENJOY YOUR
9 LUNCH AND WE'LL SEE Y'ALL AT 1:30. THANK YOU.

10 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT TO
11 GO TO LUNCH AT 12:20 P.M.)

12 THE COURT: THANK YOU, SIR. COUNSEL, LET ME JUST
13 ASK YOU: TIMING-WISE THE NEXT WITNESS IS -- THIS IS THE ONE
14 THAT'S ANTICIPATED TO BE A LITTLE -- POSSIBLY A LITTLE
15 LENGTHY?

16 MR. LITTLEJOHN: YES, YOUR HONOR.

17 THE COURT: ALL RIGHT. JUST SCHEDULING-WISE I
18 ANTICIPATE THAT WE WILL NOT CLOSE AND CHARGE TODAY. SO WHY
19 DON'T WE -- AFTER WE FINISH UP TODAY, WE'LL FINALIZE THE JURY
20 CHARGES AND EVERYTHING. I'VE GOT COPIES OF THE DEFENSE'S
21 REQUESTS TO CHARGE. I BELIEVE MS. WALKER MADE COPIES FOR THE
22 PROSECUTION; IS THAT RIGHT? YOU ALL HAVE A COPY OF THAT.
23 AND THEN WE'LL TALK ABOUT THE VERDICT FORM AND THE CHARGES
24 AFTER THE CONCLUSION OF THE CASE.

25 MR. LITTLEJOHN: YOU WANT TO CONCLUDE ALL THE

1 EVIDENCE, BOTH SIDES TODAY?

2 THE COURT: YEAH, WE CAN DO THAT AND THEN WE'LL JUST
3 CHARGE AND ARGUE IN THE MORNING. I THINK THAT WOULD PROBABLY
4 BE BETTER. ALL RIGHT. Y'ALL ENJOY LUNCH. WE'LL SEE Y'ALL
5 AT 1:30. THANK YOU.

6 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

7 THE COURT: THANK YOU. YOU CAN BE SEATED. OKAY.

8 MR. LITTLEJOHN, IS THE DEFENSE READY TO PROCEED?

9 MR. LITTLEJOHN: YES, YOUR HONOR.

10 THE COURT: THANK YOU, SIR. READY FOR THE JURY.

11 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT
12 1:40 P.M.)

13 THE COURT: THANK YOU, LADIES AND GENTLEMEN. WE'RE
14 READY TO CONTINUE. MR. LITTLEJOHN?

15 MR. LITTLEJOHN: THANK YOU, YOUR HONOR. YOUR HONOR,
16 WE CALL JEROID PRICE.

17 THE COURT: MR. PRICE.

18 JEROID PRICE, AFTER BEING DULY SWORN, TESTIFIED
19 AS FOLLOWS:

20 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE
21 YOUR FULL NAME FOR THE RECORD.

22 THE WITNESS: JEROID PRICE.

23 DIRECT EXAMINATION

24 BY MR. LITTLEJOHN:

25 Q. JEROID, HOW OLD ARE YOU?

JEROID PRICE - DIRECT EXAM BY MR. LITTLEJOHN

1 A. TWENTY-THREE.

2 Q. WHERE DID YOU GROW UP?

3 A. PARTIALLY IN SOUTH CAROLINA AND PARTIALLY IN NEW
4 YORK CITY.

5 Q. OKAY. WERE YOU BORN IN NEW YORK?

6 A. YES, SIR.

7 Q. WHEN DID YOU MOVE TO SOUTH CAROLINA?

8 A. IN 1995.

9 Q. 19---

10 A. '95.

11 Q. ---95?

12 A. YES, SIR.

13 Q. OKAY. AND WHERE DID YOU GO TO SCHOOL?

14 A. I WENT TO SOUTH AIKEN FOR A YEAR IN AIKEN, SOUTH
15 CAROLINA, AND THEN MY MAMA MOVED TO COLUMBIA, SOUTH CAROLINA,
16 AND I WENT TO COLUMBIA HIGH AND A.C. FLORA.

17 Q. OKAY. DID YOU LIVE WITH YOUR MOTHER?

18 A. YES, SIR.

19 Q. HAVE YOU GOT BROTHERS AND SISTERS?

20 A. YES, SIR.

21 Q. HOW MANY BROTHERS AND SISTERS HAVE YOU GOT?

22 A. I HAVE TWO LITTLE SISTERS FROM MY MOTHER.

23 Q. TWO OLDER SISTERS?

24 A. TWO LITTLE SISTERS FROM MY MOTHER.

25 Q. TWO LITTLE SISTERS.

1 A. TWO YOUNGER SISTERS.

2 Q. OKAY. HAVE YOU GOT ANY BROTHERS?

3 A. YES, SIR. THAT'S ON MY FATHER'S SIDE.

4 Q. OKAY. HOW OLD ARE YOUR BROTHERS?

5 A. MY BROTHER IS ABOUT 32.

6 Q. OKAY. NOW, JEROID, HOW FAR DID YOU GO IN SCHOOL?

7 A. MY SENIOR YEAR I DROPPED OUT BECAUSE I WAS
8 CONCEIVING MY BABY. MY GIRLFRIEND WAS HAVING MY CHILD---

9 Q. OKAY.

10 A. ---AND I WAS HAVING A DAUGHTER, SO I DECIDED TO WORK
11 INSTEAD OF GOING TO SCHOOL.

12 Q. ALL RIGHT. AND WHEN DID YOU DROP OUT OF SCHOOL?

13 A. '98?

14 Q. OKAY.

15 A. '98, '99 SEASON. THE '98, '99 SEASON.

16 Q. ALL RIGHT. WHILE WE'RE ON THAT SUBJECT, SINCE THEN
17 HAVE YOU DONE ANYTHING TO COMPLETE YOUR SCHOOLWORK?

18 A. YES, SIR. I WAS -- I WAS ENCOURAGED BY SOME
19 FRIENDS, YOU KNOW, TO FINISH HIGH SCHOOL. I ONLY NEEDED FOUR
20 CREDITS, TWO BIOLOGIES, A MATH, AND AN ENGLISH. SO I --
21 THERE WAS LIKE THIS THING THAT CAME ON T.V. AND I ORDERED IT
22 WITH MY CREDIT CARD, AND THEY ENROLLED ME IN A HIGH SCHOOL.

23 Q. OKAY. AND HAVE YOU BEEN ABLE TO COMPLETE THOSE
24 COURSES?

25 A. NO, SIR. YOU KNOW, WITH THE SITUATION THAT'S BEEN

JEROID PRICE - DIRECT EXAM BY MR. LITTLEJOHN

1 GOING ON I WASN'T ABLE TO FINISH.

2 Q. OKAY. SO SUFFICE IT TO SAY YOU NEVER HAD A CHANCE
3 TO GO TO COLLEGE.

4 A. NO, SIR.

5 Q. JEROID, LET ME REFER YOU TO LAST YEAR, 2002. WHAT
6 WERE YOU DOING IN THE FALL OF 2002?

7 A. THE FALL OF 2002 I WAS WORKING, STAYING AT HOME. I
8 WAS DOING THE -- WELL, I ENROLLED IN THE SCHOOL THING.

9 Q. UH-HUH.

10 A. AND THAT'S ABOUT IT AND TAKING CARE OF MY KIDS.

11 Q. OKAY. LET ME TALK ABOUT WORK FIRST. WHAT KIND OF
12 WORK WERE YOU DOING?

13 A. I WAS DOING DETAILING, AND LIKE ON THE SIDE I WAS
14 DOING LIKE SELLING C.D.'S AND D.V.D.'S.

15 Q. UH-HUH.

16 A. LIKE WE WOULD BUY THE C.D.'S AND D.V.D.'S WHOLESALE
17 AND THEN SELL THEM AT REGULAR PRICES.

18 Q. OKAY. AND YOU SAID -- YOU SAID YOU HAD KIDS THAT
19 YOU WERE SUPPORTING?

20 A. YES, SIR.

21 Q. HOW MANY KIDS?

22 A. I HAVE FIVE KIDS, SIR.

23 Q. YOU HAVE FIVE.

24 A. YES.

25 Q. OKAY. AND ARE YOU SUPPORTING ALL FIVE OF THEM?

1 A. YES, SIR.

2 Q. OKAY. AND YOU WERE DOING THAT BY WORKING TWO JOBS?

3 A. YES, SIR.

4 Q. ALL RIGHT. JEROID, BACK IN DECEMBER OF 2002 WHERE
5 WERE YOU LIVING?

6 A. WELL, I WAS STAYING AT [REDACTED] SAINT ANDREWS ROAD.

7 Q. UH-HUH.

8 A. AND -- BUT I WAS ALSO STAYING WITH MY CHILDREN'S
9 MAMA.

10 Q. OKAY. AND WHERE DID SHE STAY?

11 A. SHE STAYED IN GREENVIEW.

12 Q. GREENVIEW?

13 A. YEAH. IT'S IN COLUMBIA.

14 Q. OKAY. BUT YOU WERE STAYING AT [REDACTED] SAINT ANDREWS
15 ROAD?

16 A. YES, FOR THE MOST PART.

17 Q. WHO ELSE WAS -- WHO ELSE STAYED THERE?

18 A. KEISHA PRICE.

19 Q. OKAY. OTHER PEOPLE STAY AT THAT APARTMENT AT ANY
20 TIME?

21 A. YES, SIR. I HAVE FRIENDS THAT STAY WITH US.

22 Q. HOW LONG WOULD THEY STAY FOR?

23 A. TWO OR THREE MONTHS UNTIL THEY GET ON THEIR FEET OR
24 LIKE ON OCCASIONS I HAVE FRIENDS THAT WAS HAVING PROBLEMS AT
25 HOME WITH THEIR PARENTS, AND I WOULD LET THEM SORT OUT THEIR

1 PROBLEMS AND THEN GO BACK HOME.

2 Q. OKAY. DID THEY -- DID THEY HAVE THINGS THERE IN THE
3 APARTMENT?

4 A. YES, SIR, PLENTY OF CLOTHING AND SUCH THINGS.

5 Q. OKAY. DID YOU HAVE CLOTHES AND THINGS THERE?

6 A. YES, SIR.

7 Q. OKAY. JEROID, THERE'S BEEN A LOT OF TALK DURING
8 THIS TRIAL ABOUT BLOODS AND CRYPTS AND GANG-RELATED ACTIVITY.
9 ARE YOU WHAT IS CALLED A BLOOD?

10 A. NO, SIR, I'M NOT A MEMBER, BUT I HAVE FRIENDS THAT
11 ARE. SO I GUESS I AM AFFILIATED.

12 Q. OKAY. WHY WOULD PEOPLE SAY YOU WERE A BLOOD?

13 A. WELL, THAT'S JUST LIKE SAYING IF -- I GUESS IF YOUR
14 BEST FRIEND OR A FRIEND OF YOURS THAT YOU HANG WITH SMOKED,
15 PEOPLE WOULD PROBABLY THINK YOU SMOKE BECAUSE YOU HANG AROUND
16 THAT TYPE OR THAT PERSON.

17 Q. UH-HUH.

18 A. SO THAT'S WHY I GUESS SO.

19 Q. HOW MANY FRIENDS DO YOU THINK YOU'VE GOT THAT ARE
20 AFFILIATED WITH THE BLOODS?

21 A. ABOUT FOUR.

22 Q. ABOUT FOUR?

23 A. YES, SIR.

24 Q. OKAY. DO YOU KNOW ANYTHING ABOUT THE CODE, ABOUT
25 BLOOD CODES OR ANYTHING?

1 A. NOT REALLY, SIR, BUT I KNOW THAT THEY -- ONCE YOU'RE
2 IN A GANG, YOU CLAIM YOUR GANG. I KNOW THAT MUCH.

3 Q. OKAY. BEFORE WE MOVE ON, JEROID, LET'S TALK ABOUT
4 THE APARTMENT. YOU SAID YOU LIVED AT [REDACTED] SAINT ANDREWS ROAD
5 OR YOU WERE STAYING THERE?

6 A. YES, SIR.

7 Q. AND THAT WAS IN DECEMBER?

8 A. YES, SIR.

9 Q. OKAY. THE STATE HAS INTRODUCED, AS YOU'RE WELL
10 AWARE, SOME THINGS THAT CAME OUT OF THAT APARTMENT WHEN THEY
11 SERVED A SEARCH WARRANT ON DECEMBER 13TH.

12 A. YES, SIR.

13 Q. OKAY. LET ME REFER YOU TO WHAT'S BEEN MARKED AS
14 STATE'S EXHIBIT -- EXCUSE ME, YOUR HONOR.

15 THE COURT: YES, SIR.

16 BY MR. LITTLEJOHN:

17 Q. NUMBER 62. AND THIS APPEARS TO BE A NUMBER OF ITEMS
18 OF CLOTHING, AND THEY'RE ALL RED. OKAY?

19 A. YES, SIR.

20 Q. IS SOME OF THIS STUFF YOURS?

21 A. SOME OF IT MAY BE MINE (SIC).

22 Q. IS SOME OF IT NOT YOURS?

23 A. YES, SIR.

24 Q. OKAY. YOU HAD CLOTHING IN THAT APARTMENT AT [REDACTED]
25 SAINT ANDREWS ROAD?

1 A. YES, SIR.

2 Q. DID YOU HAVE CLOTHING OTHER THAN RED CLOTHING?

3 A. YES, SIR.

4 Q. WHAT OTHER COLOR CLOTHING DID YOU HAVE?

5 A. WELL, I LIKE TO COORDINATE WHEN I DRESS. SO IF I
6 BUY A BLUE OUTFIT, I WOULD PROBABLY BUY A BLUE HAT ALSO WITH
7 THE BLUE JEAN PANTS---

8 Q. OKAY.

9 A. ---OR OTHER -- OR GREEN WITH SOME, YOU KNOW, KIND OF
10 OFF-WHITE WASHED-TYPE CREAM JEANS.

11 Q. UH-HUH. BUT YOU HAD CLOTHING OTHER THAN RED STUFF.

12 A. YES, SIR.

13 Q. OKAY. YOU HAVEN'T BEEN THROUGH THIS BOX.

14 A. NO, SIR.

15 Q. SO YOU DON'T KNOW WHAT'S IN HERE THAT BELONGS TO YOU
16 AND WHAT MIGHT BELONG TO SOMEBODY ELSE.

17 A. NO, SIR.

18 Q. OKAY. NOW, JEROID, AS YOU'RE AWARE, THERE WERE A
19 NUMBER OF THINGS AFFILIATED WITH GUNS THAT CAME OUT OF YOUR
20 APARTMENT.

21 A. YES, SIR.

22 Q. WHY DID YOU HAVE GUNS OR DID YOU HAVE GUNS?

23 A. YES, SIR.

24 Q. YOU HAD THEM?

25 A. YES, SIR.

1 Q. THEY WEREN'T SOMEBODY ELSE'S?

2 A. NO, I HAVE -- I HAVE BOUGHT GUNS---

3 Q. OKAY.

4 A. ---FROM GUN SHOW -- FROM GUN SHOWS---

5 Q. ALL RIGHT. AND SO YOU---

6 A. ---ACTUALLY.

7 Q. ---YOU HAD BOUGHT SOME GUNS?

8 A. YES, SIR.

9 Q. DID YOU HAVE SOME BULLETS?

10 A. FOR THE GUNS THAT I PURCHASED, YES, SIR.

11 Q. UH-HUH. OKAY. WELL, WHY DID YOU HAVE GUNS?

12 A. WELL, I -- FRANKLY WHEN I WAS IN HIGH SCHOOL, I
13 ALWAYS WANTED TO BE -- WELL, I WAS IN R.O.T.C. THROUGHOUT MY
14 HIGH SCHOOL AND I ALWAYS WANTED TO BE, YOU KNOW, GOING INTO
15 THE MILITARY OR BECOME AN OFFICER. IN DOING SO I PURCHASED
16 GUNS BECAUSE IT WAS -- IT WAS LEGAL FOR ME TO PURCHASE GUNS.

17 Q. OKAY.

18 A. SO I PURCHASED A GUN FOR PROTECTION ALSO, PROTECTION
19 OF MY OWN.

20 MR. SORENSON: YOUR HONOR?

21 THE COURT: YES, SIR.

22 MR. SORENSON: I HAVE AN OBJECTION. MAY WE
23 APPROACH?

24 THE COURT: YES, SIR.

25 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

1 BY MR. LITTLEJOHN:

2 Q. JEROID, YOU WERE EXPLAINING TO US WHY YOU HAD THESE
3 GUNS. COULD IT BE DESCRIBED AS A HOBBY?

4 A. YES, SIR.

5 Q. OKAY. HOW ABOUT THE -- THESE ITEMS THAT HAVE BEEN
6 IDENTIFIED AS FLACK JACKETS OR BULLETPROOF VESTS?

7 A. WELL, WHEN YOU GO TO THE -- IF YOU'VE EVER BEEN TO
8 THE GUN SHOW, WHEN YOU GO TO THE GUN SHOW THEY TRY TO MAKE
9 YOU BUY A LOT OF THINGS, YOU KNOW, AND THEY WAS INTERESTING
10 AND I DID PURCHASE THEM.

11 Q. OKAY. DID YOU HAVE TO FILL OUT ANY KIND OF FORMS OR
12 ANYTHING?

13 A. NO, NOT FOR THOSE.

14 Q. HOW WOULD THEY HAVE THEM IN THE GUN SHOW?

15 A. THEY JUST HAVE THEM HANGING AROUND.

16 Q. OKAY.

17 A. AND THEY -- YOU KNOW, BUY THIS. YOU CAN -- YOU CAN
18 BUY THIS, YOU KNOW.

19 Q. ALL RIGHT. DID YOU EVER USE THOSE?

20 A. NO, SIR.

21 Q. HAVE YOU EVER WORN THEM?

22 A. NO, SIR.

23 Q. JEROID, THERE WERE ALSO SOME WRITTEN MATERIALS THAT
24 WERE FOUND IN YOUR APARTMENT THAT HAVE BEEN PREVIOUSLY
25 IDENTIFIED. BEAR WITH ME JUST A MOMENT. AND I'M REFERRING

1 TO STATE'S EXHIBITS NUMBER 66 AND 67. DO YOU RECOGNIZE THOSE
2 TWO EXHIBITS, THE PAPERS OR WRITINGS THAT ARE -- COMPRISE
3 THOSE EXHIBITS?

4 A. NO, SIR, BECAUSE THAT'S NOT MY HANDWRITING, FIRST OF
5 ALL, AND I DON'T REMEMBER EVER LOOKING AT ANY OF THOSE
6 PAPERS---

7 Q. OKAY.

8 A. ---OR SEEING THEM AROUND MY APARTMENT.

9 Q. PARDON ME NOW?

10 A. OR SEEING THEM AROUND MY APARTMENT.

11 Q. COULD THEY HAVE COME OUT OF YOUR APARTMENT?

12 A. I DON'T KNOW. MAYBE. MAYBE NOT. I DOUBT IT.

13 Q. YOU'RE NOT DENYING THAT THEY WERE IN YOUR APARTMENT.

14 A. NO.

15 Q. YOU JUST DON'T KNOW.

16 A. I DON'T KNOW.

17 Q. BUT LOOKING AT IT, IS THAT YOUR HANDWRITING?

18 A. NO, SIR. I COULD TELL THAT OFF THE BAT.

19 Q. OKAY. LET ME SHOW YOU EXHIBIT 66.

20 A. NO, SIR.

21 Q. IS THAT YOUR HANDWRITING?

22 A. NO, SIR.

23 Q. DID YOU EVER COPY THIS MATERIAL OR...

24 A. NO, SIR.

25 Q. YOU DON'T KNOW ANYTHING ABOUT IT.

1 A. NO, SIR.

2 Q. OKAY. JEROID, DO YOU KNOW RYAN BROOKS?

3 A. YES, SIR.

4 Q. HOW DO YOU KNOW RYAN?

5 A. WELL, RYAN WENT TO COLUMBIA HIGH FOR A MOMENT AT THE
6 TIME WHEN I WAS TRANSFERRING FROM COLUMBIA HIGH TO A.C. FLORA
7 AND HE WAS A FRIEND OF JAMEL'S, SO WE BECAME FRIENDS.

8 Q. OKAY. NOW, HOW WOULD YOU -- HOW WOULD YOU
9 CHARACTERIZE YOUR FRIENDSHIP WITH HIM?

10 A. WE'RE FRIENDS.

11 Q. I MEAN, ARE YOU BEST FRIENDS OR ARE YOU
12 ACQUAINTANCES?

13 A. HE AIN'T MY BEST FRIEND, NO. WE'RE -- WE'RE
14 FRIENDS. WE GO OUT. WE PLAY BASKETBALL TOGETHER, STUFF LIKE
15 THAT. SO I WOULD CALL YOU MY FRIEND.

16 Q. OKAY. HOW ABOUT ANTHONY SHERMAN PATRICK?

17 A. HE'S A FRIEND.

18 Q. HOW ABOUT JASON WOODS?

19 A. HE'S A FRIEND, TOO.

20 Q. OKAY. TO YOUR KNOWLEDGE, IS RYAN BROOKS A MEMBER OF
21 THE BLOODS?

22 A. NOT THAT I KNOW OF.

23 Q. COULD HE BE?

24 A. HE COULD BE.

25 Q. OKAY. HOW ABOUT A FELLOW NAMED J-LEW OR JEFFREY

1 LEWIS?

2 A. JEFFREY LEWIS?

3 Q. UH-HUH.

4 A. I BELIEVE SO.

5 Q. DO YOU KNOW HIM?

6 A. YES, SIR, I KNOW HIM.

7 Q. DO YOU THINK J-LEW IS A BLOOD?

8 A. I BELIEVE SO.

9 Q. LET ME SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT
10 NUMBER 61. DO YOU RECOGNIZE THAT PICTURE?

11 A. YES, SIR.

12 Q. WAS THAT PICTURE IN YOUR APARTMENT?

13 A. YES, SIR.

14 Q. WHO ALL IS IN THAT PICTURE?

15 A. JEFFREY LEWIS. THAT'S J-LEW.

16 Q. WHERE IS -- WHERE IS J-LEW IN THAT PICTURE?

17 A. AT THE BOTTOM---

18 Q. TURN AROUND THIS WAY, JEROID, SO THE JURY CAN SEE IF
19 YOU WOULD.

20 A. AT THE BOTTOM RIGHT BY ME.

21 Q. HE'S IN THE RED.

22 A. YES. THIS IS ME. THAT'S RONALD HAMILTON. THAT'S
23 CHARLIE WITHERSPOON, THE ACTOR, FROM FRIDAY. I DON'T KNOW
24 THESE OTHER TWO GUYS.

25 Q. WHERE WAS THE PICTURE TAKEN?

1 A. AT JOHN ABRAHAM'S BIRTHDAY PARTY AT THE SHERATON.

2 Q. JOHN ABRAHAM?

3 A. YES, THE FOOTBALL PLAYER FOR THE JETS.

4 Q. OKAY. NOW, HOW ABOUT THIS PICTURE, THIS STATE'S

5 EXHIBIT NUMBER 52? DO YOU RECOGNIZE THAT PICTURE?

6 A. YES, SIR.

7 Q. WHERE DID THAT PICTURE COME FROM?

8 A. I DON'T KNOW, BUT THIS IS RYAN IN THE PICTURE.

9 Q. OKAY. I MEAN, DO YOU RECOGNIZE IT AS BEING
10 SOMETHING THAT WAS IN YOUR APARTMENT?

11 A. NO, SIR.

12 Q. OKAY. SO YOU'RE NOT FAMILIAR WITH THE PICTURE.

13 A. NO, SIR.

14 Q. BUT YOU RECOGNIZE RYAN?

15 A. YES, SIR..

16 Q. DO YOU KNOW -- WHAT'S SHOWN IN THE PICTURE, DO YOU
17 KNOW WHERE THAT IS?

18 A. WHERE IS IT?

19 Q. YES.

20 A. NO, SIR.

21 Q. OKAY. JEROID, LET ME REFER YOU TO THE NIGHT OF
22 DECEMBER 6TH. DID YOU HAVE OCCASION TO GO TO THE VODOO
23 LOUNGE?

24 A. YES, SIR.

25 Q. BACK UP FOR A SECOND IF YOU WOULD. TELL THE JURY AS

1 BEST YOU CAN RECALL WHAT YOU WERE DOING THAT DAY, HOW YOU
2 ENDED UP GOING TO THE VODOO LOUNGE.

3 A. WELL, I GOT A CALL FROM RONALD WHICH HIS NICKNAME IS
4 ROCK AND HE WAS LIKE MANAGING THE VODOO LOUNGE---

5 COURT REPORTER: I'M HAVING A HARD TIME
6 UNDERSTANDING HIM WITH HIS BACK TO ME.

7 THE COURT: SPEAK RIGHT THERE. JUST GET A LITTLE
8 CLOSER TO THE MICROPHONE.

9 BY MR. LITTLEJOHN:

10 Q. YEAH, JUST GET CLOSER TO THE MICROPHONE.

11 A. I WAS -- I WAS -- I GOT A CALL FROM RONALD WHOSE
12 NICKNAME IS ROCK AND HE WAS LIKE MANAGING THE VODOO LOUNGE
13 FOR THE -- FOR THE PARTY. AND HE WAS LIKE, "WE'RE HAVING A
14 PARTY. COME ON OUT." I WAS LIKE, "ALL RIGHT. I'LL COME ON
15 OUT, YOU KNOW. I AIN'T GOT NOTHING TO DO RIGHT NOW," AND HE
16 SAID, "COME ON OUT." AND THEN HE WAS TELLING ME THAT J-LEW,
17 JEFFREY LEWIS, AND A FEW OTHER GUYS WAS WORKING SECURITY AND
18 MAYBE I COULD HELP OUT IF HE NEEDED ME. I SAID, "I'LL HELP
19 OUT IF YOU NEED ME," AND I CAME OUT TO THE PARTY.

20 Q. OKAY. WHAT TIME DID YOU GO TO THE PARTY?

21 A. PROBABLY -- I PROBABLY GOT THERE ABOUT 12:15, AROUND
22 -- AROUND 12-ISH.

23 Q. HOW DID YOU GET THERE?

24 A. I DROVE.

25 Q. OKAY. DROVE WHOSE CAR?

1 A. MY CAR.

2 Q. YOUR CAR?

3 A. YEAH. IT'S IN MY MOTHER NAME, BUT I CLAIMS IT.

4 Q. OKAY. ANYBODY ELSE GO WITH YOU?

5 A. NO, SIR.

6 Q. ALL RIGHT. JEROID, BEFORE YOU GOT THERE WERE YOU IN
7 CONTACT WITH RYAN BROOKS?

8 A. RIGHT BEFORE THE PARTY?

9 Q. UH-HUH.

10 A. WELL, THEY KNEW I WAS GOING TO THE PARTY.

11 Q. OKAY. DID YOU HAVE ANY TELEPHONE CALLS WITH HIM?

12 A. DID I CALL HIM AND SAY, "I'M GOING TO THE PARTY"?

13 Q. UH-HUH.

14 A. NO.

15 Q. OKAY.

16 A. WHEN I GOT IN THE PARTY, THEN I HAD CALLED HIM ON MY
17 CELL PHONE.

18 Q. ALL RIGHT. OKAY. AFTER YOU GOT THERE AT ABOUT
19 12:15, WHAT HAPPENED THEN?

20 A. I WALKED IN THE CLUB. AS I WALKED IN THE CLUB,
21 THERE WAS A GROUP I CAN TELL WAS FOOTBALL PLAYERS BECAUSE
22 THEY WAS A BUNCH OF BIG GUYS. AND AS I WALKED IN, THEY WAS
23 TO THE LEFT OF ME AS I WALKED INTO THE CLUB, AND AS I WALKED
24 I WAS WALKING TOWARDS THE BAR BECAUSE AT THE BAR WAS TY. I
25 WAS LOOKING FOR PEOPLE THAT I WOULD RECOGNIZE. AT THE BAR

1 WAS TY, AND ROCK WAS STANDING NEXT TO THE BAR. AND AS I
2 WALKED TOWARDS THE BAR, I SEEN A LIGHT-SKINNED FELLOW WHICH
3 LATER -- WELL, SINCE I'VE BEEN IN TRIAL WAS DEANDRE EILAND.

4 Q. UH-HUH.

5 A. I SEEN RACHIM MONROE. I SEEN SOME OTHER FOOTBALL
6 PLAYERS AND MR. SMALLS, AND THEY WERE STANDING OFF TO THE
7 LEFT. AS THEY WERE STANDING OFF TO THE LEFT AND I WAS
8 WALKING, THEY WAS LIKE LOOKING AT WHAT I HAD ON.

9 Q. UH-HUH.

10 A. AND, YOU KNOW, FROM WHAT I HAD ON THEY WAS JUST LIKE
11 STARING AT ME, AND I JUST WALKED OVER TOWARDS THE BAR.

12 Q. ALL RIGHT. WHAT DID YOU HAVE ON?

13 A. I HAD ON A BLACK, WHITE, AND RED LINING AROUND THE
14 JERSEY. IT WAS AN INDIAN JERSEY, A CLEVELAND'S INDIAN
15 JERSEY.

16 Q. OKAY. WHAT WAS THE PRIMARY COLOR OF THAT?

17 A. BLACK.

18 Q. OKAY. AND YOU SAY IT HAD...

19 A. THE -- AROUND THE INDIAN SIGN---

20 Q. UH-HUH.

21 A. ---THE CLEVELAND INDIAN SIGN WAS RED LINING---

22 Q. OKAY.

23 A. ---AND IT WAS WHITE ON THE INSIDE.

24 Q. OKAY.

25 A. AND I HAD ON A WHITE AND BLACK HAT AND THE INDIAN

JEROID PRICE - DIRECT EXAM BY MR. LITTLEJOHN

1 HAD A BIG RED FEATHER.

2 Q. OKAY. WHAT COLOR WAS THE HAT NOW?

3 A. BLACK AND WHITE.

4 Q. BLACK AND WHITE.

5 A. WITH A RED FEATHER COMING OUT OF THE INDIAN.

6 Q. ALL RIGHT. WHY DID YOU HAVE CLEVELAND INDIANS?

7 A. BECAUSE I CHOSE TO BUY THE -- I LIKE TO SEE THEM A
8 LITTLE BIT. I JUST CHOSE TO BUY THE JERSEY. THE JERSEY
9 LOOKED NICE.

10 Q. ALL RIGHT.

11 A. SO I BOUGHT THE HAT WITH THE JERSEY.

12 Q. OKAY. SO THE FACT THAT IT HAD A C. ON IT DIDN'T
13 HAVE ANYTHING TO DO WITH WHY YOU WERE WEARING IT.

14 A. NO.

15 Q. OKAY. AFTER YOU SAW THESE FOOTBALL PLAYERS AND THEY
16 WERE LOOKING AT YOU, WHAT HAPPENED THEN? DID YOU GET
17 ANYTHING TO DRINK?

18 A. NO, I DIDN'T DRINK AT ALL THAT NIGHT. I ONLY DRINK
19 SOMETIME. I'M NOT A HEAVY DRINKER.

20 Q. YOU DIDN'T HAVE ANYTHING TO DRINK THAT NIGHT?

21 A. NO, SIR.

22 Q. OKAY. WELL, TELL US: AS THE PARTY PROGRESSED, WHAT
23 DID YOU -- WHAT DID YOU SEE? WHAT DID YOU DO?

24 A. AS THE PARTY PROGRESSED?

25 Q. UH-HUH.

1 A. I RAN INTO SOME PEOPLE THAT I KNEW FROM HIGH SCHOOL
2 THAT ATTENDED BENEDICT AND I WAS TALKING TO THEM. RYAN AND
3 JASON AND SHERMAN CAME IN AS THE PARTY PROGRESSED. JEFFREY
4 LEWIS WAS COMING IN AND OUT. HE WAS WORKING THE FRONT DOOR.
5 HE WAS COMING IN AND OUT, AND SOME OF THE GUYS FROM BENEDICT
6 THAT I KNEW FROM BEING AROUND BENEDICT WHO I WILL SAY THAT
7 PROBABLY IS IN A GANG, THEY WAS ON THE DANCE FLOOR.

8 Q. UH-HUH.

9 A. AS THEY WAS ON THE DANCE FLOOR, THEY WAS DOING ALL
10 TYPES OF -- THEY WAS DOING THE HARLEM SHAKE AND ALL TYPES OF
11 DANCES, WHATEVER, AND THE DUDES FROM U.S.C. WAS ALSO DANCING.

12 Q. UH-HUH.

13 A. AND SIGNS WAS THROWING UP AND THEN SIGNS WAS
14 THROWING UP ON THE OTHER END, AND WHEN THE SIGNS STARTED
15 GOING UP THERE STARTED TO BE A CONFLICT. THE CROWD STARTED
16 GETTING CLOSER TO EACH OTHER AS THE SIGNS WAS BEING THROWN
17 UP, AND ME BEING ON THE SIDE OF THE BAR WHERE ME AND ROCK WAS
18 STANDING AND TY, WHEN I CAME BACK AROUND I WAS JUST LIKE -- I
19 TOLD MOE WHO WAS ONE OF THE GUYS FROM BENEDICT THAT WAS IN
20 THE CROWD LIKE, "YO, CHILL OUT. DON'T, YOU KNOW WHAT I'M
21 SAYING, FOLLOW THAT UP."

22 Q. OKAY.

23 A. AND WHEN I WAS IN -- WHEN I WAS STANDING IN THE
24 MIDDLE OF THE CONFLICT, RYAN WAS IN THE CROWD. JASON -- I
25 DIDN'T SEE JASON AT ALL OR ANTHONY PATRICK; I DIDN'T SEE

1 THEM. I BELIEVE THEY WAS OFF SOMEWHERE ELSE, BUT RYAN WAS IN
2 THE CROWD. I WAS TELLING RYAN NOT TO GET INTO IT, AND HE WAS
3 IN THE CROWD WITH THEM.

4 Q. OKAY.

5 A. AND THE CONFLICT STARTED OFF. THE CONFLICT STARTED.

6 Q. OKAY. NOW, EXPLAIN A COUPLE OF THINGS TO ME. YOU
7 SAY THAT PEOPLE WERE DANCING. WERE, I MEAN, THESE GUYS DOING
8 SOME SORT OF SPECIAL DANCE OR ARE THEY DANCING WITH GIRLS OR
9 WHAT ARE THEY DOING?

10 A. NOT AT FIRST. IT WAS LIKE---

11 Q. I DON'T GO TO NIGHT CLUBS ANYMORE. I DON'T KNOW.

12 A. IT WAS LIKE -- HOW DO YOU CALL THAT MUSIC? THEY
13 CALL IT GET CRUP (PHONETIC) MUSIC. THERE'S LIKE -- THERE'S
14 LIKE BOUNCING MUSIC, EVERYBODY JUMPING AROUND AND LIKE -- AND
15 TO ME, YOU KNOW WHAT I'M SAYING, FOR ME BEING AROUND PEOPLE
16 THAT'S IN GANGS, IT SOUND LIKE GANG MUSIC REALLY. THROW YOUR
17 -- THROW YOUR HOOD UP AND STUFF LIKE THAT. SO THEY'RE
18 JUMPING UP AND -- EVERYBODY JUMPING UP AND DOWN IS TO GET --
19 IS TO GET THE CLUB HYPE TYPE MUSIC.

20 Q. OKAY. SO HOW LONG -- WAS THIS GOING ON FOR A NUMBER
21 OF SONGS OR...

22 A. YES, THAT'S -- THAT'S -- THAT'S WHEN YOU -- WHEN
23 YOU'RE TRYING TO GET THE CLUB HYPED AND I GUESS WHEN THE CLUB
24 IS LIKE NOT -- EVERYBODY NOT DANCING AND YOU'RE TRYING TO GET
25 THE CLUB HYPED, THAT'S THE MUSIC -- KIND OF MUSIC YOU PUT ON.

1 Q. OKAY. SO THEY WEREN'T DOING A SLOW DANCE OR A FOX
2 TROT OR ANYTHING LIKE THAT.

3 A. NO.

4 Q. OKAY. JEROID, LET ME SHOW YOU WHAT'S BEEN MARKED
5 STATE'S EXHIBIT NUMBER 1. THIS IS A SCHEMATIC OR A DIAGRAM
6 OF THE NIGHTCLUB THERE. WHERE WERE YOU STANDING WHEN YOU --
7 WHEN YOU SAW ALL THIS?

8 A. RIGHT HERE.

9 Q. OKAY. AND WHERE WERE THE -- WHERE WERE THE PEOPLE
10 DANCING?

11 A. RIGHT ABOUT IN HERE.

12 Q. OKAY. AND HOW MANY PEOPLE WERE -- WERE
13 PARTICIPATING IN THIS?

14 A. A LOT.

15 Q. OKAY. MOSTLY GUYS?

16 A. YES, SIR.

17 Q. ALL RIGHT. NOW, WHAT HAPPENED AFTER THAT?

18 A. I---

19 Q. WHAT DID YOU SEE? WHAT HAPPENED?

20 A. I STEPPED IN BECAUSE MOE LOOKED LIKE HE WANTED TO
21 FIGHT, SO I STEPPED IN AND I WAS LIKE---

22 Q. MOE IS A FRIEND -- MOE IS A FRIEND OF YOURS?

23 A. YES.

24 Q. WHAT'S HIS NAME?

25 A. MAURICE MCDUFFIE.

1 Q. OKAY.

2 A. SO WHEN I STEPPED IN, I WAS LIKE, "YO, CHILL OUT."
3 AND ME AND WHO I FOUND OUT LATER WAS RACHIM MONROE -- I SEE
4 HIM AROUND A LOT AT THE CLUBS. SO ME AND HIM WAS TALKING,
5 AND AS ME AND HIM STARTED TALKING, MR. SMALLS CAME OVER AND
6 DEANDRE EILAND WAS ON THE SIDE OF SMALLS, AND SMALLS WAS
7 LIKE, "WHAT'S UP?" I WAS LIKE, "I'M TALKING -- I'M TALKING
8 TO HIM. I DON'T KNOW YOU, YOU KNOW," AND HE WAS LIKE, "FUCK
9 THAT." I SAID, "WHAT?" I SAID, "I'M GOING TO TALK TO YOUR
10 BOY. MAN, I DON'T KNOW HIM." HE SAID, "FUCK THAT. WHAT'S
11 THAT? WHAT'S THAT YOU'RE RAPPING?"

12 Q. ALL RIGHT. NOW, DID YOU KNOW CARL SMALLS BEFORE
13 THAT?

14 A. NO, SIR.

15 Q. YOU NEVER MET HIM.

16 A. NO, SIR.

17 Q. OKAY. AND HE SAID THESE WORDS TO YOU AND WHAT
18 HAPPENED?

19 A. I TOLD HIM, "I'M NOT WITH THAT." I KNEW WHAT HE WAS
20 SAYING WHEN HE IMPLIED, "WHAT'S THAT YOU'RE RAPPING?" I TOLD
21 HIM, "I'M NOT WITH THAT."

22 Q. OKAY. AND WHAT DID YOU THINK HE WAS -- HE WAS
23 REFERRING TO?

24 A. TO BANGING.

25 COURT REPORTER: TO WHAT?

1 THE WITNESS: BANGING. BANGING.

2 BY MR. LITTLEJOHN:

3 Q. BANGING. OKAY. ALL RIGHT. JEROID, AFTER THIS
4 EXCHANGE OR AFTER HE SAID THESE WORDS TO YOU, WHAT DID YOU
5 DO? WHAT HAPPENED?

6 A. ME AND RACHIM WERE STILL TALKING AND HE SAID, "MAN"
7 -- HE WAS TELLING RACHIM LIKE, "WHAT YOU DOING TALKING TO
8 HIM?" YOU KNOW WHAT I'M SAYING? LIKE RACHIM WASN'T SUPPOSED
9 TO TALK TO ME. AND I SAID, "MAN," I SAID, "YOU AIN'T GOT
10 NOTHING TO DO WITH THIS." HE SAID, "FUCK THAT." HE SAID,
11 "I'M AN O.G. OF THE HOOVER CRYPTS. YOU KNOW WHAT I'M SAYING?
12 I'LL KILL YOU."

13 Q. OKAY. THAT'S WHAT CARL SMALLS SAID TO YOU?

14 A. THAT'S WHAT HE SAID TO ME.

15 Q. WHAT DID YOU DO AS A RESULT OF THAT?

16 A. I LOOKED UP AT HIM. I WAS LIKE, "WHAT?" AND RACHIM
17 WAS JUST LIKE, "CHILL. CHILL." HE SAID, "NO. FUCK. WHAT
18 YOU DOING?" HE SAID -- HE ASKED RACHIM, "WHAT YOU DOING?"
19 AND HE ASKED RACHIM LIKE, "YOU'RE GOING TO SUCK HIS..." AND
20 RACHIM THEN WALKED OVER TO WHERE THEY WAS AT, AND RACHIM AND
21 DEANDRE GOT INTO AN ARGUMENT. IT WAS LIKE, "YO, YOU'RE DOWN
22 WITH THIS. YOU'RE DOWN WITH THIS. YOU'RE DOWN WITH THIS,"
23 AND THEY PULLED OFF.

24 Q. OKAY. AND WHAT DID YOU DO?

25 A. I WALKED AWAY. WELL, MY COUSIN REALLY PULLED ME.

1 Q. UH-HUH.

2 A. AND THEN I WALKED AWAY.

3 Q. OKAY. NOW, AFTER YOU PULLED AWAY, DID YOU -- DID
4 YOU SEPARATE YOURSELF FROM CARL SMALLS?

5 A. YEAH. I STARTED WALKING TOWARDS THE BACK OF THE
6 CLUB BECAUSE A FRIEND OF MINE THAT WENT TO BENEDICT NAMED
7 TAMMY SHE WAS LIKE, "YOU KNOW YOU DON'T NEED TO BE GETTING
8 INTO THAT. DON'T BE FOLLOWING THAT UP." BUT AS I WALKED TO
9 THE BACK OF THE CLUB, IT WAS ALMOST LIKE HE WAS LOOKING FOR
10 ME. IT WAS LIKE WHEREVER I WALKED I SEE HIM COMING TOWARDS
11 THAT DIRECTION.

12 Q. UH-HUH.

13 A. SO I WALKED BACK TOWARDS THE FRONT OF THE CLUB AND
14 AROUND -- I STOOD AROUND THE BAR AREA.

15 Q. OKAY.

16 A. AND THEN AS THE NIGHT PROGRESSES THERE WAS ANOTHER
17 SITUATION GOING ON IN THE MIDDLE OF THE FLOOR WHEN THEY
18 STARTED PLAYING HYPE MUSIC, AND I SEEN HIM DOING WHAT YOU MAY
19 CALL THE CRYPT WALK, AND THE D.J. CAME ON AND HE WAS LIKE,
20 "Y'ALL NEED TO STOP ALL THE GANG STUFF," AND HE WAS
21 CONTINUING TO DO IT.

22 Q. UH-HUH.

23 A. AND AS HE CONTINUED TO DO IT, THE D.J. WAS LIKE,
24 "ALL RIGHT." WE WERE SUPPOSED TO CLOSE AT -- THEY WERE
25 SUPPOSED TO CLOSE AT 3:00. THE D.J. HIT THE LIGHTS. THEY

1 TOLD THE D.J. TO HIT THE LIGHTS AND THEY CUT THE MUSIC.

2 Q. OKAY. ABOUT WHAT TIME WAS THAT?

3 A. THAT WAS PROBABLY ABOUT 2, 1:55, SOMETHING LIKE
4 THAT.

5 Q. ALL RIGHT. NOW, JEROID, BEFORE THAT DID YOU SEE
6 CARL SMALLS IN ANY KIND OF CONFRONTATION WITH A GIRL?

7 A. YEAH. I LOOKED FORWARD AND I HEARD THE D.J. LIKE,
8 "SHE'S A GIRL, MAN. GET OFF HER." IT'S LIKE HE WAS PULLING
9 ON THIS GIRL.

10 Q. UH-HUH. OKAY. WERE YOU -- I MEAN, WERE YOU CLOSE
11 ENOUGH TO---

12 A. YEAH, I WAS AT THE -- I WAS AT THE BAR.

13 Q. ---TO KNOW WHAT WAS GOING ON?

14 A. I WAS OVER THERE STANDING BY THE BAR.

15 Q. OKAY. ALL RIGHT. WHAT TIME DID THE PARTY -- WHAT
16 TIME DID THE PARTY GET OVER WITH?

17 A. PROBABLY ABOUT 2:00.

18 Q. ABOUT 2:00?

19 A. YEAH. 1:55, 2:00.

20 Q. OKAY. WHAT DID YOU DO AFTER THE LIGHTS CAME ON AND
21 THE MUSIC STOPPED?

22 A. I WAS LINGERING AROUND LOOKING AT THE SCENE. THEN
23 EVERYBODY -- WE ALL WENT OUT TO THE PARKING LOT. AFTER WE
24 WENT OUT TO THE PARKING LOT, TY AND ROCK WAS OUT THERE, AND
25 TY WAS LIKE, "YO. WHAT'S UP? WHAT WE GOING TO DO?" I WAS

1 LIKE, "WE CAN GO, YOU KNOW, TO ANOTHER CLUB." HE WAS LIKE --
2 I WAS ASKING HIM, "WHAT Y'ALL GOING TO DO?" HE WAS LIKE,
3 "WE'RE ABOUT TO COUNT THE MONEY IN THE BACK," AND ROCK WAS
4 LIKE, "YEAH." HE WAS LIKE -- AND TY ASKED ME TO HOLD HIM
5 DOWN. THAT'S LIKE ASKING ME TO WATCH HIS BACK WHILE THEY GO
6 COUNT THE MONEY BECAUSE THE NIGHT WAS WILD. I SAID, "ALL
7 RIGHT," AND THAT'S WHEN I WENT TO MY CAR AND GOT MY FIREARM
8 OUT OF MY CAR AND I WENT TOWARDS THE -- BACK TOWARDS THE
9 CLUB.

10 Q. ALL RIGHT. WHAT KIND OF FIREARM DID YOU HAVE?

11 A. A 40 CALIBER.

12 Q. OKAY. DID YOU HAVE ANY OTHER FIREARM?

13 A. NO, SIR.

14 Q. ALL RIGHT. AS YOU DEPARTED YOUR CAR AND WENT BACK
15 TOWARD THE CLUB, WHAT HAPPENED?

16 A. AS I WAS WALKING, I WAS TAKING MY TIME, BUT I WAS
17 JUST LOOKING, GLANCING AROUND. TO MY LEFT I SEEN A WHITE
18 EXPEDITION AND TO MY RIGHT AS I WAS WALKING I SEEN TWO GUYS
19 STANDING LIKE IN FRONT OF THE CLUB.

20 Q. OKAY. NOW, AT THIS TIME WERE THERE A LOT OF
21 PEOPLE---

22 A. YEAH.

23 Q. ---OUT IN FRONT OF THE CLUB?

24 A. YES. YES. YES.

25 Q. OKAY. LET ME... JEROID, LET ME SHOW YOU WHAT'S

1 PREVIOUSLY BEEN MARKED STATE'S EXHIBIT NUMBER 2. THIS HAS
2 BEEN -- I THINK YOU'VE SEEN THIS. THIS HAS BEEN REPRESENTED
3 AS A---

4 A. YES, SIR.

5 Q. ---AS A GRAPHIC OF THE CLUB AND THE PARKING LOT.
6 WHERE WAS -- WHERE WAS YOUR CAR?

7 A. PARKED OVER HERE.

8 Q. OVER THERE?

9 A. YES, SIR.

10 Q. OKAY. AND SO YOU CAME OUT OF THE CLUB AND WENT TO
11 YOUR CAR. WHAT PATH DID YOU TAKE BACK TOWARD THE CLUB?

12 A. I JUST WALKED THIS WAY.

13 Q. ALL RIGHT. NOW, WERE THERE A NUMBER OF PEOPLE OUT
14 THERE AT THE TIME?

15 A. YES, SIR.

16 Q. HOW MANY PEOPLE DO YOU THINK WERE OUT THERE?

17 A. THE CLUB HAD JUST LET OUT A LITTLE WHILE AGO, SO
18 EVERYBODY WAS STILL JUST WALKING AROUND.

19 Q. MILLING AROUND.

20 A. YES.

21 Q. WHERE WERE THEY CONGREGATING?

22 A. ON THE FRONT SECTION, ON THE SIDE.

23 Q. OKAY. THERE'S A SIDEWALK THAT RUNS IN FRONT HERE?

24 A. YES, SIR. THERE'S PEOPLE STANDING ON THE SIDEWALK
25 ALSO.

JEROID PRICE - DIRECT EXAM BY MR. LITTLEJOHN

1 Q. OKAY. WERE THEY STANDING IN THE FOYER, THE
2 ENTRANCEWAY TO THE CLUB?

3 A. YES. THERE WAS SOME PEOPLE STANDING LIKE RIGHT
4 AROUND HERE AND THERE WAS TWO GUYS STANDING RIGHT HERE.

5 Q. OKAY. WHERE WAS THE EXPEDITION?

6 A. THE EXPEDITION WAS RIGHT ABOUT HERE.

7 Q. ALL RIGHT. OKAY. JEROID, AS YOU ARE GOING BACK TO
8 THE FRONT OF THE CLUB, JUST TELL THE JURY WHAT HAPPENED.

9 A. AS I WAS WALKING INTO THE CLUB, THE DOOR -- THE
10 ENTRY DOOR -- WELL, THE EXIT DOOR WAS OPEN LIKE TY MUST HAVE
11 LEFT IT OPEN OR SOMEBODY MUST HAVE LEFT IT OPEN FOR ME
12 BECAUSE IT WAS -- IT WAS OPEN.

13 Q. WAS IT WIDE OPEN?

14 A. YEAH, IT WAS LIKE SOMETHING WAS IN THE DOOR.

15 Q. UH-HUH.

16 A. SO AS I WALKED IN THE CLUB -- AS I WALKED IN THE
17 CLUB, I LOOKED UP. I HAD MY HEAD DOWN BECAUSE I WASN'T
18 EXPECTING NOBODY TO BE IN THERE. I WAS JUST WALKING. AS I
19 WALKED IN THE CLUB, I LOOKED---

20 Q. LET ME -- LET ME -- I HATE TO STOP YOU, BUT LET ME
21 ASK YOU: WHERE WAS THE GUN?

22 A. ON ME.

23 Q. ON YOU. WHERE WAS IT ON YOU?

24 A. UNDER MY SHIRT.

25 Q. UNDER YOUR SHIRT.

1 A. YES, SIR.

2 Q. WAS IT IN YOUR BELT OR IN YOUR POCKET OR WHAT?

3 A. IN MY BELT.

4 Q. WAS YOUR SHIRT OVER IT?

5 A. YES, SIR.

6 Q. COULD YOU SEE THAT GUN?

7 A. NO, SIR.

8 Q. OKAY. I DIDN'T MEAN TO INTERRUPT YOU. NOW, YOU'RE
9 WALKING INTO THE EXIT DOOR.

10 A. YES.

11 Q. TELL US -- TELL THE JURY WHAT HAPPENED.

12 A. AS I WAS WALKING INTO THE CLUB, I LOOKED UP. JUST
13 LIKE AS SOON AS I LOOKED UP, MR. SMALLS WAS STANDING THERE,
14 AND I WAS LIKE, "WHAT YOU DOING IN HERE?" AND HE TOLD ME --
15 HE SAID, "WHAT'S UP NOW, CUZ?" I SAID, "I AIN'T WITH THAT."
16 HE SAID, "NO. WHAT'S UP NOW, CUZ?" I SAID, "MAN" -- I SAID,
17 "MAN, GO AHEAD," AND HE SAID, "FUCK THAT." WHEN HE SAID,
18 "FUCK THAT," I WENT TO TRY TO STEP BACK BECAUSE I FELT LIKE I
19 WAS TOO CLOSE TO HIM. YOU KNOW, HE COULD HAVE JUST DID
20 ANYTHING TO ME. I DIDN'T WANT HIM TO HIT ME OR SOMETHING
21 LIKE THAT, SO I TRIED TO STEP BACK. AS I WENT TO STEP BACK,
22 I GUESS I FELT SOMEBODY RUSH ME. AS HE RUSHED ME, HE JUST
23 PICKED ME UP AND RAMMED ME INTO THE WALL.

24 Q. OKAY. HOW DID HE RUN YOU INTO THE WALL?

25 A. HE JUST---

1 Q. JUST DESCRIBE IT AND THEN WE'LL -- THEN WE'LL
2 DEMONSTRATE.

3 A. HE PICKED ME UP AND HE RAMMED ME INTO THE WALL. I
4 WAS LIKE, "MAN," AND I HIT -- WHEN I HIT THE WALL, I FELT MY
5 BACK HIT THE WALL.

6 Q. OKAY. WERE YOU -- I MEAN, WERE YOU -- WHAT WAS YOUR
7 POSITION ONCE YOU HIT THE WALL?

8 A. I WAS UP.

9 Q. OKAY. WHY WERE YOU UP?

10 A. BECAUSE HIS SHOULDER WAS IN -- HIS RIGHT SHOULDER
11 HELD ME UP.

12 Q. OKAY. ALL RIGHT. TELL THE JURY WHAT HAPPENED AFTER
13 HE HIT YOU WITH HIS SHOULDER.

14 A. AFTER HE HIT ME WITH HIS SHOULDER, I DON'T KNOW WHEN
15 HE MUST HAVE KNEW THAT I HAD A GUN, YOU KNOW, OR WHATEVER
16 BECAUSE HE WENT RIGHT TO THE GUN AND HE SNATCHED THE GUN. AS
17 HE WAS SNATCHING THE GUN, I WAS TRYING TO PULL HIS HAND DOWN.
18 AS I WAS TRYING TO PULL HIS HAND DOWN, HE JUST PULLED AWAY,
19 AND AS HE PULLED AWAY, RYAN WAS IN THE DOORWAY. I'M LOOKING
20 AT RYAN LIKE, YOU KNOW, PLEASE DO SOMETHING, AND RYAN -- AND
21 RYAN FIRED A SHOT. HE GLANCED AT RYAN AND RYAN FIRED A SHOT.

22 WHEN RYAN FIRED THE SHOT, HE SAID, "DAMN." WHEN HE
23 SAID, "DAMN," THAT'S WHEN I DID LIKE THIS. I MOVED HIS HAND.
24 WHEN I MOVED HIS HAND LIKE THIS, THEN BOTH OF MY HANDS -- I
25 HAD MY HAND LIKE ON THE HANDLE OF THE GUN. THE GUN WENT OFF

1 ONCE. AS I PULLED AWAY -- WHEN I PULLED AWAY, I FELL BACK
2 FROM THE WALL AND SLID UP UNDER HIM A LITTLE BIT AND FIRED
3 THE SHOT. WHEN I FIRED THE SHOT, I KNEW HE HAD BEEN HIT
4 BECAUSE HE KIND OF SLUMPED OVER. WHEN HE SLUMPED OVER ON TO
5 ME, I THEN GOT UP AND I RAN.

6 Q. OKAY. WHEN YOU GOT UP AND RAN, DID -- I MEAN, WHERE
7 WAS -- WHERE WAS MR. SMALLS?

8 A. ON THE FLOOR.

9 Q. OKAY. WAS HE FACE DOWN OR FACE UP?

10 A. FACE DOWN.

11 Q. OKAY. DID HE SAY ANYTHING ELSE OR AFTER YOU---

12 A. HE GRABBED MY LEG.

13 Q. OKAY. AND WHAT HAPPENED?

14 A. I PULLED AWAY.

15 Q. ALL RIGHT. AND WHERE DID YOU GO?

16 A. I RAN.

17 Q. OKAY.

18 A. I RAN TO MY CAR.

19 Q. AND WHERE DID RYAN -- WHERE HAD RYAN BEEN?

20 A. RYAN -- I DON'T KNOW.

21 Q. YOU DON'T KNOW WHERE RYAN WENT?

22 A. NO. RYAN THEN GOT -- I DIDN'T EVEN SEE HIM. I
23 WASN'T PAYING NO ATTENTION TO RYAN. I WAS FIGHTING FOR MY
24 LIFE.

25 Q. OKAY. JEROID, STEP DOWN HERE IF YOU WOULD AND...

1 LET'S PRETEND THAT THAT WALL IS THE -- IS THE BACK WALL OF
2 THAT HALLWAY. AND AS YOU DESCRIBED IT, I BELIEVE THAT'S THE
3 WALL YOU WERE PRESSED UP AGAINST?

4 A. YES, SIR.

5 Q. OKAY. IF YOU'D GET UP AGAINST THE WALL AND PRETEND
6 I'M CARL SMALLS. YOU TELL ME -- TELL ME WHAT CARL SMALLS WAS
7 DOING.

8 A. I WAS UP. HE HAD HIS SHOULDER -- YOU'VE GOT TO PUT
9 YOUR SHOULDER DOWN.

10 Q. OKAY.

11 A. LIKE THIS.

12 Q. OKAY.

13 A. THEN HE HAD THE GUN THIS WAY.

14 Q. WHERE---

15 A. HE HAD THE GUN LIKE THIS.

16 Q. OKAY.

17 A. HAD THE GUN LIKE THIS. HE GLANCED OVER AT RYAN.

18 RYAN WAS A LITTLE BACKWARDS BECAUSE THE DOORWAY WAS LIKE
19 THIS.

20 Q. OKAY.

21 A. HE GLANCED OVER AT RYAN. RYAN FIRED A SHOT AND
22 SAID, "DAMN." WHEN I PUSHED, I FELL BACK AND I -- AT FIRST
23 WHEN I DID LIKE THIS THE GUN WENT OFF. I FELL BACK AND I
24 FIRED ONE SHOT.

25 Q. OKAY.

1 A. I SLID UP UNDER AND I FIRED ONE SHOT.

2 Q. ALL RIGHT. LET ME BACK UP A SECOND NOW BECAUSE THIS
3 IS IMPORTANT. WHEN HE HAD HIS SHOULDER UP AGAINST YOU, WAS
4 HE PUSHING YOU UP LIKE THIS?

5 A. YES.

6 Q. HOW TALL WAS HE?

7 A. TALLER THAN YOU.

8 Q. HE WEIGHED MORE THAN I DO.

9 A. YES.

10 Q. OKAY. WHERE WERE HIS FEET? YOU TELL ME WHERE TO
11 PUT MY FEET AS BEST YOU KNOW WHERE HIS FEET WERE.

12 A. JUST ABOUT LIKE THIS. LIKE THIS.

13 Q. OKAY. ABOUT LIKE THAT. ALL RIGHT. SO GET BACK UP
14 AGAINST THE WALL IF YOU WOULD. SO HIS SHOULDER IS HITTING
15 YOU IN THE MIDDLE OF YOUR CHEST?

16 A. YES, SIR.

17 Q. OKAY. AND HIS FEET ARE LIKE THIS?

18 A. YES.

19 Q. OKAY. TELL ME: IS THAT RIGHT?

20 A. YES, THAT'S FINE.

21 Q. AND HE'S FIGHTING WITH YOU WITH THIS HAND.

22 A. YES. I'M LIKE THIS. I'M LIKE THIS.

23 Q. NOW, TELL THE JURY HOW THE -- HOW THE BULLET -- HOW
24 THE GUN DISCHARGED IN HIS HAND.

25 A. WHEN -- I DIDN'T KNOW IT HIT HIM, BUT WHEN I DID

1 LIKE THIS, THE GUN WENT OFF. WHEN THE GUN WENT OFF, I PULLED
2 THE GUN OUT.

3 Q. UH-HUH.

4 A. I PULLED IT OUT BECAUSE I HAD MY HAND ON THE HANDLE.

5 Q. OKAY.

6 A. I DID LIKE THIS AND I FIRED ONE SHOT.

7 Q. ALL RIGHT.

8 A. AND WHEN I FIRED THE SHOT, I KNEW HE HAD BEEN HIT.

9 Q. OKAY.

10 A. I THOUGHT HE WAS HIT IN THE STOMACH OR SOMETHING
11 LIKE THAT, THE WAY I WAS UP UNDER HIM A LITTLE BIT, BUT I
12 FIRED THE SHOT AND HE JUST LEANED---

13 Q. OKAY. SO THEN HE FELL DOWN THIS WAY?

14 A. YEAH. HE LEANED ON TO ME.

15 Q. UH-HUH.

16 A. AND HE SLID DOWN THE WALL LIKE THIS, SO I PUSHED HIM
17 OFF.

18 Q. OKAY.

19 A. AND I RAN.

20 Q. NOW, WHEN THE FIRST -- WHEN THE GUN WENT OFF THE
21 FIRST TIME---

22 A. YES.

23 Q. ---WHERE WAS HIS HAND? WHERE WAS HIS LEFT HAND?

24 A. IT WAS ON THE GUN LIKE HE -- IT WAS LIKE HOW HE HAD
25 THE GUN THE FIRST TIME. I DID LIKE THIS. HE PUSHED THE GUN

1 TO THE SIDE.

2 Q. OKAY. NOW, THIS SHOT WENT OFF AFTER RYAN HAD SHOT
3 HIM.

4 A. YES.

5 Q. OKAY. LET ME -- JUST SO WE DON'T HAVE ANY MISTAKE
6 HERE, I'M GOING TO -- WE'RE GOING TO USE THIS AS AN EXAMPLE.
7 THIS IS A BB GUN, STATE'S EXHIBIT 71. HOW DID HE HAVE THE
8 GUN, JUST SO---

9 A. HE HAD THE GUN LIKE THIS.

10 Q. OKAY. AND HE HAD GOTTEN IT FROM YOUR WAIST.

11 A. YES.

12 Q. OKAY. WHERE WAS YOUR HAND? WELL, LET ME JUST --
13 LET'S DO THIS. HE HAD THE GUN LIKE THIS?

14 A. YES.

15 Q. OKAY. WHAT WERE YOU DOING?

16 A. I WAS DOING LIKE THIS.

17 Q. OKAY. AND Y'ALL WERE STRUGGLING.

18 A. YES.

19 Q. WHAT WERE YOU DOING WITH THIS HAND?

20 A. THE OTHER HAND WAS LIKE THIS, TRYING TO GET ACROSS.

21 Q. OKAY. WHAT WAS HE DOING WITH HIS RIGHT HAND?

22 A. HE JUST WAS MOVING LIKE THIS.

23 Q. OKAY. ALL RIGHT. JEROID, AFTER -- YOU CAN GO AHEAD
24 AND... JEROID, WHEN HE GOT THAT GUN WERE YOU AFRAID THAT HE
25 MIGHT USE THAT GUN ON YOU?

1 A. I WAS ALMOST SURE HE WOULD HAVE USED IT ON ME.

2 Q. OKAY. WERE YOU AFRAID OF HIS ATTACKING YOU DESPITE
3 THERE BEING A GUN INVOLVED?

4 A. YES.

5 Q. HOW MUCH BIGGER WAS HE THAN YOU?

6 A. ABOUT A HUNDRED POUNDS MORE -- WEIGHED ABOUT A
7 HUNDRED POUNDS MORE THAN ME.

8 Q. WHAT DO YOU WEIGH?

9 A. I WEIGH---

10 Q. WHAT DID YOU WEIGH THEN?

11 A. WELL, THEN I WAS ABOUT 190, 185, ABOUT NOW ABOUT THE
12 SAME.

13 Q. ALL RIGHT. WERE YOU AFRAID HE WAS GOING TO HURT YOU
14 BADLY?

15 A. YES, SIR.

16 Q. OKAY. NOW, JEROID, WHEN YOU HAD THESE WORDS WITH
17 CARL SMALLS AND HE CAME AT YOU AND STARTED TO PIN YOU UP
18 AGAINST THE WALL, WAS YOUR GUN STILL IN YOUR WAISTBAND?

19 A. YES, SIR.

20 Q. HAD YOU PULLED IT OUT?

21 A. NO, SIR.

22 Q. HAD YOU SHOWN IT TO HIM?

23 A. NO, SIR.

24 Q. HAD YOU THREATENED HIM IN ANY MANNER WITH THAT GUN?

25 A. NO, SIR.

1 Q. OKAY. JEROID, OTHER THAN THE WORDS THAT Y'ALL HAD
2 EXCHANGED EARLIER IN THE NIGHT THERE IN THE HALLWAY, DO YOU
3 THINK YOU DID ANYTHING TO PROVOKE HIM INTO ATTACKING YOU?

4 A. NO, SIR.

5 Q. DID YOU SAY -- DID YOU SAY ANY WORDS TO HIM FIRST?

6 A. NO, SIR.

7 Q. WHAT WORDS DID YOU SAY TO HIM THERE IN THE HALLWAY?

8 A. I JUST WAS LIKE, "WHAT YOU DOING HERE?" YOU KNOW,
9 BECAUSE I KNEW THERE WASN'T -- THERE WASN'T REALLY SUPPOSED
10 TO BE NOBODY STILL IN THE CLUB---

11 Q. OKAY.

12 A. ---BECAUSE EVERYBODY WAS IN THE PARKING LOT.

13 Q. AND YOU WERE GOING BACK TO HELP RYAN.

14 A. YES.

15 Q. OKAY. JEROID, AFTER YOU -- AFTER THE TWO SHOTS WERE
16 FIRED, YOU SAY YOU WENT OUT THE EXIT DOOR?

17 A. YES, SIR.

18 Q. THE PEOPLE WHO WERE ON THE OUTSIDE, WHAT WERE THEY
19 DOING?

20 A. EVERYBODY WAS RUNNING. PEOPLE WAS RUNNING.

21 Q. OKAY. WHAT DID -- I MEAN, WHAT DID YOU DO?

22 A. I RAN.

23 Q. WHERE DID YOU GO?

24 A. TO MY CAR.

25 Q. ALL RIGHT. YOU GOT IN YOUR CAR?

JEROID PRICE - DIRECT EXAM BY MR. LITTLEJOHN

1 A. YES, SIR.

2 Q. DID YOU LEAVE?

3 A. YES, SIR.

4 Q. WAS ANYBODY WITH YOU?

5 A. NO, SIR.

6 Q. OKAY. WHERE DID YOU GO FROM THERE?

7 A. I WENT HOME.

8 Q. DID YOU HAVE OCCASION TO CALL RYAN BROOKS?

9 A. I CALLED SHERMAN'S CELL PHONE.

10 Q. DID YOU TALK TO SHERMAN?

11 A. YES.

12 Q. OKAY. WHAT CONVERSATION DID YOU HAVE WITH HIM?

13 A. I JUST ASKED HIM BECAUSE I HAD -- WHEN I WAS RUNNING
14 TOWARDS THE CAR, I HAD HEARD GUNSHOTS. I HEARD OTHER
15 GUNSHOTS.

16 Q. UH-HUH.

17 A. SO I JUST ASKED HIM, "IS YOU ALL RIGHT? IS Y'ALL
18 ALL RIGHT?" AND HE JUST WAS LIKE, "YEAH."

19 Q. UH-HUH. OKAY. DID YOU HAVE -- WAS THERE ANY -- WAS
20 THERE ANOTHER PHONE CALL THAT -- WHEN YOU WERE LEAVING THE
21 CLUB?

22 A. NO. I CALLED -- THE FIRST TIME I GOT THE VOICE
23 MAIL. I SPOKE TO HIM THE SECOND TIME.

24 Q. SPOKE TO HIM THE SECOND TIME.

25 A. YES.

1 Q. OKAY. NOW, DID YOU GO HOME?

2 A. YES, BUT I DIDN'T STAY THERE LONG.

3 Q. OKAY. DID YOU TALK TO RYAN BROOKS THAT SAME DAY?

4 A. NO, SIR.

5 Q. THIS WAS THE EARLY MORNING OF DECEMBER 7TH.

6 A. NO, SIR.

7 Q. YOU DIDN'T TALK TO HIM?

8 A. NO, SIR.

9 Q. DID YOU TALK TO HIM THE NEXT DAY?

10 A. NO, SIR.

11 Q. YOU DON'T REMEMBER THAT OR...

12 A. NO, SIR.

13 Q. YOU DIDN'T TALK TO HIM. OKAY.

14 A. I DON'T BELIEVE SO.

15 Q. NOW, JEROID, DID YOU -- DID YOU CALL THE POLICE?

16 A. NO, SIR.

17 Q. WHY DIDN'T YOU CALL THE POLICE? WHY DIDN'T YOU DO
18 SOMETHING?

19 A. I WAS SCARED.

20 Q. WHY WERE YOU SCARED?

21 A. I HAD -- I STILL HAD TO BE HERE FOR MY KIDS NO
22 MATTER WHAT. I WAS SCARED OF WHAT WAS GOING ON, AND THEN I
23 HEARD -- WELL, I HEARD RUMORS AROUND ON BENEDICT CAMPUS THAT
24 HE HAD FRIENDS LOOKING FOR US---

25 MR. SORENSON: OBJECTION, YOUR HONOR. OBJECTION,

1 YOUR HONOR. THIS IS CLEARLY HEARSAY.

2 MR. LITTLEJOHN: YOUR HONOR, I'M NOT ASKING -- I'M
3 NOT DOING IT FOR THE...

4 THE COURT: TRUTH OF THE MATTER. I'LL ALLOW IT.

5 MR. SORENSON: MAY WE APPROACH?

6 THE COURT: YES, SIR.

7 MR. SORENSON: MAY WE APPROACH, YOUR HONOR?

8 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

9 THE COURT: OBJECTION IS OVERRULED.

10 BY MR. LITTLEJOHN:

11 Q. JEROID, YOU SAID THE DAY AFTER YOU -- YOU -- YOU
12 WERE SCARED?

13 A. YES, SIR.

14 Q. OKAY. AND YOU WERE SCARED BECAUSE YOU HAD HEARD
15 SOME RUMORS?

16 A. YES, SIR.

17 Q. ALL RIGHT. WERE YOU -- WERE YOU SCARED ABOUT YOUR
18 OWN SAFETY?

19 A. YES, SIR.

20 Q. HOW ABOUT YOUR KIDS?

21 A. YES, SIR, OF COURSE.

22 Q. OKAY. WHAT DID YOU DO, JEROID?

23 A. I WAS RUNNING. I WENT TO SEE MY KIDS. WELL, THE
24 NEXT DAY I WENT TO VISIT MY KIDS' MOTHER IN PRISON.

25 Q. UH-HUH.

1 A. SHE WAS LOCKED UP FOR A PROBATION VIOLATION.

2 Q. OKAY.

3 A. AND I TOOK THE KIDS TO VISIT HER.

4 Q. ALL RIGHT. DID YOU FIND OUT LATER YOU WERE WANTED?

5 A. YES, SIR.

6 Q. OKAY. NOW, LIEUTENANT SMITH DESCRIBED SOME PHONE
7 CALLS THAT HE RECEIVED AND SOME VOICE MAIL MESSAGES. DID YOU
8 CALL LIEUTENANT SMITH?

9 A. YES, SIR.

10 Q. WHY DID YOU CALL LIEUTENANT SMITH?

11 A. BECAUSE I KNEW SOONER OR LATER THE TRUTH WAS GOING
12 TO HAVE TO COME OUT, SO I'D RATHER HIM HEAR IT FROM ME THAN
13 ANYBODY ELSE.

14 Q. OKAY. DID YOU TELL HIM AT SOME POINT YOU WERE GOING
15 TO TURN YOURSELF IN?

16 A. YES, SIR.

17 Q. ALL RIGHT. HE ATTRIBUTED A STATEMENT TO YOU THAT
18 YOU WERE CONCERNED BECAUSE THERE WAS NO SELF-DEFENSE LAW IN
19 SOUTH CAROLINA?

20 A. YES.

21 Q. SMITH I THINK IS THE WAY YOU PUT IT. DO YOU
22 REMEMBER MAKING THAT STATEMENT?

23 A. I SAID -- I SAID FROM WHAT I HAD HEARD FROM AN
24 OFFICER ONE DAY WHEN I WAS AT THE GUN RANGE THAT, YEAH, YOU
25 DON'T GET IN NO TROUBLE BECAUSE THERE'S NO SOUTH CAROLINA --

JEROID PRICE - DIRECT EXAM BY MR. LITTLEJOHN

1 THERE'S NO---

2 MR. SORENSON: OBJECTION, YOUR HONOR.

3 MR. LITTLEJOHN: DON'T GO INTO WHAT HE SAID.

4 THE COURT: THAT'S SUSTAINED. DON'T TELL HIM WHAT
5 YOU -- WHAT SOMEBODY TOLD YOU.

6 THE WITNESS: SIR?

7 THE COURT: DON'T SAY WHAT THE OFFICER TOLD YOU.

8 THE WITNESS: OH, OKAY, BUT THERE WAS NO -- I HEARD
9 THERE WAS NO SELF---

10 MR. SORENSON: OBJECTION, YOUR HONOR.

11 BY MR. LITTLEJOHN:

12 Q. DON'T GO INTO WHAT SOMEBODY SAID.

13 A. OH.

14 Q. YOU TOLD LIEUTENANT SMITH---

15 A. THERE'S NO SELF-DEFENSE LAW IN SOUTH CAROLINA.

16 Q. OKAY. AND THAT'S WHAT YOU TOLD HIM.

17 A. YES, SIR.

18 Q. AND THAT WAS YOUR UNDERSTANDING.

19 A. YES, SIR.

20 Q. NOW, JEROID, DID YOU EVENTUALLY TURN YOURSELF IN?

21 A. YES, SIR.

22 Q. OKAY. JEROID, JUST A FEW FINAL THINGS. ON THE
23 NIGHT THAT THIS HAPPENED, DID YOU HAVE ANY INTENTION OF
24 SHOOTING ANYBODY THAT NIGHT?

25 A. NO, SIR.

1 Q. HAD YOU PLANNED TO SHOOT ANYBODY THAT NIGHT?

2 A. NO, SIR.

3 Q. HAD YOU EVEN THOUGHT ABOUT HAVING TO SHOOT SOMEBODY
4 THAT NIGHT?

5 A. NO, SIR.

6 Q. DID YOU HAVE ANY SORT OF AGREEMENT WITH RYAN BROOKS
7 THAT Y'ALL WERE GOING TO GO BACK TO THE CLUB AND DOING
8 SOMETHING TO CARL SMALLS?

9 A. NO, SIR.

10 Q. JEROID, HAS THE FACT THAT THIS MAN DIED CONCERNED
11 YOU?

12 A. YES, SIR. I WOULDN'T WISH DEATH ON NO ONE. I
13 WOULDN'T WANT NOBODY TO LOSE THEIR LIFE. WHAT I WAS SUPPOSED
14 TO DO? I WAS SUPPOSED TO DIE? I WAS SUPPOSED TO GET -- I
15 GOT KIDS TO TAKE CARE OF.

16 Q. OKAY. AND WERE YOU AFRAID YOU WERE GOING TO DIE
17 THAT NIGHT?

18 A. OF COURSE.

19 MR. LITTLEJOHN: IF YOU WOULD BEAR WITH ME JUST ONE
20 MOMENT, YOUR HONOR.

21 THE COURT: YES, SIR.

22 BY MR. LITTLEJOHN:

23 Q. JEROID, JUST ONE FINAL THING. WHEN YOU WERE PINNED
24 UP AGAINST THE WALL AS YOU DESCRIBED IT, WHY DIDN'T YOU JUST
25 RUN AWAY? WHY DIDN'T YOU GET OUT OF THERE?

1 A. HOW CAN I RUN? WHAT POSITION I WAS IN TO RUN? HOW?

2 Q. OKAY. YOU DIDN'T SEE ANY WAY YOU COULD GET AWAY
3 FROM THAT?

4 A. THERE WAS NO WAY.

5 Q. OKAY. WERE YOU AFRAID FOR YOUR SAFETY IF YOU HAD
6 TRIED TO GET AWAY?

7 A. HE HAD THE GUN. WHAT HE WAS GOING TO DO? SHOOT ME
8 IN MY BACK IF I TRIED? WHERE AM I GOING TO RUN TO?

9 MR. LITTLEJOHN: THANK YOU, JEROID. PLEASE ANSWER
10 ANY QUESTIONS THE SOLICITOR---

11 THE COURT: THANK YOU. LADIES AND GENTLEMEN, I NEED
12 TO TAKE UP A MATTER WITH THE LAWYERS AT THIS POINT. I ASK
13 THAT YOU ALL RETURN TO THE JURY ROOM. DO NOT DISCUSS THE
14 EVIDENCE OR TESTIMONY WE'VE HEARD AND SEEN THUS FAR, AND.
15 WE'LL HAVE YOU BACK OUT HERE SHORTLY. THANK YOU.

16 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT
17 2:27 P.M.)

18 THE COURT: MR. PRICE, YOU CAN STEP DOWN, SIR. I
19 JUST REMIND YOU YOU'RE STILL ON THE WITNESS STAND AND STILL
20 UNDER OATH. JUST DON'T DISCUSS YOUR TESTIMONY WITH ANYBODY.
21 AND, COUNSEL, I UNDERSTAND -- MR. SORENSON, YOU ALL HAD AN
22 ISSUE YOU WANTED TO BRING UP REGARDING THE -- THE GUN
23 APPLICATION FORMS AGAIN?

24 MR. SORENSON: YES, SIR, YOUR HONOR. IF YOU RECALL,
25 YESTERDAY A QUESTION CAME OUT -- INITIALLY THESE GUN FORMS

1 WERE PUT IN DURING LIEUTENANT SMITH'S DIRECT TESTIMONY, AND
2 NO QUESTION WAS ASKED AT THAT POINT IN TIME BY MR. PASCOE
3 ABOUT -- ABOUT WHETHER THEY WERE LEGALLY OBTAINED BASICALLY
4 BECAUSE AT THAT POINT WE FELT THAT IT WAS PROBABLY AN
5 INAPPROPRIATE QUESTION GIVEN WHAT THE -- THE -- THE CORRECT
6 ANSWER TO THAT QUESTION IS.

7 THEN ON CROSS-EXAMINATION MR. LITTLEJOHN ASKED
8 LIEUTENANT SMITH BASICALLY THAT QUESTION. HE RESPONDED, "NO,
9 THEY WERE NOT." I BELIEVE THERE WAS A LITTLE DIALOGUE
10 BETWEEN THE TWO OF THEM REGARDING THAT, BUT THE SPECIFICS
11 NEVER CAME OUT OTHER THAN JUST THE ANSWER BEING, "NO, THEY
12 WERE NOT LAWFULLY OBTAINED." YOUR HONOR AT THAT POINT IN
13 TIME FELT THAT IT WOULD NOT BE PROPER FOR US TO BE ABLE TO
14 FURTHER EXPLORE THAT LINE OF QUESTIONING ON REDIRECT
15 EXAMINATION. WE MOVED ON AT THAT POINT IN TIME.

16 WELL, NOW MR. LITTLEJOHN HAS PRESENTED THE EXACT
17 SAME QUESTION TO HIS CLIENT: WERE THESE GUNS LAWFULLY
18 OBTAINED? YES. I THINK AT THIS POINT IN TIME TO IMPEACH HIM
19 WE SHOULD BE ABLE TO GO INTO THE FACT BACK IN JULY OF LAST
20 YEAR, 2002, MR. PRICE HAD BEEN CHARGED WITH TRAFFICKING IN
21 CRACK COCAINE, HAD BEEN CHARGED WITH LYNCHING SECOND AND HAD,
22 IN FACT, BEEN INDICTED FOR THE TRAFFICKING CHARGE PRIOR TO
23 THIS LAST GUN PURCHASE.

24 SO, FIRST OF ALL, WE FEEL THAT HE WOULD QUALIFY
25 UNDER THE INFORMATION PART OF THIS, THAT HE HAD BEEN FORMALLY

1 CHARGED BY A PROSECUTOR AND HAD HIS FIRST COURT APPEARANCE
2 SCHEDULED AND, IN FACT, HAD BEEN INDICTED AS YOUR HONOR DID
3 HAVE AN OPPORTUNITY TO LOOK AT THE INDICTMENTS PRIOR TO THE
4 -- I BELIEVE IT'S THE NOVEMBER 2ND PURCHASE OF THE NINE
5 MILLIMETER.

6 THE COURT: AS I UNDERSTAND, YOUR ARGUMENT AS TO
7 THOSE IS THAT THE APPLICABLE PART OF THAT FORM IS THE
8 INFORMATION PART, NOT THE INDICTMENT PART?

9 MR. SORENSON: WELL, AS TO -- THERE'S TWO OF THEM,
10 YOUR HONOR. THERE'S ONE GUN THAT WAS PURCHASED ON 8/14/02,
11 HADN'T BEEN INDICTED AT THAT POINT IN TIME. SO I DON'T
12 THINK -- SO IT WOULD BE THE INFORMATION PART. THE SECOND
13 GUN, YOUR HONOR, WAS PURCHASED ON NOVEMBER 2ND OF 2002, AND
14 HE HAD BEEN INDICTED BY THAT POINT IN TIME ON THE TRAFFICKING
15 CHARGE. THAT, I BELIEVE, WAS IN THE MIDDLE OF THE AUGUST OF
16 2002 THAT HE HAD BEEN INDICTED ON THAT CHARGE.

17 THE COURT: WELL, THAT I GUESS BRINGS UP TWO
18 QUESTIONS: NUMBER ONE, DID HE KNOW THAT HE WAS INDICTED?
19 AND THEN THE SECOND PART OF THAT ISSUE I GUESS IS STILL BACK
20 TO THIS QUESTION OF: WHAT'S THE INFORMATION AS THAT TERM IS
21 USED IN THAT FORM?

22 MR. SORENSON: I MEAN, IT DEFINES IT. I MEAN, IT
23 DEFINES THAT INFORMATION IS A FORMAL ACCUSATION OF A CRIME BY
24 A PROSECUTOR.

25 THE COURT: MR. LITTLEJOHN?

1 MR. SORENSON: AND I GUESS WHAT'S TROUBLING ME IS
2 THE FACT THAT HE WENT AND ASKED HIM THE SAME QUESTION AGAIN.
3 I MEAN, IT JUST KIND OF OPENED IT ALL BACK UP.

4 THE COURT: I DON'T REMEMBER HIS -- I REMEMBER THE
5 ANSWER AND I KNEW WHAT YOU WERE TALKING ABOUT. I'M TRYING TO
6 REMEMBER THE QUESTION---

7 MR. LITTLEJOHN: YOUR HONOR, I DID NOT ASK HIM: DID
8 YOU LEGALLY OBTAIN THESE GUNS?

9 THE COURT: I THINK I REMEMBER YOUR QUESTION, BUT I
10 DIDN'T REMEMBER YOU USING THAT PHRASE. I DID REMEMBER
11 WHEN---

12 MR. LITTLEJOHN: NO, SIR, I DID NOT BECAUSE I WAS --
13 I WAS TRYING TO BE VERY CAREFUL NOT TO VIOLATE WHAT WE HAD
14 TALKED ABOUT BEFOREHAND. I THINK MR. PRICE INDICATED
15 SOMETHING ABOUT HE HAD BOUGHT THEM LEGAL OR SOMETHING TO THAT
16 EFFECT, AND I THINK IN HIS MIND HE WAS -- HE MEANT HE DIDN'T
17 BUY THEM OFF THE STREET BUT HE WENT TO A STORE AND BOUGHT
18 THEM. YOUR HONOR, WE STILL HAVE THE NOTICE QUESTION AND I
19 DON'T SEE HOW HIS LITTLE ANSWER THERE CAN BEGET A BUNCH OF
20 ISSUES THAT THE STATE WANTS TO RAISE AT THIS POINT IN THIS
21 PROCEEDING.

22 THE COURT: WELL, THEY'VE STILL GOT THAT HURDLE OF
23 CLEAR AND CONVINCING TO CROSS TO -- AS TO WHETHER OR NOT HE
24 KNEW HE HAD BEEN INDICTED AT THAT POINT. DO Y'ALL HAVE
25 ANY -- ANY EVIDENCE AT ALL THAT HE WOULD HAVE KNOWN THAT HE

COLLOQUY REGARDING JEROID PRICE'S TESTIMONY

1 HAD BEEN INDICTED? I MEAN, ASSUMING -- AND I UNDERSTAND YOUR
2 ARGUMENT ABOUT THE INFORMATION. ASSUMING THAT I AGREE WITH
3 MR. LITTLEJOHN THAT INFORMATION IS -- IS A TERM THAT'S USED
4 TO REFER TO A FEDERAL PROCESS BY WHICH THEY CAN BRING A CASE,
5 IS THERE ANY -- ANY EVIDENCE THAT HE WOULD HAVE KNOWN THAT HE
6 WAS INDICTED?

7 MR. LITTLEJOHN: YOUR HONOR, IF I MIGHT JUST POINT
8 OUT A DISTINCTION. AN INFORMATION IS GENERALLY A FORMAL
9 ACCUSATION BY A PROSECUTOR HIMSELF WHICH IS USED IN THE
10 FEDERAL SYSTEM, AND I DON'T THINK AN ARREST WARRANT WOULD
11 QUALIFY AS AN INFORMATION BY ANY MEANS.

12 MR. SORENSON: HE HAD ACTUALLY BEEN SERVED WITH AN
13 ARREST WARRANT. HE'S GOT FORMAL CHARGING PAPERS. I MEAN,
14 HE'S HAD HIS FIRST APPEARANCE BY THAT POINT IN TIME
15 SCHEDULED. I MEAN, I DON'T -- YOUR HONOR, IN ANSWER TO YOUR
16 QUESTION, NO, SIR, I WASN'T PROSECUTING THAT CASE.

17 THE COURT: I UNDERSTAND. I UNDERSTAND YOUR---

18 MR. SORENSON: I DON'T HAVE DIRECT INFORMATION THAT
19 THE INDICTMENT WAS---

20 THE COURT: IF THERE'S ANY EVIDENCE---

21 MR. SORENSON: ---PROVIDED TO HIM OR HIS LAWYER.

22 THE COURT: I UNDERSTAND.

23 MR. SORENSON: I DON'T KNOW---

24 THE COURT: IS THERE ANYTHING YOU CAN -- I MEAN, I
25 UNDERSTAND WHAT YOU'RE SAYING AS TO WHEN HE WAS ARRESTED.

1 I'M JUST ASKING IF THERE'S ANY RECORD OF WHEN HE HAD A FIRST
2 APPEARANCE OR ANYTHING LIKE THAT.

3 MR. SORENSON: WELL, HIS FIRST APPEARANCE, YES, SIR,
4 THAT WAS THE END OF AUGUST. I CAN GIVE YOU THE EXACT DATE IN
5 A MOMENT, YOUR HONOR. HIS FIRST APPEARANCE WAS ON AUGUST
6 26TH OF 2002. THAT WOULD HAVE BEEN ON THE LYNCHING CHARGE
7 AND THE DRUG CHARGE. HE HAD HIS SECOND APPEARANCE, IF YOU
8 BEAR WITH ME -- THE SECOND COURT APPEARANCE ON OCTOBER 31ST
9 OF 2002. SO, I MEAN, AT THE SECOND APPEARANCE, I MEAN, HE'S
10 GOING TO HAVE TO COME IN AND ELECT BETWEEN A PLEA OR A TRIAL.
11 I MEAN, THAT'S PRIOR TO THIS. I MEAN, HOW WOULD YOU NOT HAVE
12 KNOWLEDGE? I MEAN, INITIALLY -- I MEAN, I'M NOT SURE. I
13 THINK YOUR HONOR HAS HAD AN OPPORTUNITY TO SIT THROUGH THE
14 FIRST AND SECOND APPEARANCE. I MEAN, DURING A SECOND
15 APPEARANCE AT THAT POINT IN TIME, I MEAN, HE'S AT A STAGE
16 WHERE HIS CASE IS BEING SCHEDULED FOR A DISPOSITION, WHETHER
17 IT BE GUILTY PLEA OR A JURY TRIAL, AND THAT IS PRIOR TO THE
18 NOVEMBER 2ND, 2002.

19 THE COURT: WHICH WOULD GO TO INFORMATION ABOUT THE
20 INDICTMENT. THIS TERM INFORMATION THAT HE WOULD HAVE KNOWN
21 THAT HE HAD BEEN INDICTED AT THAT POINT IN TIME...

22 MR. SORENSON: I MEAN, ONCE AGAIN I CAN'T SAY. I
23 MEAN, OBVIOUSLY IT'S A PUBLIC RECORD IN THE CLERK'S OFFICE,
24 BUT BEYOND -- I MEAN, I DON'T HAVE ANYTHING SPECIFICALLY TO
25 SAY THAT HE WAS HANDED A COPY OF THE INDICTMENT. I DON'T

1 KNOW THAT, YOUR HONOR.

2 MS. RUSHING: YOUR HONOR---

3 MR. SORENSON: I EXPECT HIS LAWYER MAY HAVE HAD IT,
4 BUT I DON'T KNOW.

5 MS. RUSHING: MAY I ADDRESS THIS, YOUR HONOR? I'M
6 ACTUALLY HIS LAWYER ON THAT.

7 THE COURT: OKAY.

8 MS. RUSHING: YOUR HONOR, HE APPLIED OBVIOUSLY FOR
9 AN APPOINTED LAWYER. I -- WHEN I GOT APPOINTED WAS NOVEMBER.
10 SO FROM THE TIME THAT HE WAS CHARGED IN JULY HE DIDN'T EVEN
11 GET A LAWYER UNTIL NOVEMBER. HE AND I MET LATE NOVEMBER AND
12 AT THAT TIME I HAD NOTHING. I HAD REQUESTED DISCOVERY,
13 HADN'T GOTTEN ANYTHING.

14 MR. PRICE HAS NEVER KNOWN WHETHER OR NOT HE WAS
15 INDICTED. I DON'T -- I STILL DON'T HAVE THE INDICTMENT ON
16 THAT CHARGE. I KNOW THAT IT EXISTS NOW, BUT I NEVER WAS -- I
17 NEVER EVEN GOT THAT INDICTMENT, SO THERE WAS NO WAY HE KNEW
18 HE WAS INDICTED BECAUSE I DIDN'T KNOW.

19 THE COURT: WELL---

20 MR. LITTLEJOHN: YOUR HONOR, MIGHT I ADD, IT JUST
21 SEEMS TO ME WE'RE OPENING A CAN OF WORMS HERE THAT THE STATE
22 WANTS TO OPEN? I MEAN, THEY WANT TO GO INTO A CHARGE FOR
23 WHICH THERE'S NO DISPOSITION. THE MAN HAS NOT BEEN
24 CONVICTED. WE'RE GOING TO HAVE TO LITIGATE THE PROS AND THE
25 CONS OF THOSE CHARGES WHICH I UNDERSTAND ARE -- THEY'RE NOT

1 VERY GOOD CHARGES, AND I JUST THINK WE'RE CREATING AN ISSUE
2 THAT -- THE PREJUDICE THAT'S GOING TO BE CAUSED IS WAY FAR --
3 FAR OUTWEIGHS ANY ADVANTAGE THE STATE COULD POSSIBLY HOPE TO
4 GET OUT OF THIS.

5 THE COURT: WELL, MR. SORENSON, I'LL COME BACK. I'M
6 GOING TO TAKE A SHORT BREAK MYSELF. I'LL COME BACK AND HEAR
7 FROM YOU. PART -- AND THAT WAS ONE OF THE QUESTIONS I WAS
8 WONDERING. I MEAN, YOU UNDERSTAND THAT HE HAD AN APPEARANCE
9 AND FIRST APPEARANCE, SECOND APPEARANCE AND ALL OF THAT, BUT
10 THIS IS MY QUESTION AS TO MS. RUSHING'S STATEMENT THAT, YOU
11 KNOW, IT WAS WELL INTO NOVEMBER BEFORE SHE WAS EVEN RETAINED
12 AND SHE STILL HAD NOT SEEN AN INDICTMENT OR KNEW...

13 SO I'M NOT SURE -- QUITE SURE WHAT OCCURRED. WAS HE
14 INSTRUCTED BY THE COURT AT THAT POINT? DID HE APPEAR? WAS
15 IT CONTINUED? THAT'S SORT OF WHAT I'M JUST TRYING TO FIGURE
16 OUT BECAUSE THERE IS THIS HURDLE OF CLEAR AND CONVINCING FOR
17 THIS NONCONVICTION.

18 MR. SORENSON: IT'S JUST THAT I'M NOT SURE THAT THIS
19 MATTERS AT ALL, JUDGE. SOMEBODY - AND I ASSUME HE MUST HAVE
20 INITIALLY BEEN APPOINTED A PUBLIC DEFENDER - FILED A
21 DISCOVERY MOTION BACK IN THE FIRST WEEK OF AUGUST OF 2002.
22 ONCE AGAIN, I CAN'T -- I MEAN, I CAN'T AS AN OFFICER OF THE
23 COURT INDICATE THAT A COPY OF THE INDICTMENT WAS PROVIDED IN
24 THAT TO THE PUBLIC DEFENDER AT THAT POINT IN TIME. THERE ARE
25 CO-DEFENDANTS, SO I IMAGINE HIS CASE ULTIMATELY GOT

1 CONFLICTED OUT.

2 MS. RUSHING: THAT'S WHAT HAPPENED, YOUR HONOR. THE
3 P.D.'S OFFICE NEVER REALLY HAD ANYTHING TO DO WITH HIM. THEY
4 SAW A CONFLICT, AND THEN IT TAKES THAT LONG TO GET TO ME AND
5 THAT'S -- THAT'S WHERE -- I GOT IT THE END OF NOVEMBER.

6 THE COURT: BUT I'M STILL LEFT WITH TRYING TO JUST
7 FIGURE OUT WHAT EXACTLY MR. PRICE KNEW AND WHAT -- AND I TAKE
8 IT NOBODY WAS THERE AT THOSE SCHEDULED TIMES. AND I'M NOT
9 JUST, YOU KNOW, SPLITTING HAIRS, BUT WHEN HE SHOWS UP
10 APPARENTLY THERE WAS SOME CONFLICT, I ASSUME WITH THE P.D. I
11 DON'T KNOW WHAT TRANSPIRED DURING THOSE APPEARANCES, IF HE
12 EVEN SHOWED UP DURING THOSE TIMES.

13 MS. RUSHING: I DIDN'T GET INVOLVED TILL AFTER.

14 THE COURT: RIGHT. BUT APPARENTLY NOBODY KNOWS
15 EXACTLY WHAT HAPPENED WHEN HE GOT HERE. I'LL GIVE Y'ALL --
16 GIVE Y'ALL A FEW MINUTES. I'M GOING TO TAKE A FIVE-MINUTE
17 BREAK AND I'LL COME BACK. BUT UNLESS I -- MR. SORENSON, I
18 DON'T KNOW -- IF THERE'S SOMETHING ELSE SOMEBODY ELSE HAS AS
19 TO, YOU KNOW, THIS WAS WHEN HIS FIRST APPEARANCE WAS, HIS
20 SECOND APPEARANCE, BUT WHAT EXACTLY TRANSPIRED WITH THE P.D.
21 AND WHEN ALL THIS CONFLICT STUFF WAS RAISED... OTHERWISE,
22 YOU KNOW, HE MAY NOT HAVE KNOWN EXACTLY, OTHER THAN THE FACT
23 THAT HE HAD BEEN ARRESTED, WHAT THE STATUS OF ALL OF THAT
24 WAS. SO I'LL BE BACK IN FIVE MINUTES AND I'LL GIVE YOU A
25 RULING ON THAT. BUT JUST BASED ON THIS, I CAN'T SAY THAT

1 THAT MEETS THE STANDARD TO INTRODUCE ANY NONCONVICTION
2 INFORMATION. WE'LL BE BACK IN FIVE MINUTES.

3 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

4 THE COURT: THANK YOU. YOU CAN BE SEATED. ALL
5 RIGHT. ANYTHING NEW ON THE GUN FORMS?

6 MR. SORENSON: NO, SIR.

7 THE COURT: I'M GOING TO -- I'M GOING TO EXCLUDE
8 THAT. WE'LL JUST ALL AVOID THAT TOPIC FROM HERE ON OUT ABOUT
9 ANYTHING ON THAT APPLICATION. WE'RE WAITING ON MR. PRICE, I
10 SEE. I KEEP -- I KEEP FORGETTING SOMETIMES.

11 (MR. PRICE WAS BROUGHT INTO THE COURTROOM.)

12 THE COURT: MR. PRICE, YOU CAN JUST -- YOU CAN
13 RETURN TO THE WITNESS STAND. YOU'VE ALREADY -- YOU'VE
14 ALREADY BEEN SWORN. YOU'RE STILL UNDER OATH, AND WE'LL BE
15 READY TO GET STARTED. OKAY. YOU CAN BRING THE JURY OUT.

16 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT
17 2:55 P.M.)

18 THE COURT: THANK YOU, LADIES AND GENTLEMEN. WE'RE
19 READY TO CONTINUE. MR. SORENSON?

20 MR. SORENSON: THANK YOU, YOUR HONOR. MAY IT PLEASE
21 THE COURT?

22 THE COURT: YES, SIR.

23 CROSS-EXAMINATION

24 BY MR. SORENSON:

25 Q. MR. PRICE, I BELIEVE ON DIRECT EXAMINATION YOU

1 TESTIFIED THAT YOU WERE WORKING TWO JOBS?

2 A. YES, SIR.

3 Q. BACK IN DECEMBER OF LAST YEAR?

4 A. I WAS -- SAID I WAS WORKING ONE JOB AND LIKE
5 SOMETHING ON THE SIDE, A SIDE JOB.

6 Q. AND BACK IN DECEMBER OF LAST YEAR HOW MUCH MONEY
7 WERE YOU MAKING A WEEK ON THAT ONE JOB AND THEN THAT SIDE
8 JOB?

9 A. PROBABLY LIKE -- I DON'T KNOW, LIKE 400, 300 A WEEK,
10 SOMETHING LIKE THAT.

11 Q. THREE OR FOUR HUNDRED DOLLARS A WEEK. AND I THINK
12 YOU TESTIFIED THAT YOU HAVE FIVE CHILDREN; IS THAT CORRECT?

13 A. YES, SIR.

14 Q. YOU'RE SUPPORTING THOSE FIVE CHILDREN?

15 A. YES, SIR.

16 Q. ALL RIGHT. AND HOW MUCH MONEY WERE YOU PAYING IN
17 SUPPORT FOR THOSE FIVE CHILDREN?

18 A. I DON'T PAY CHILD SUPPORT. I BUY CLOTHES AND --
19 WITH THE THINGS THEY NEED.

20 Q. SO YOU DON'T -- YOU DON'T PAY THEIR MOTHERS ANY
21 MONEY, SPECIFIC MONEY, A WEEK OR A MONTH OR ANYTHING LIKE
22 THAT?

23 A. NO, SIR.

24 Q. NOW, YOU -- BACK IN DECEMBER OF LAST YEAR YOU WERE
25 WORK -- YOU WERE LIVING AT [REDACTED] SAINT ANDREWS ROAD, APARTMENT

1 [REDACTED]; IS THAT CORRECT?

2 A. YES, SIR.

3 Q. AND WHO WERE YOU LIVING THERE WITH?

4 A. KEISHA PRICE.

5 Q. SHE WAS LIVING THERE ACTUALLY BACK IN DECEMBER OF
6 LAST YEAR.

7 A. YES. IT WAS HER APARTMENT.

8 Q. OKAY. AND IN DECEMBER OF LAST YEAR WHO ELSE WAS
9 STAYING WITH YOU AT THAT TIME?

10 A. IN DECEMBER OF LAST YEAR?

11 Q. YES, SIR.

12 A. NO ONE ELSE.

13 Q. SO AT THE TIME THAT THIS SHOOTING HAPPENED ON
14 DECEMBER 7TH, IT WAS JUST YOU AND MS. PRICE?

15 A. YES.

16 Q. OKAY. AND HOW LONG HAD YOU BEEN STAYING IN THAT
17 APARTMENT, SIR?

18 A. TWO YEARS.

19 Q. OKAY. MS. PRICE BEEN IN THAT APARTMENT WITH YOU FOR
20 THOSE TWO YEARS?

21 A. ON AND OFF.

22 Q. OKAY. IS SHE THE MOTHER OF ANY OF YOUR CHILDREN?

23 A. NO, SIR.

24 Q. SO ON AND OFF SHE HAD BEEN THERE, BUT YOU HAD BEEN
25 THERE FOR TWO YEARS BASICALLY?

1 A. YES, SIR.

2 Q. ALL RIGHT. AND YOU HAD TESTIFIED THAT THIS RED
3 CLOTHING THAT WAS FOUND, SOME OF IT'S YOURS; SOME OF IT'S
4 NOT?

5 A. YES, SIR.

6 Q. LET ME SHOW YOU THIS ATLANTA BRAVES HAT, RED ATLANTA
7 BRAVES HAT. IS THAT YOURS?

8 A. NO, SIR.

9 Q. HOW ABOUT THIS RED AND WHITE YANKEE'S HAT?

10 A. YES, SIR.

11 Q. THAT IS YOUR HAT? AND HOW ABOUT THE RED BANDANA?
12 IS THAT YOURS?

13 A. NO, SIR.

14 Q. SO THAT'S NOT YOURS EITHER. HOW ABOUT THESE RED
15 SHORTS?

16 A. NO, SIR.

17 Q. RED SWEAT PANTS?

18 A. NO, SIR.

19 Q. RED TEE SHIRTS?

20 A. NO, I AIN'T IT. I AIN'T EVEN IT. THAT'S NOT MINE.

21 Q. THAT'S NOT YOURS? THAT'S NOT YOURS OR YOURS?

22 A. WHAT SIZE IS IT?

23 Q. EXTRA EXTRA LARGE.

24 A. NO. I WEAR A THREE X.

25 Q. YOU WEAR A THREE X.?

1 A. YES, SIR.

2 Q. HOW BIG ARE YOU, SIR?

3 A. FIVE -- ABOUT 5'9", 5'10", 190.

4 Q. THIS EXTRA LARGE SWEAT SHIRT IS NOT YOURS OBVIOUSLY
5 THEN EITHER?

6 A. NO, SIR.

7 Q. DOESN'T SEEM LIKE ANY OF THIS IS YOURS. HOW ABOUT
8 THIS ONE?

9 A. DON'T THAT LOOK LIKE A FEMALE SHIRT?

10 Q. I'M ASKING IF IT'S YOURS, SIR.

11 A. NO, SIR.

12 Q. HOW ABOUT THIS SHIRT?

13 A. WHAT SIZE IS IT?

14 Q. IT'S A SMALL.

15 A. NO, SIR.

16 Q. THIS TEE SHIRT DOESN'T LOOK LIKE IT HAS A SIZE. IS
17 THAT YOURS?

18 A. THAT LOOK LIKE A SMALL ALSO; NO, SIR.

19 Q. THAT'S NOT YOURS EITHER? HOW ABOUT THIS SWEAT
20 SHIRT? IS THIS YOUR SWEAT JACKET?

21 A. YES, SIR.

22 Q. YES, SIR?

23 A. YES, SIR.

24 Q. THIS IS YOURS. SO THAT'S YOURS AND THE YANKEE'S
25 HAT.

1 A. THAT'S MINE ALSO.

2 Q. THAT'S YOURS ALSO.

3 A. THAT'S NOT MINE. THAT'S MINE.

4 Q. ALL RIGHT. SO OUT OF ALL THIS WE GOT THE SWEAT
5 JACKET, TEE SHIRT, DRESS SHIRT, YANKEE'S HAT.

6 A. YES, SIR.

7 Q. NONE OF THAT OTHER STUFF IS YOURS.

8 A. NO, SIR.

9 Q. ALL FOUND IN YOUR APARTMENT THOUGH; IS THAT CORRECT?

10 A. YES, SIR.

11 Q. HOW MANY GUNS DID YOU OWN BACK IN DECEMBER OF LAST
12 YEAR, SIR?

13 A. ONE.

14 Q. ONE GUN. THAT'S THE 40 CALIBER YOU TESTIFIED ABOUT?

15 A. YES, SIR.

16 Q. EMPTY 40 CALIBER BOX?

17 A. YES, SIR.

18 Q. YOUR AMMUNITION GOES IN THIS BOX?

19 A. I FIGURE SO.

20 Q. BOX OF 38 SPECIALS?

21 A. THAT'S NOT MINE.

22 Q. THAT'S NOT YOURS.

23 A. NO, SIR.

24 Q. BOX OF NINE MILLIMETERS?

25 A. THAT'S MINE.

1 Q. BUT YOU DIDN'T OWN IT---

2 A. I OWNED A NINE MILLIMETER ALSO, SO TWO GUNS.

3 Q. OKAY. 357 MAGNUMS?

4 A. THAT'S NOT MINES.

5 Q. BOX OF 320 AUTOMATICS?

6 A. THAT'S NOT MINES.

7 Q. SO THREE OUT OF THE FIVE BOXES OF AMMUNITION WERE
8 NOT YOURS THAT WERE FOUND IN YOUR APARTMENT. IS THAT YOUR
9 TESTIMONY, SIR?

10 A. YES, SIR.

11 Q. ALL RIGHT. IS THIS PRICE'S?

12 A. LIKE I TOLD YOU, I DID HAVE PEOPLE THAT STAYED WITH
13 ME THROUGHOUT THE TWO YEARS, OVER THE COURSE OF THE TWO YEARS
14 THAT I WAS STAYING THERE.

15 Q. THEY JUST HAPPEN TO LEAVE, I GUESS, SOME AMMUNITION
16 BEHIND WHENEVER THEY LEAVE?

17 A. IF THAT'S HOW YOU WANT TO PUT IT, SIR.

18 Q. GUN BOX FOR A 380?

19 A. THAT WASN'T A 380. A 40 CALIBER CAME IN THE BOX.

20 Q. A 40 CALIBER CAME IN THIS 380 BOX.

21 A. YES.

22 Q. I GUESS THE PAPERWORK FOR THE 380 THAT WAS FOUND
23 GOES TO THE 40 CALIBER ALSO? THE PAPERWORK?

24 A. IT'S THE SAME BOX.

25 Q. SO IT WAS A 380 BOX, 380 PAPERWORK, BUT A 40 CALIBER

1 GUN.

2 A. YES. THAT'S THE ONLY BOX THEY HAD AVAILABLE.

3 Q. GOT YOU. AND LET'S SEE. YOU GOT A BOX FOR A NINE
4 MILLIMETER?

5 A. YES, SIR.

6 Q. THAT WAS YOUR NINE MILLIMETER?

7 A. AT ONE TIME.

8 Q. AT ONE TIME. AND, IN FACT, YOU BOUGHT THAT NINE
9 MILLIMETER ON NOVEMBER 2ND, 2002. IS THAT CORRECT?

10 A. YES, SIR.

11 Q. YOU BOUGHT THAT 40 CALIBER ON JUNE - I'M SORRY - ON
12 AUGUST 4TH, 2002.

13 A. YES, SIR.

14 Q. IS THAT CORRECT? ALL RIGHT. AND I BELIEVE YOU
15 TESTIFIED, SIR, THAT YOU LIKE TO GO TO GUN SHOWS?

16 A. YES, SIR.

17 Q. AND THEY JUST SOMEHOW HAPPENED TO, I DON'T KNOW,
18 FORCE THESE ON YOU THERE TO BUY THESE?

19 A. SIR, THEY SELL THEM THERE.

20 Q. HOW MUCH DOES A FLACK JACKET LIKE THIS GO FOR?

21 A. I DON'T KNOW, PROBABLY ABOUT \$75, \$100, \$200,
22 SOMETHING LIKE THAT.

23 Q. SO YOU JUST, JUST WITH YOUR SPARE CHANGE, DECIDED TO
24 BUY A CAMOUFLAGE ARMY FLACK JACKET?

25 A. YES, SIR.

1 Q. A BLUE BULLETPROOF VEST, BOUGHT THAT AT A GUN SHOW
2 ALSO?

3 A. YES, SIR.

4 Q. HOW MUCH DID THIS GO FOR?

5 A. ABOUT THE SAME.

6 Q. ABOUT THE SAME? AND THE GREEN ONE?

7 A. YES, SIR.

8 Q. ABOUT THE SAME ALSO?

9 A. YES, SIR.

10 Q. YOU BOUGHT ALL THREE OF THESE.

11 A. YES, SIR.

12 Q. THAT'S WHAT YOU TESTIFIED ON DIRECT; RIGHT?

13 A. YES, SIR.

14 Q. THAT'S WHAT -- ANYWHERE BETWEEN 300 AND 600 BUCKS?

15 A. YES, SIR.

16 Q. THAT'S A WEEK TO TWO WEEKS' WORTH OF PAY.

17 A. THAT'S A WEEK TO TWO WEEKS' WORTH OF PAY, BUT I
18 BOUGHT THEM AT SEPARATE TIMES. I DIDN'T BUY THEM AT ONE
19 TIME.

20 Q. AND THEY WERE ALL -- THEY WERE JUST HANGING UP IN
21 YOUR CLOSET, WEREN'T THEY, SIR?

22 A. YES, SIR.

23 Q. LET ME SHOW YOU STATE'S EXHIBIT NUMBER 58. THAT IS
24 THEM HANGING IN YOUR CLOSET IN YOUR APARTMENT, AREN'T THEY?

25 A. YES, SIR.

1 MR. SORENSON: YOUR HONOR, AT THIS TIME WE'D OFFER
2 STATE'S NUMBER 85 IN EVIDENCE.

3 THE COURT: ANY OBJECTION?

4 MR. LITTLEJOHN: YOUR HONOR, I HAVE NO OBJECTION TO
5 THAT PICTURE. THE OTHER PICTURES WE WOULD LIKE TO SEE; WE
6 HAVEN'T SEEN THOSE.

7 THE COURT: OKAY. WITHOUT OBJECTION IT'S ADMITTED.

8 (STATE'S EXHIBIT 85 WAS RECEIVED IN EVIDENCE.)

9 MR. LITTLEJOHN: YOUR HONOR, WE HAD NOT SEEN THESE
10 BEFORE, BUT WE DON'T HAVE ANY OBJECTION TO THEM.

11 THE COURT: ALL RIGHT. MR. SORENSON, I'LL SAVE YOU
12 SOME TIME. IF THEY HAVE NO OBJECTION, THEY'RE ALL ADMITTED.

13 MR. SORENSON: THANK YOU, YOUR HONOR.

14 THE COURT: MARK THEM IN EVIDENCE.

15 MR. SORENSON: IT WOULD BE STATE'S 84, 86, 88, AND
16 89.

17 (STATE'S EXHIBITS 84, 86, 88, AND 89 WERE RECEIVED
18 IN EVIDENCE.)

19 BY MR. SORENSON:

20 Q. LET ME SHOW YOU STATE'S EXHIBIT NUMBER 86. THAT'S
21 YOUR APARTMENT? THE SHELF IN YOUR CLOSET IN YOUR APARTMENT?

22 A. YES, SIR, I BELIEVE SO.

23 Q. ALL RIGHT. IN FACT, THAT -- I THINK IT LOOKS LIKE
24 THAT MIGHT BE IN THE CLOSET, TOO, STATE'S EXHIBIT NUMBER 89?

25 A. WHAT CLOSET IS THIS?

1 Q. DO YOU RECOGNIZE THIS? IT'S YOUR APARTMENT, SIR.
2 DO YOU RECOGNIZE THIS?

3 A. I ALSO WASN'T THE ONLY ONE STAYING THERE. WHAT
4 CLOSET IS THAT?

5 Q. YOUR HONOR, IF YOU COULD INSTRUCT HIM HE DOESN'T GET
6 TO ANSWER -- TO ASK THE QUESTIONS.

7 THE COURT: ASK HIM THE QUESTION AGAIN AND WE'LL SEE
8 WHAT...

9 BY MR. SORENSON:

10 Q. DO YOU RECOGNIZE THAT PHOTOGRAPH?

11 A. NO, SIR.

12 Q. THAT GUN BOX? YOU'VE NEVER SEEN THAT GUN BOX
13 BEFORE.

14 A. YES, I HAVE SEEN THE GUN BOX.

15 Q. OKAY. IN YOUR APARTMENT?

16 A. YES, SIR.

17 Q. AND THAT'S A BOX OF AMMUNITION IN YOUR APARTMENT IN
18 YOUR CLOSET. IS THAT CORRECT?

19 A. I'M ASKING WHAT CLOSET WAS IT SO I CAN BE MORE
20 SPECIFIC.

21 THE COURT: YOU CAN ALWAYS EXPLAIN YOUR ANSWER---

22 THE WITNESS: OKAY.

23 THE COURT: ---BUT ANSWER DIRECTLY HIS QUESTION.

24 BY MR. SORENSON:

25 Q. THAT'S THE NINE MILLIMETER BOX?

1 A. YES, SIR.

2 Q. THAT'S THE OTHER BOX OF AMMUNITION ON THE FLOOR; IS
3 THAT CORRECT?

4 A. I FIGURE SO.

5 Q. YOUR TESTIMONY, SIR, IS THAT YOU HAVE NO KNOWLEDGE
6 OF WHERE THIS RED NOTEBOOK CAME FROM?

7 A. NO, SIR.

8 Q. NEVER SEEN IT BEFORE.

9 A. NO, SIR.

10 Q. THIS?

11 A. NO, SIR.

12 Q. NEVER SEEN IT BEFORE.

13 A. NO, SIR.

14 Q. NEVER SEEN THE -- THE PLEDGE OF ALLEGIANCE TO THE
15 RED FLAG IN HERE?

16 A. NO, SIR.

17 Q. NEVER READ THROUGH THIS?

18 A. NO, SIR.

19 Q. DON'T KNOW ANYTHING ABOUT IT.

20 A. THAT'S CORRECT.

21 Q. MR. LITTLEJOHN ASKED YOU ABOUT THESE. HERE'S A
22 COUPLE OF PHOTOGRAPHS. THAT PHOTOGRAPH CAME OUT OF YOUR
23 APARTMENT; IS THAT CORRECT?

24 A. YES, SIR.

25 Q. IT HAS J-LEW DOWN HERE.

1 A. YES, SIR.

2 Q. A FRIEND OF YOURS; RIGHT?

3 A. YEAH, WE WERE---

4 Q. I BELIEVE YOU TESTIFIED HE'S A BLOOD.

5 A. YES, SIR.

6 Q. RIGHT? AND HE'S -- IN FACT, HE'S GIVING SOME GANG
7 SIGNS IN THAT PHOTOGRAPH, ISN'T HE?

8 A. YES, SIR.

9 Q. ALL RIGHT. AND HOW ABOUT YOU? THAT'S YOU DOWN IN
10 THE FRONT THERE; RIGHT?

11 A. YES, SIR.

12 Q. THAT'S NOT A GANG SIGN YOU'RE GIVING.

13 A. NO, IT'S NOT.

14 Q. THAT'S AN I LOVE YOU.

15 A. THAT'S WHAT IT MEAN.

16 Q. ALL RIGHT. AND STATE'S EXHIBIT NUMBER 52, THAT'S
17 YOUR FRIEND RYAN BROOKS RIGHT THERE; RIGHT?

18 A. YES, SIR.

19 Q. THAT'S A RED BANDANA HE'S HOLDING; RIGHT?

20 A. YES, SIR.

21 Q. THAT'S A GANG SIGN HE'S FLASHING, TOO, ISN'T IT?

22 A. I CAN'T EVEN TELL FROM THE PICTURE WHAT YOU'RE
23 TALKING ABOUT.

24 Q. TAKE A LOOK AT IT.

25 A. I DON'T KNOW.

1 Q. SO YOU DON'T KNOW WHAT HE'S DOING.

2 A. I KNOW HE'S HOLDING A RED BANDANA, SIR.

3 Q. IS IT COMMON FOR MR. BROOKS TO TOTE AROUND A RED
4 BANDANA?

5 A. I DON'T KNOW, SIR. YOU WOULD HAVE TO ASK HIM.

6 Q. BUT YOU DON'T CARRY AROUND A RED BANDANA.

7 A. HAVE I EVER WORN ONE---

8 Q. WELL, HAVE YOU EVER WORN ONE?

9 A. ---IS YOUR QUESTION? YES.

10 Q. BUT YOU'RE NOT A BLOOD. THAT'S YOUR TESTIMONY.

11 A. YES, SIR.

12 Q. AND YOU HAD TESTIFIED ON DIRECT, SIR, THAT YOU HAVE
13 SOME FRIENDS THOUGH AND THAT'S WHY PEOPLE MAY -- MAY THINK
14 THAT YOU'RE A BLOOD BECAUSE YOU HAVE SOME FRIENDS THAT ARE
15 BLOODS; IS THAT CORRECT?

16 A. YES, SIR.

17 Q. ALL RIGHT. I THINK YOU SAID YOU HAD FOUR OF THEM;
18 IS THAT CORRECT?

19 A. AROUND, YEAH.

20 Q. WHO ARE THEY, SIR? WHO ARE YOUR FOUR FRIENDS THAT
21 ARE BLOODS THAT YOU HANG AROUND THAT PEOPLE MISTAKE YOU FOR A
22 BLOOD BECAUSE YOU HANG AROUND?

23 A. I DON'T WANT TO GET NOBODY IN TROUBLE.

24 Q. SIR, I'D LIKE YOUR HONOR TO PLEASE INSTRUCT HIM TO
25 ANSWER MY QUESTION.

1 THE COURT: MR. PRICE, YOU'LL HAVE TO ANSWER. IT'S
2 NOT TO GET ANYBODY IN TROUBLE. YOU HAVE TO ANSWER HIS
3 QUESTION.

4 THE WITNESS: THEN I PLEAD THE FIFTH ON THE
5 QUESTION.

6 MR. SORENSON: YOUR HONOR, HE...

7 THE COURT: IT'S NOT A -- THERE'S NO WAY THAT CAN
8 INCRIMINATE YOU, SIR. SO YOU'LL HAVE TO BE ABLE TO ANSWER
9 THE QUESTION.
10 BY MR. SORENSON:

11 Q. ARE THEY IN THE COURTROOM HERE TODAY?

12 A. NO, SIR.

13 Q. ANSWER THE QUESTION, PLEASE.

14 A. J-LEW, JAMEL.

15 Q. JAMEL WHO, SIR?

16 A. BRYANT.

17 Q. JAMEL BRYANT?

18 A. YES.

19 Q. ALL RIGHT. WHO ELSE?

20 A. A FRIEND OF MINE CALLED TY.

21 Q. WHO?

22 A. A FRIEND OF MINE CALLED TY.

23 Q. CALLED TY? WHAT'S TY'S LAST NAME?

24 A. I DON'T KNOW.

25 Q. YOU DON'T KNOW, BUT HE'S A FRIEND OF YOURS?

1 A. YES.

2 Q. WHO IS THE FOURTH ONE?

3 A. ANOTHER FRIEND OF MINE'S NAMED ALEX.

4 Q. NAMED ALEX?

5 A. YES.

6 Q. WHERE DO YOU KNOW THIS TY AND ALEX FROM?

7 A. ALEX WENT TO SCHOOL WITH ME.

8 Q. YOU DON'T KNOW ALEX'S LAST NAME, BUT HE WENT TO
9 SCHOOL WITH YOU?

10 A. ALEX ANDERSON.

11 Q. ALEX ANDERSON?

12 A. YES.

13 Q. AND ALL FOUR OF THEM ARE BLOODS.

14 A. YES, SIR.

15 Q. FRIENDS OF YOURS THAT YOU HANG AROUND.

16 A. YES, SIR.

17 Q. FRIENDS OF YOURS THAT, I MEAN, HAVE -- ONE OF THEM
18 HAS GOT HIS ARM AROUND YOU FLASHING GANG SIGNS, BUT YOU'RE
19 NOT A BLOOD.

20 A. NO, SIR.

21 Q. I TURN YOUR ATTENTION, SIR, IF I COULD TO THE NIGHT
22 OF THIS PARTY OVER AT CLUB VOODOO'S. IT'S YOUR TESTIMONY
23 THAT YOU GOT A CALL FROM ROCK BASICALLY INVITING YOU TO COME
24 HELP OUT WITH SECURITY; IS THAT CORRECT?

25 A. YES, SIR.

1 Q. SO THAT'S WHY YOU WENT.

2 A. YES, SIR.

3 Q. IS THAT RIGHT? YOU SAID YOU GOT THERE AROUND 12:30
4 IN THE MORNING?

5 A. AROUND 12:15.

6 Q. ABOUT 12:15; I'M SORRY. AND HAD YOU SPOKEN TO RYAN
7 BROOKS BEFORE YOU WENT OVER THERE?

8 A. EARLIER IN THE DAY. THEY KNEW I WAS GOING. I
9 BELIEVE THEY HAD SPOKE TO SOMEBODY FROM LIKE BENEDICT OR
10 WHATEVER.

11 Q. AND IT'S YOUR TESTIMONY THAT WHEN YOU GOT THERE AND
12 YOU WALKED IN THAT FRONT DOOR -- WHEN YOU WALKED IN THAT
13 FRONT DOOR, OFF TO THE LEFT HERE THERE WAS A GROUP OF
14 FOOTBALL PLAYERS THAT WERE ALL STARING AT YOU.

15 A. YES.

16 Q. THAT'S BECAUSE OF THE CLOTHES YOU WERE WEARING?

17 A. YES, SIR, I FIGURED SO.

18 Q. WHAT WERE THOSE CLOTHES YOU WERE WEARING?

19 A. AN INDIAN JERSEY AND INDIAN HAT.

20 Q. BUT YOU TESTIFIED THAT, I MEAN, THEY WEREN'T --
21 WASN'T A RED JERSEY AND A RED HAT, WERE THEY?

22 A. NO, SIR.

23 Q. BUT YET FOR SOME REASON THEY WERE SORT OF
24 ANTI-INDIAN FANS, I GUESS?

25 A. I SAID THAT THE SHIRT HAD RED LINING AROUND THE

1 INDIAN -- AROUND THE CLEVELAND INDIAN SIGN AND THEN THE EAGLE
2 -- THE MAN, THE INDIAN MAN, HAD A RED FEATHER OUT OF HIS HAT.

3 Q. THAT'S ALL THE RED THAT WAS IN YOUR CLOTHING.

4 A. YES, SIR.

5 Q. DIDN'T HAVE RED SHOES ON, DIDN'T HAVE RED PANTS ON
6 OR ANYTHING LIKE THAT?

7 A. NO, SIR. I HAD ON BLACK PANTS AND A BLACK PAIR OF
8 TENNIS...

9 Q. SO THIS GROUP OF FOOTBALL PLAYERS IS STARING AT YOU
10 BECAUSE YOU HAD A LITTLE BIT OF RED IN YOUR SHIRT AND A
11 LITTLE BIT OF RED IN YOUR HAT. THAT'S YOUR TESTIMONY?

12 A. YES, SIR.

13 Q. ALL RIGHT. I THINK YOU TESTIFIED THAT YOU WERE
14 WEARING THEM BECAUSE YOU LIKED THE INDIANS. IS THAT CORRECT?

15 A. YES, SIR, I LIKED THE JERSEY AND THE HAT.

16 Q. AND THEN YOU HAD RUN INTO SOME FRIENDS AND YOU WERE
17 HANGING OUT OVER BY THE BAR.

18 A. YES, SIR.

19 Q. IS THAT CORRECT?

20 A. YES, SIR.

21 Q. THAT WOULD BE THIS BAR AREA OVER HERE; RIGHT?

22 A. YES, SIR.

23 Q. ALL RIGHT. AND THEN OUT ON THE DANCE FLOOR THERE
24 WERE A COUPLE OF GROUPS OF -- A COUPLE OF GROUPS OF PEOPLE.

25 A. YES, SIR.

1 Q. GROUP FROM BENEDICT, GROUP FROM U.S.C.

2 A. YES, SIR.

3 Q. I ASSUME THE BENEDICT PEOPLE WERE THE BLOODS? THE
4 U.S.C. WERE THE CRYPTS? IS THAT RIGHT?

5 A. I CAN'T SAY THAT. I CAN'T SAY THAT.

6 Q. YOU CAN'T SAY THAT? BUT THEY STARTED FLASHING SIGNS
7 AT EACH OTHER AND YOU TESTIFIED ABOUT THAT; RIGHT?

8 A. YES, SIR.

9 Q. WHAT KIND OF SIGNS WERE THEY FLASHING?

10 A. THEY APPEARED TO BE GANG SIGNS.

11 Q. OKAY. AND HOW WERE THEY DRESSED? WERE THEY WEARING
12 RED?

13 A. SOME WAS WEARING RED.

14 Q. ALL RIGHT.

15 A. SOME WAS WEARING BLUE.

16 Q. ALL RIGHT. WHO WAS WEARING THE RED?

17 A. SOME OF THE GUYS FROM BENEDICT.

18 Q. ALL RIGHT. AND THE PEOPLE FROM U.S.C., SOME OF THEM
19 WERE WEARING BLUE.

20 A. YES, AND SOME WAS ALSO WEARING RED.

21 Q. ALL RIGHT. AND YOUR TESTIMONY IS THAT THE WAY YOU
22 GOT INVOLVED IN THIS CONFLICT ON THE DANCE FLOOR IS THAT YOU
23 KIND OF GOT SUCKED INTO IT WHEN THEY KIND OF MOVED YOUR WAY?

24 A. YES. WHEN I SEEN MOE AND I SEEN MOE ARGUING WITH
25 'EM AND I WAS TELLING MOE TO SHUT UP.

1 Q. ALL RIGHT. AND MOE'S A PRETTY BIG GUY, ISN'T HE?

2 A. HE'S JUST TALL. HE'S SKINNY.

3 Q. HE'S LIKE 6'7"; RIGHT?

4 A. I THINK SOMETHING LIKE THAT.

5 Q. SO YOU WERE TRYING TO GET MOE TO CALM DOWN?

6 A. YES, SIR.

7 Q. WAS MOE A BLOOD?

8 A. I DON'T KNOW.

9 Q. ALL RIGHT. AND IT'S YOUR TESTIMONY THAT AT SOME
10 POINT IN TIME DURING THAT YOU ENDED UP STARTING TALKING TO
11 RACHIM MONROE; IS THAT CORRECT?

12 A. YES, SIR.

13 Q. AND YOU KNEW RACHIM?

14 A. FROM SEEING HIM AROUND IN THE CLUB. WE AIN'T NEVER
15 EXCHANGED EACH OTHER'S NAMES, BUT WE KNEW EACH OTHER'S FACES.

16 Q. OKAY. AND RACHIM -- DID YOU KNOW RACHIM PLAYED
17 FOOTBALL FOR CAROLINA?

18 A. YES, SIR.

19 Q. NOW, WHEN YOU WERE TALKING TO RACHIM, WERE YOU
20 HAVING ANY PROBLEMS WITH RACHIM?

21 A. NO, SIR.

22 Q. SO YOU WEREN'T ARGUING WITH HIM. YOU WERE JUST
23 TALKING WITH HIM.

24 A. YES.

25 Q. OKAY. NOW, WAS RACHIM IN THAT GROUP THAT YOU

1 INITIALLY SAW WHEN YOU FIRST WALKED IN THE DOOR, THAT GROUP
2 OF U.S.C. FOOTBALL PLAYERS?

3 A. YES, SIR.

4 Q. SO HE WAS ONE OF THOSE GUYS THAT WAS STARING AT YOU,
5 GIVING YOU THE EVIL EYE, WHEN YOU WALKED IN BECAUSE OF THE
6 RED IN YOUR CLOTHES?

7 A. THEY WAS GOING TO. YES, THEY WAS STARING, SIR.

8 Q. AND YOUR TESTIMONY IS THAT DURING THAT CONVERSATION
9 WITH RACHIM THAT CARL SMALLS CAME UP TO YOU AND THREATENED
10 YOU AT THAT POINT IN TIME BASICALLY BECAUSE RACHIM WAS
11 TALKING TO YOU.

12 A. YES, SIR. I APPEARED -- IT APPEARED LIKE HE THOUGHT
13 I WAS FROM THE PEOPLE THAT -- WHO THEY WAS GOING AT IT WITH.

14 Q. WELL, HAD YOU BEEN HANGING AROUND WITH THOSE PEOPLE
15 THEY HAD BEEN GOING AT IT WITH?

16 A. HE SEEN THAT I KNEW SOME OF THE ONES THAT WAS IN THE
17 CROWD.

18 Q. OBVIOUSLY IT APPEARED TO YOU KNEW RACHIM ALSO. AND
19 YOUR TESTIMONY -- I'M SORRY. I DIDN'T QUITE UNDERSTAND THIS
20 WHEN YOU SAID IT ON DIRECT. WHAT DID MR. SMALLS SAY TO YOU?
21 HE THREATENED YOU IN SOME -- CALLED YOU SOME NAME OR
22 SOMETHING. WHAT WAS THAT?

23 A. HE DIDN'T CALL ME NO NAME.

24 Q. YOU SAID HE MADE SOME THREAT TO YOU AT THAT POINT IN
25 TIME.

1 A. YES.

2 Q. WHAT WAS THAT THREAT HE MADE TO YOU?

3 A. HE TOLD ME THAT HE WAS -- HE SAID, "I'LL KILL YOU.
4 I'M AN O.G. FROM HOOVER CRYPTS." THAT'S WHAT HE SAID.

5 Q. SAID, "I'M AN O.G. FROM HOOVER CRYPTS." YOU
6 REMEMBER THAT A YEAR LATER.

7 A. YES, SIR.

8 Q. AT THAT POINT IN TIME HE DIDN'T HIT YOU OR ANYTHING,
9 DID HE?

10 A. NO, SIR.

11 Q. DIDN'T SEE A GUN ON HIM OR ANYTHING LIKE THAT, DID
12 YOU?

13 A. NO, SIR. I WASN'T LOOKING FOR NO GUN.

14 Q. HE NEVER LIFTED UP HIS SHIRT AND SHOWED YOU THAT HE
15 HAD A GUN IN HIS WAISTBAND, DID HE?

16 A. NO, SIR.

17 Q. YOU ENDED UP SEPARATING? YOU WENT TO THE BACK OF
18 THE CLUB, AND I THINK YOUR TESTIMONY IS THAT HE APPEARED LIKE
19 HE WAS FOLLOWING YOU AROUND THE REST OF THE NIGHT.

20 A. YES, SIR.

21 Q. IS THAT RIGHT? DID YOU TELL ANYBODY ABOUT THAT?

22 A. WHO WAS I GOING TO TELL?

23 Q. YOU KNOW, I THINK THAT DUDE IS GOING TO TRY TO GET
24 ME OR SOMETHING LIKE THAT?

25 A. WELL, I WAS JUST TRYING TO ACT IT OFF LIKE IT -- YOU

1 KNOW, TRY TO IGNORE IT.

2 Q. THERE'S NOTHING STOPPING YOU FROM JUST LEAVING THE
3 CLUB AT THAT POINT IN TIME; RIGHT?

4 A. NO, SIR.

5 Q. AND YOUR TESTIMONY IS THAT LATER ON YOU SAW THE
6 VICTIM DOING THE CRYPT WALK OUT THERE. IS THAT RIGHT?

7 A. YES, SIR.

8 Q. THERE WERE OTHER PEOPLE OUT THERE DOING THAT STUFF
9 THEN ALSO, DOING THE -- DOING GANG-TYPE ACTIVITY OUT ON THAT
10 DANCE FLOOR.

11 A. HE WAS THE MOST NOTICEABLE. HE'S WHO I NOTICED.

12 Q. AND YOU AT NO POINT IN TIME, SIR -- YOU WEREN'T
13 FLASHING ANY GANG SIGNS OR ANYTHING OUT THERE THAT NIGHT,
14 WERE YOU?

15 A. NO, SIR.

16 Q. WHEN YOU GOT INTO THAT FACE-TO-FACE CONFRONTATION
17 WITH MR. SMALLS WHEN HE THREATENED YOU, YOU DIDN'T BACK DOWN
18 FROM HIM, DID YOU?

19 A. NO, SIR.

20 Q. I TAKE IT YOU NEVER -- YOU DON'T RECALL EVER MAKING
21 A COMMENT TO HIM WHILE PRETENDING TO BE SHOOTING GUNS THAT,
22 "YOU'RE GOING TO FALL LIKE THE MATRIX."

23 A. NO, SIR.

24 Q. NEVER SAID THAT.

25 A. NO, SIR.

1 Q. WERE YOU ANGRY AFTER HE CAME UP TO YOU AND SAID THAT
2 TO YOU AND THREATENED YOU?

3 A. WAS I ANGRY? I WAS UPSET.

4 Q. FELT LIKE HE DISRESPECTED YOU?

5 A. NO. I JUST DIDN'T -- I DIDN'T -- I WAS LIKE -- I
6 WAS THINKING LIKE, "WHY WOULD HE COME OFF TO ME LIKE THAT?"

7 Q. YOU WEREN'T ANGRY WITH HIM FOR DISRESPECTING YOU IN
8 FRONT OF YOUR FRIENDS, WERE YOU?

9 A. NO, SIR. MY FRIENDS WASN'T THERE. IT WAS JUST ME,
10 HIM, AND RACHIM -- WAS THE CLOSEST ONES THERE.

11 Q. ALL RIGHT. ALL RIGHT. YOU TESTIFIED THAT ABOUT
12 2:00 THE CLUB SHUT DOWN.

13 A. YES, SIR.

14 Q. TURNED THE LIGHTS ON, TURNED THE MUSIC OFF. THAT
15 WAS BECAUSE OF BASICALLY ALL THE -- ALL THE EXTRACURRICULAR
16 STUFF THAT WAS TAKING PLACE OUT ON THAT---

17 A. YES, SIR.

18 Q. ---DANCE FLOOR; RIGHT? BUT YOU WEREN'T PART OF
19 THAT, WERE YOU?

20 A. NO, SIR.

21 Q. AND YOU ENDED UP GOING OUTSIDE.

22 A. YES, SIR.

23 Q. YOU WENT OUTSIDE WITH YOUR FRIENDS TY AND ROCK;
24 RIGHT?

25 A. YES, SIR.

1 Q. TY AND ROCK, THEY BOTH LIVE HERE IN COLUMBIA; RIGHT?

2 A. YES, SIR.

3 Q. ALL RIGHT. AND IT'S YOUR TESTIMONY THAT TY ASKED
4 YOU TO WATCH HIS BACK BECAUSE THEY WERE GOING BACK IN TO
5 COUNT THE MONEY?

6 A. YES, SIR.

7 Q. OKAY. SO THEY -- WHY HAD THEY GONE OUTSIDE? DO YOU
8 KNOW?

9 A. THEY WAS GETTING SOME AIR, I FIGURED.

10 Q. OKAY. AND YOU HAD WALKED OUT WITH THEM?

11 A. YES, SIR.

12 Q. ANYBODY ELSE WITH YOU WHEN THE THREE OF Y'ALL WALKED
13 OUT?

14 A. NO, SIR.

15 Q. OKAY. AND YOUR FRIEND RYAN BROOKS, WHEN WAS THE
16 LAST TIME YOU HAD SEEN MR. BROOKS?

17 A. WHEN I WAS WALKING -- WELL, WHEN I WALKED OUT, HE
18 WAS OVER THERE LIKE BY SHERMAN TRUCK.

19 Q. BY SHERMAN'S TRUCK?

20 A. YES, SIR.

21 Q. AND THAT'S HOW HE HAD GOTTEN THERE. YOU'RE AWARE OF
22 THAT; RIGHT?

23 A. YES, SIR.

24 Q. AND IT'S YOUR TESTIMONY THAT TY ASKED YOU AT THAT
25 POINT IN TIME TO COME BACK IN AND WATCH HIS BACK?

JEROID PRICE - CROSS-EXAM BY MR. SORENSON

1 A. HE ASKED ME TO WATCH HIS BACK; YES, SIR.

2 Q. OKAY. AND YOU DECIDED THAT YOU NEEDED TO GO -- TO
3 DO THAT, GO GET A GUN OUT OF YOUR CAR.

4 A. IF YOU'RE WATCHING SOMEBODY'S BACK WHILE THEY'RE
5 COUNTING MONEY, THAT'S BASICALLY WHAT IT MEAN.

6 Q. SO YOU WENT AND GOT YOUR 40 CALIBER HANDGUN. WHERE
7 WAS IT IN THE CAR?

8 A. IN THE GLOVE COMPARTMENT.

9 Q. IN THE GLOVE BOX. YOU LIFTED UP YOUR SHIRT -- UP
10 YOUR JERSEY AND STUFFED IT IN YOUR BELT; IS THAT RIGHT?

11 A. YES, SIR.

12 Q. PUT THE JERSEY BACK OVER?

13 A. YES, SIR.

14 Q. AND I ASSUME THAT JERSEY WAS A TRIPLE X.L.?

15 A. YES, SIR.

16 Q. OKAY. HOW -- HOW -- HOW FAR DOES A TRIPLE X.L. HANG
17 DOWN ON YOU? BECAUSE I KNOW IF I WORE ONE, IT WOULD PROBABLY
18 ABOUT SWALLOW ME UP.

19 A. ABOUT RIGHT WHERE YOUR -- LET YOUR HANG -- LET YOUR
20 SHIRT HANG DOWN. ABOUT LIKE UP UNDER YOUR BUTTON.

21 Q. SO RIGHT DOWN AROUND IN HERE?

22 A. YEAH, A LITTLE -- A LITTLE BIT LOWER.

23 Q. LITTLE BIT DOWN HERE?

24 A. YEAH, RIGHT ABOUT THERE.

25 Q. ALL RIGHT. PRETTY BAGGY I WOULD ASSUME?

1 A. YEAH, PRETTY...

2 Q. DID YOU HAVE A TEE SHIRT ON OR ANYTHING UNDERNEATH
3 IT?

4 A. YES.

5 Q. AND WAS YOUR TEE SHIRT TUCKED IN YOUR PANTS?

6 A. YES, SIR.

7 Q. SO THE TEE SHIRT'S TUCKED IN; THE JERSEY'S NOT
8 TUCKED IN.

9 A. YES, SIR.

10 Q. OKAY. AND YOU TUCKED THE BELT -- TUCKED THE GUN IN
11 THEN. SO IF THIS IS MY -- IF THIS IS YOUR TEE SHIRT, YOU
12 TUCK YOUR -- TUCKED THE GUN IN?

13 A. YES, SIR.

14 Q. THEN YOU GOT THE JERSEY COVERING THE GUN UP.

15 A. YES, SIR.

16 Q. IS THAT RIGHT?

17 A. YES, SIR.

18 Q. IS THAT PRETTY MUCH WHERE IT WAS IN THE FRONT THERE?

19 A. YES, SIR.

20 Q. AND YOU GO BACK IN TOWARDS THE CLUB. DID YOU TALK
21 TO ANYBODY ON YOUR WAY FROM YOUR CAR BACK INTO THE CLUB?

22 A. NO, SIR.

23 Q. AND YOU SAID YOU SAW A WHITE EXPEDITION KIND OF
24 PARKED OUT FRONT; RIGHT?

25 A. YES, SIR.

1 Q. THERE WERE PEOPLE EVERYWHERE AT THAT POINT---

2 A. YES, SIR.

3 Q. ---WEREN'T THERE PRETTY MUCH, BECAUSE EVERYBODY HAD
4 COME OUT OF THE CLUB; RIGHT?

5 A. YES, SIR.

6 Q. YOUR TESTIMONY IS THAT YOU COME IN AND YOU HAD TO GO
7 IN THE EXIT DOOR; RIGHT?

8 A. YES, SIR.

9 Q. YOU COME IN THE EXIT DOOR HERE.

10 A. YES, SIR.

11 Q. AND AS YOU ROUND THE CORNER, YOU'VE KIND OF GOT YOUR
12 HEAD DOWN.

13 A. YES, SIR.

14 Q. CARL SMALLS IS STANDING THERE.

15 A. YES, SIR.

16 Q. ALL RIGHT. AND AT THAT POINT IN TIME HE -- HE
17 BASICALLY MADE SOME DEROGATORY COMMENT TO YOU; RIGHT?
18 STARTED CUSSING AT YOU.

19 A. YES, SIR.

20 Q. ALL RIGHT. AND THEN HE RUSHES YOU. IS THAT YOUR
21 TESTIMONY?

22 A. YES, SIR.

23 Q. ALL RIGHT. JUST TO MAKE SURE I UNDERSTAND THIS
24 RIGHT, I'M SHOWING YOU STATE'S EXHIBIT NUMBER 16. THAT'S THE
25 DOOR YOU CAME IN; RIGHT?

1 A. YES, SIR.

2 Q. THAT'S THE DOOR? SO YOU WOULD HAVE COME IN THE DOOR

3 AND KIND OF GONE TO THE RIGHT IN THE PHOTOGRAPH; RIGHT?

4 A. YES, SIR.

5 Q. AND HE'S STANDING SOMEWHERE IN THAT HALLWAY?

6 A. YES, SIR.

7 Q. AND WHEN HE RUSHES YOU---

8 A. YES, SIR.

9 Q. ---HE PINS YOU UP AGAINST THIS WALL RIGHT HERE.

10 A. YES, SIR.

11 Q. RIGHT?

12 A. YES, SIR.

13 Q. OKAY. PINS YOU UP THERE WITH HIS RIGHT SHOULDER.

14 A. YES, SIR.

15 Q. IN YOUR CHEST.

16 A. YES, SIR.

17 Q. WHERE ARE YOUR ARMS WHEN HE PINS YOU UP AGAINST THE

18 WALL?

19 A. LIKE LOOSE, LIKE SWINGING.

20 Q. LIKE AROUND BEHIND HIM?

21 A. NO.

22 Q. HAS HE GOTTEN UP -- UP UNDERNEATH YOU?

23 A. YEAH, BUT MY ARMS IS LIKE THIS, LOOSE, LIKE I CAN---

24 Q. CAN I ASK HIM TO STEP DOWN FOR A MINUTE, YOUR HONOR?

25 THE COURT: YES, SIR.

1 BY MR. SORENSON:

2 Q. STEP DOWN IF YOU WOULD, MR. SMALLS (SIC). LET ME
3 GET THIS OUT OF YOUR WAY. ALL RIGHT. NOW, I SAW MR.
4 LITTLEJOHN DOING THIS BEFORE. AND, ONCE AGAIN, MR. SMALLS IS
5 BIGGER THAN I AM.

6 A. YES, SIR.

7 Q. YOU SAID BIGGER THAN MR. LITTLEJOHN. BIGGER THAN ME
8 THEN; RIGHT?

9 A. YES, SIR.

10 Q. ALL RIGHT. AND HE HAS COME UP UNDERNEATH YOU LIKE
11 THIS?

12 A. YES, SIR.

13 Q. AND YOUR ARMS ARE UP HERE OR ARE THEY DOWN HERE?

14 A. THEY'RE DOWN.

15 Q. OKAY. SO THEY'RE DOWN AROUND YOUR WAISTBAND AREA;
16 RIGHT?

17 A. YES, SIR.

18 Q. ALL RIGHT. AND HE HAS ACTUALLY PINNED YOU UP
19 AGAINST THE WALL.

20 A. YES, SIR.

21 Q. AM I TURNED AS MUCH AS HE IS OR TOO MUCH OR NOT
22 ENOUGH?

23 A. THAT'S ABOUT IT.

24 Q. THAT'S ABOUT IT. THAT DOOR IS LOCATED RIGHT OVER
25 HERE; RIGHT?

1 A. YES, SIR.

2 Q. THAT'S WHERE MR. BROOKS COMES IN; RIGHT?

3 A. YES, SIR.

4 Q. IT'S YOUR TESTIMONY THAT HE THEN FIRES THAT FIRST
5 SHOT.

6 A. YES, SIR.

7 Q. INTO MR. SMALLS.

8 A. I DON'T KNOW IF HE HIT HIM.

9 Q. YOU CAN HAVE A SEAT. YOU SAID YOU HEARD HIM MAKE
10 LIKE A NOISE, RIGHT, OR SOMETHING LIKE, "UMPH," OR SOMETHING
11 LIKE THAT?

12 A. HE SAID, "DAMN."

13 Q. HUH?

14 A. HE SAID, "DAMN."

15 Q. HE SAID, "DAMN." AND MR. BROOKS ONLY FIRED ONE
16 SHOT; RIGHT?

17 A. YES, SIR.

18 Q. AND YOU ONLY FIRED TWO SHOTS; RIGHT?

19 A. I FIRED ONE.

20 Q. YOU ONLY FIRED ONCE?

21 A. YES, SIR.

22 Q. I TAKE THAT BACK. YOUR GUN WENT OFF TWICE.

23 A. YES, SIR.

24 Q. IS THAT RIGHT? OKAY. THAT'S WHAT I MEANT. SO
25 THERE WAS THREE SHOTS FIRED INSIDE THAT HALLWAY---

1 A. YES, SIR.

2 Q. ---WHEN YOU WERE IN THERE. ALL RIGHT. HE HAD
3 RAMMED YOU UP INTO THE WALL. YOU HEAR MR. BROOKS' GUN GO
4 OFF. AT THAT POINT IN TIME WHAT DOES MR. SMALLS DO?

5 A. STILL---

6 Q. HE'S STILL---

7 A. WE'RE STILL PINNED. WE'RE STILL TOUCHING.

8 Q. ---GOT YOU PINNED UP AGAINST THERE?

9 A. HE EASED UP. WHEN THE SHOT WENT OFF, HE EASED UP.

10 Q. ALL RIGHT. AND HE AT THAT POINT IN TIME GRABBED THE
11 GUN?

12 A. HE HAD THE GUN ALREADY.

13 Q. SO HE HAD ALREADY GOTTEN THE GUN OUT.

14 A. YES.

15 Q. PULLED IT OUT?

16 A. HE HAD---

17 Q. IS YOUR JERSEY UP?

18 A. NO. WHEN I WAS PINNED UP, HE SNATCHED THE GUN OUT.

19 Q. SO YOUR JERSEY, I GUESS, HAD COME UP ABOVE THE GUN
20 SO HE COULD SEE THE GUN---

21 A. I GUESS SO.

22 Q. ---AND GET TO IT?

23 A. LIKE I -- LIKE I WAS SAYING, I DON'T KNOW HOW HE
24 FELT IT OR WHATEVER, BUT HE GOT IT OUT.

25 Q. IT COMES OUT AND Y'ALL -- HE'S GOT HIS HAND ON THE

1 HANDLE?

2 A. I HAD MY HAND ON THE HANDLE WHEN THE GUN WENT OFF ON
3 HIS -- ON -- AROUND RIGHT ON HIS SIDE.

4 Q. I NEED FOR YOU TO STEP DOWN ONE MORE TIME; I'M
5 SORRY. I SHOULD HAVE HAD YOU DO THIS BEFORE YOU SAT DOWN.
6 YOU'VE GOT THE GUN IN YOUR WAISTBAND ON THIS SIDE?

7 A. YES, SIR.

8 Q. ALL RIGHT. HE'S GOTTEN IT OUT OF -- OUT OF YOUR
9 WAISTBAND?

10 A. YES, SIR.

11 Q. HOW IS MR. SMALLS' HANDS ON THE GUN?

12 A. HE HAD IT IN HIS LEFT HAND.

13 Q. LIKE THIS?

14 A. NO, HE HAD THE GUN LIKE THIS.

15 Q. SO HE HAD GOTTEN IT -- PUT IT IN YOUR WAISTBAND HOW
16 YOU HAD IT, SIR, BEFORE YOU WALKED IN.

17 A. IT WAS SOMETHING LIKE THAT.

18 Q. MR. SMALLS HAS GOT YOU PINNED AND GOTTEN IT OUT LIKE
19 THIS?

20 A. YES, SIR.

21 Q. OKAY. NOW, WHAT -- WHAT HAVE YOU DONE?

22 A. I'M LIKE THIS.

23 Q. MR. SMALLS IS A LOT BIGGER THAN YOU, ISN'T HE?

24 A. YES, SIR.

25 Q. A LOT STRONGER THAN YOU, ISN'T HE?

1 A. I GUESS SO; YES, SIR.

2 Q. BUT YOU WERE WRESTLING WITH HIM OVER THAT GUN.

3 A. YES, SIR.

4 Q. AND YOUR TESTIMONY IS THAT SOMEHOW DURING THE
5 WRESTLING THAT GUN WAS TURNED?

6 A. WHEN RYAN FIRED THE SHOT, HE SAID, "DAMN." I PUSHED
7 HIS ARM LIKE THIS.

8 Q. UH-HUH.

9 A. WHEN I PUSHED HIS ARM, THE GUN WENT OFF. WHEN I DID
10 LIKE THIS, I HAD THE---

11 Q. SO YOU TURNED IT IN LIKE THAT?

12 A. YEP, AND I PULLED THE GUN BACK AND I LEANED BACK A
13 LITTLE BIT AND I FIRED ONE SHOT.

14 Q. YOU TURNED IT IN LIKE THAT AND THE GUN WENT OFF. SO
15 HE'S GOT HIS FINGER ON THE TRIGGER. YOU DIDN'T HAVE YOUR
16 FINGER ON THE TRIGGER, DID YOU?

17 A. NO, I HAD MY FINGERS -- I HAD MY HANDS ON IT TOWARD
18 THE HANDLE.

19 Q. ALL RIGHT. AND THAT -- THAT BULLET GOES OFF. SO
20 THAT'S PRETTY MUCH HOW HIS HAND WAS?

21 A. I WASN'T PAYING ATTENTION TO ALL THAT. I WAS
22 FIGHTING FOR MY LIFE, SIR.

23 Q. YOU GET THE GUN OUT OF HIS HAND.

24 A. YES, SIR.

25 Q. AND YOU'RE SLIDING DOWN THE WALL.

1 A. YES, SIR.

2 Q. AS YOU'RE SLIDING, YOU FIRE ONE SHOT KIND OF AS
3 YOU'RE SLIDING DOWN UP INTO HIM; RIGHT?

4 A. YEAH, I FIRED ONE SHOT LIKE THIS.

5 Q. HAVE A SEAT. AFTER YOU FIRED THAT SECOND SHOT, MR.
6 SMALLS KIND OF SLUMPED BACK INTO YOU; RIGHT?

7 A. YES, SIR.

8 Q. PUSHED HIM OFF OF YOU?

9 A. YES, SIR.

10 Q. YOU RAN OUT THE DOOR.

11 A. YES, SIR.

12 Q. MR. BROOKS WAS GONE ALREADY; RIGHT?

13 A. YES, SIR.

14 Q. OKAY. DO YOU REMEMBER IF MR. BROOKS -- IF YOU HEARD
15 HIM TRYING TO PULL THE TRIGGER AGAIN AFTER HE FIRED THAT
16 FIRST SHOT?

17 A. I WASN'T PAYING ATTENTION TO NONE OF THAT, SIR.

18 Q. WHEN YOU GO OUT THE DOOR, WHERE IS -- WHERE IS MR.
19 SMALLS WHEN YOU RUN OUT THE DOOR? IS HE DOWN ON THE FLOOR
20 YET?

21 A. I FIGURED HE PROBABLY WAS.

22 Q. AND THAT -- THAT GUN THAT YOU HAD, THAT WAS A 40
23 CALIBER. THAT WAS A SEMIAUTOMATIC; RIGHT?

24 A. YES, SIR.

25 Q. YOU GO OUT AND RUN AND GET TO YOUR CAR?

1 A. YES, SIR.

2 Q. WHO DO YOU CALL WHEN YOU GET TO YOUR CAR?

3 A. AS I WAS PULLING OUT, I CALLED -- FIRST I CALLED
4 RYAN'S PHONE AND THEN I CALLED SHERMAN'S PHONE.

5 Q. DID YOU EVER CALL ROCK OR TY TO LET THEM KNOW WHAT'S
6 GOING ON OR, HEY, I AIN'T COMING IN THERE TO HELP YOU?

7 A. NO, SIR.

8 Q. YOU DON'T CALL THE POLICE; RIGHT?

9 A. NO, SIR. I DIDN'T HAVE TY OR ROCK'S CELL PHONE
10 NUMBER ANYWAY, SIR.

11 Q. BUT YOU DIDN'T CALL THE POLICE?

12 A. NO, SIR.

13 Q. DIDN'T STICK AROUND TO TALK TO THE POLICE, DID YOU?

14 A. NO, SIR.

15 Q. ALL RIGHT. AND IT'S YOUR TESTIMONY THAT YOU GO BACK
16 HOME AT THAT POINT IN TIME; RIGHT?

17 A. YES, SIR. I WAS DRIVING TOWARDS HOME.

18 Q. LET ME JUST GET THIS STRAIGHT; LET ME BACK UP. AT
19 NO POINT IN TIME DID YOU EVER SEE CARL SMALLS WITH A GUN OF
20 HIS OWN, DID YOU?

21 A. NO, SIR.

22 Q. SO THE ONLY GUN HE EVER HAD IN HIS HAND, ACCORDING
23 TO YOUR TESTIMONY, IS YOUR 40 CALIBER GUN.

24 A. YES, SIR.

25 Q. THAT YOU BROUGHT INTO THAT NIGHTCLUB.

1 A. YES, SIR.

2 Q. ALL RIGHT. DID YOU TALK TO MR. BROOKS ON THE
3 TELEPHONE THAT NIGHT?

4 A. NO, SIR.

5 Q. DID YOU TALK TO MR. PATRICK ON THE TELEPHONE THAT
6 NIGHT?

7 A. YES, SIR.

8 Q. TELL HIM WHAT HAPPENED?

9 A. NO, SIR.

10 Q. DID HE ASK YOU WHAT HAPPENED?

11 A. NO.

12 Q. TALK TO MR. BROOKS THE NEXT DAY?

13 A. I'M NOT SURE.

14 Q. LET ME ASK YOU THIS: AT ANY POINT IN TIME AFTER YOU
15 FLED THAT CLUB THAT NIGHT, DID YOU TALK TO MR. BROOKS ABOUT
16 WHAT HAPPENED IN THAT CLUB?

17 A. NO, SIR.

18 Q. THE TWO OF YOU HAVE NEVER TALKED ABOUT IT.

19 A. NO, SIR.

20 Q. A COUPLE OF DAYS LATER ON THAT TUESDAY, THAT TUESDAY
21 YOU END UP GETTING A CELL PHONE FROM MR. WOOD; RIGHT?

22 A. YES, SIR.

23 Q. ALL RIGHT. AND YOU TAKE OFF AT THAT POINT IN TIME,
24 DON'T YOU?

25 A. I NEVER LEFT SOUTH CAROLINA.

1 Q. YOU NEVER LEFT SOUTH CAROLINA.

2 A. NO.

3 Q. WHERE WERE YOU FOR THREE AND A HALF MONTHS, SIR?

4 A. I CAN'T SAY. I DON'T WANT NOBODY TO GET IN TROUBLE.

5 Q. ONCE AGAIN, YOUR HONOR, I WOULD INSTRUCT HIM TO
6 PLEASE ANSWER MY QUESTION.

7 THE COURT: SIR, YOU---

8 THE WITNESS: I WAS IN SOUTH CAROLINA, YOUR HONOR.

9 THE COURT: YOU HAVE TO ANSWER HIS QUESTION. IF
10 THERE WAS SOMETHING THAT WOULD INCRIMINATE YOU, SIR, THAT
11 WOULD BE A DIFFERENT ISSUE, BUT YOU'RE TALKING ABOUT SOMEBODY
12 ELSE. YOU HAVE TO ANSWER HIS QUESTIONS.

13 THE WITNESS: I WAS AT A FRIEND HOUSE.

14 BY MR. SORENSON:

15 Q. WHO WOULD THAT FRIEND BE?

16 A. HIS NAME IS MICHAEL.

17 Q. WHERE DOES MICHAEL LIVE?

18 A. IN AIKEN, SOUTH CAROLINA.

19 Q. SO YOU WERE IN AIKEN, SOUTH CAROLINA, FOR THREE AND
20 A HALF MONTHS.

21 A. YES.

22 Q. OKAY. AND YOU KNEW THE POLICE WERE LOOKING FOR YOU.

23 A. YES.

24 Q. IS THAT CORRECT? IN FACT, YOU -- YOU HAD SEVERAL
25 TELEPHONE CALLS THAT YOU MADE TO INVESTIGATOR SMITH. IS THAT

1 CORRECT?

2 A. YES, SIR.

3 Q. AND, IN FACT, THE FIRST TELEPHONE CALL -- BEAR WITH
4 ME ONE SECOND. I BELIEVE THE FIRST TIME YOU TALKED TO HIM IS
5 ON DECEMBER 16TH, 2002. DECEMBER 16TH, 2002; THAT'S THE
6 FOLLOWING MONDAY. YOU TELL HIM THAT YOU WEREN'T EVEN THERE
7 WHEN THE SHOOTING TOOK PLACE; RIGHT?

8 A. YES, SIR.

9 Q. ALL RIGHT. YOU TOLD HIM YOU LEFT WITH A GIRLFRIEND
10 OF YOURS TO MEET NICOLE; RIGHT?

11 A. THAT'S MY COUSIN.

12 Q. YOUR COUSIN; I'M SORRY. AND YOU TELL HIM YOU'RE
13 GOING TO TURN YOURSELF IN THAT FOLLOWING MONDAY.

14 A. NO, SIR.

15 Q. IS THAT CORRECT?

16 A. NO, THAT'S NOT -- WE DIDN'T TALK ABOUT TURNING
17 MYSELF IN. HE DIDN'T -- AT THAT TIME HE DIDN'T TELL ME I WAS
18 WANTED FOR MURDER.

19 Q. OKAY. SO YOU DIDN'T EVEN KNOW AT THAT POINT IN
20 TIME. BUT YOU LIED TO HIM; RIGHT?

21 A. YES, SIR.

22 Q. THE FACT OF THE MATTER -- I MEAN, YOU WERE THERE
23 WHEN THE SHOOTING HAPPENED.

24 A. YES, SIR.

25 Q. YOU WERE INVOLVED IN THE SHOOTING.

1 A. YES, SIR.

2 Q. YOU ALSO TOLD HIM AT THAT POINT IN TIME WHEN HE HAD
3 ASKED YOU ABOUT A 40 CALIBER GUN YOU HAD, YOU TOLD HIM YOU
4 SOLD IT; RIGHT?

5 A. YES, SIR.

6 Q. THAT'S NOT THE TRUTH EITHER, IS IT?

7 A. NO, SIR.

8 Q. ALL RIGHT. WHAT DID YOU DO WITH THAT 40 CALIBER
9 GUN?

10 A. I WAS RIDING ON THE HIGHWAY AND I THREW IT OUT.

11 Q. YOU THREW IT OUT.

12 A. YES, SIR.

13 Q. ALL RIGHT. AND YOU HAVE SEVERAL CONVERSATIONS WITH
14 EITHER LEAVING MESSAGES ON LIEUTENANT SMITH'S VOICE MAIL OVER
15 THE NEXT COUPLE OF -- COUPLE OF MONTHS---

16 A. YES, SIR.

17 Q. IS THAT CORRECT?

18 A. YES, SIR.

19 Q. MAY HAVE EVEN TALKED TO HIM ONE -- ONE OR TWO TIMES;
20 RIGHT?

21 A. YES, SIR.

22 Q. ALL RIGHT. IN FACT, YOU MADE THE COMMENT TO HIM IN
23 JANUARY ABOUT -- BASICALLY COMPLAINING ABOUT OUR SELF-DEFENSE
24 LAWS HERE IN SOUTH CAROLINA.

25 A. YES, SIR.

1 Q. IS THAT CORRECT?

2 A. I HAD BELIEVED THAT -- I WAS LED TO BELIEVE THAT
3 THERE WAS NONE.

4 Q. ALL RIGHT. AND THAT HAPPENED---

5 A. SO I WAS SCARED.

6 Q. THAT HAPPENED AFTER -- THE DAY AFTER -- THE DAY
7 AFTER RYAN BROOKS TURNED HIMSELF IN. IS THAT CORRECT?

8 A. YES. YEAH, THAT'S -- YES, SIR.

9 Q. THAT'S THE FIRST TIME YOU EVER SAY ANYTHING ABOUT
10 SELF-DEFENSE; RIGHT? THE DAY AFTER MR. BROOKS TURNS HIMSELF
11 IN.

12 A. WE NEVER WENT INTO DETAILS ABOUT THE CASE, ME AND
13 INVESTIGATOR SMITH.

14 Q. BUT YOU -- YOU KNEW RYAN BROOKS HAD TURNED HIMSELF
15 IN ON JANUARY 9TH.

16 A. INVESTIGATOR SMITH TOLD ME THE 10TH. WHEN I SPOKE
17 TO HIM, HE TOLD ME THAT MR. BROOKS HAD TURNED HIMSELF IN AND
18 THAT HE HAD TOLD THE TRUTH.

19 Q. ALL RIGHT. AND I BELIEVE YOUR STATEMENT WAS ON
20 DIRECT THAT YOU CALLED LIEUTENANT SMITH BECAUSE YOU WANTED TO
21 MAKE SURE THE TRUTH WOULD COME OUT.

22 A. YES, SIR.

23 Q. IS THAT RIGHT?

24 A. YES, SIR.

25 Q. I MEAN, HOW MANY TIMES DID YOU TALK TO LIEUTENANT

JEROID PRICE - CROSS-EXAM BY MR. SORENSON

1 SMITH OVER THAT THREE-AND-A-HALF-MONTH PERIOD OF TIME?

2 A. I DON'T KNOW.

3 Q. TWO, THREE TIMES?

4 A. MAYBE THAT, MAYBE MORE.

5 Q. PROBABLY LEFT MORE MESSAGES THAN THAT ON HIS VOICE
6 MAIL, TOO?

7 A. MAYBE SO.

8 Q. THREE AND A HALF MONTHS. WHEN DID YOU EVER TELL
9 LIEUTENANT SMITH WHAT HAD HAPPENED THAT NIGHT?

10 A. I DIDN'T -- I WAS GOING TO TELL HIM FACE TO FACE.
11 THERE WAS NO NEED TO TALK OVER THE PHONE ABOUT SOMETHING LIKE
12 THAT.

13 Q. THREE AND A HALF MONTHS LATER YOU TURN YOURSELF IN.

14 A. YES, SIR.

15 Q. FINALLY; RIGHT?

16 A. YES, SIR.

17 Q. LET ME ASK YOU -- THERE'S ONE THING I FORGOT TO ASK
18 YOU ABOUT. WHEN MR. SMALLS, YOUR TESTIMONY, BASICALLY
19 ATTACKED YOU IN THAT HALLWAY---

20 A. YES, SIR.

21 Q. ---DID YOU SEE WHETHER HE HAD A CELL PHONE IN HIS
22 HAND?

23 A. NO, SIR.

24 Q. NEVER SAW A CELL PHONE, DID YOU?

25 A. NO, SIR.

1 Q. ISN'T IT THE TRUTH, SIR, THAT YOU AND -- YOU AND MR.
2 BROOKS BASICALLY WENT HUNTING FOR MR. SMALLS THAT EVENING,
3 ISN'T IT?

4 A. THAT'S NOT THE TRUTH, SIR.

5 Q. THE TWO OF YOU WENT OUT AND GOT YOUR GUNS, CAME BACK
6 IN, PINNED HIM AND TRAPPED HIM IN THAT HALLWAY?

7 A. THAT'S NOT THE TRUTH, SIR.

8 MR. SORENSON: BEG THE COURT'S INDULGENCE.

9 THE COURT: YES, SIR.

10 MR. SORENSON: THANK YOU, SIR.

11 THE COURT: THANK YOU. MR. LITTLEJOHN?

12 MR. LITTLEJOHN: I HAVE NO FURTHER QUESTIONS, YOUR
13 HONOR, OF MR. PRICE.

14 THE COURT: SIR, YOU MAY STEP DOWN FROM THE STAND.
15 THANK YOU. MR. LITTLEJOHN, DOES THE DEFENSE HAVE ANYTHING
16 FURTHER?

17 MR. LITTLEJOHN: YOUR HONOR, AT THIS TIME THE
18 DEFENSE RESTS.

19 THE COURT: OKAY. THANK YOU, SIR. MR. PASCOE, DOES
20 THE STATE ANTICIPATE ANYTHING ELSE?

21 MR. PASCOE: CAN WE TAKE A BRIEF RECESS, YOUR HONOR?

22 THE COURT: YES, SIR.

23 MR. PASCOE: THANK YOU.

24 THE COURT: LADIES AND GENTLEMEN, WE'RE GOING TO
25 TAKE A SHORT BREAK AND WE'LL BRING YOU BACK OUT. IF YOU'LL

1 JUST GO TO THE JURY ROOM. DO NOT DISCUSS THE EVIDENCE OR
2 TESTIMONY YOU'VE SEEN OR HEARD THUS FAR, AND WE'LL CALL YOU
3 BACK OUT SHORTLY. THANK YOU.

4 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT
5 3:34 P.M.)

6 THE COURT: THANK YOU, SIR.

7 MR. PASCOE: YES, SIR. I HAVE ONE BRIEF REPLY
8 WITNESS TODAY, AND I MIGHT HAVE ANOTHER VERY, VERY BRIEF ONE
9 FIRST THING IN THE MORNING IF I CAN'T GET HIM UP HERE NOW.
10 I'VE BEEN TRYING TO GET HIM SINCE THE DEFENDANT SAID
11 SOMETHING AND...

12 THE COURT: WE'LL TRY TO DO -- I KNOW YOU'RE MAKING
13 YOUR BEST EFFORTS. SO WE'LL TAKE A LITTLE BREAK RIGHT NOW
14 AND GIVE Y'ALL SOME TIME TO SEE IF YOU CAN DO THAT.

15 MR. PASCOE: YES, SIR.

16 THE COURT: AND IF THAT'S THE CASE, WE'LL JUST AT
17 LEAST GET ONE OF THEM UP AND...

18 MR. PASCOE: AND I MAY EVEN CHANGE MY MIND BY
19 MORNING ANYWAY. IF I DO PUT THAT ONE UP, IT'S GOING TO BE AS
20 BRIEF AS YOU'LL SEE HOW BRIEF THIS ONE'S GOING TO BE.

21 THE COURT: OKAY. WE'LL ACCOMMODATE BOTH SIDES ON
22 THE SCHEDULING.

23 MR. PASCOE: THANK YOU, SIR.

24 THE COURT: WE'LL TAKE A LITTLE BREAK RIGHT NOW. DO
25 YOU NEED TIME TO GET HIM READY AND BRING HIM DOWN?

1 MR. PASCOE: IF YOU DON'T MIND. I'VE BEEN TOLD HE'S
2 HERE, BUT I NEED TO GO MAKE SURE.

3 THE COURT: OKAY. WE'LL TAKE A FEW MINUTES. WE'LL
4 BE IN RECESS.

5 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

6 THE COURT: THANK YOU. YOU CAN BE SEATED. MR.
7 PASCOE, ARE YOU READY TO---

8 MR. PASCOE: WE'RE READY, YOUR HONOR. WE HAVE ONE
9 WITNESS.

10 THE COURT: OKAY. WE'LL DO THAT, AND ASSUMING YOU
11 HAVEN'T GOTTEN, BEFORE WE'RE FINISHED WITH HIM, THE OTHER
12 WITNESS, WE'LL JUST DO THAT ONE IN THE MORNING. WE'RE READY
13 FOR THE JURY, SIR.

14 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT
15 3:57 P.M.)

16 THE COURT: THANK YOU, LADIES AND GENTLEMEN. WE'RE
17 READY TO CONTINUE. MR. PASCOE?

18 MR. PASCOE: THANK YOU, YOUR HONOR. THE STATE CALLS
19 RONALD HAMILTON.

20 RONALD HAMILTON, AFTER BEING DULY SWORN,
21 TESTIFIED AS FOLLOWS:

22 THE CLERK: PLEASE HAVE A SEAT UP THERE, SIR. STATE
23 YOUR FULL NAME FOR THE RECORD.

24 THE WITNESS: RONALD HAMILTON.
25

DIRECT EXAMINATION

BY MR. PASCOE:

Q. GOOD AFTERNOON, MR. HAMILTON.

A. GOOD AFTERNOON.

Q. I APPRECIATE YOU COMING ON SUCH SHORT NOTICE. DO
YOU GO BY THE NAME OF ROCK?

A. YEAH.

Q. YOU NEED TO SPEAK UP; OKAY?

A. YEAH.

Q. AND DO YOU KNOW THE DEFENDANT, JEROID PRICE?

A. YEAH.

Q. HOW LONG HAD YOU KNOWN THE DEFENDANT, MR. PRICE,
BEFORE DECEMBER OF 2002?

A. ABOUT SIX OR SEVEN MONTHS.

Q. OKAY. WERE YOU IN CHARGE---

THE COURT: CAN I GET YOU TO SLIDE UP TO THAT
MICROPHONE SO THAT THE LAST JUROR BACK THERE CAN HEAR YOUR
TESTIMONY?

BY MR. PASCOE:

Q. SO HOW LONG HAD YOU KNOWN MR. PRICE?

A. SIX OR SEVEN MONTHS.

Q. WERE YOU IN CHARGE, SIR, OF PROMOTING A PARTY AT
VOODOO'S---

A. YEAH.

Q. ---FOR THE ALPHA FRATERNITY THAT NIGHT OF

1 DECEMBER 6TH AT CLUB VODOO'S?

2 A. YES.

3 Q. OKAY. YOU WERE A BENEDICT STUDENT AT THE TIME?

4 A. YEAH.

5 Q. DID YOU ASK THE DEFENDANT, JEROID PRICE, TO WORK
6 SECURITY THAT NIGHT?

7 A. NO.

8 Q. HAVE YOU EVER ASKED JEROID PRICE TO WORK SECURITY AT
9 A PARTY BEFORE?

10 A. NO.

11 Q. DID YOU EVER GO OUTSIDE WITH THE DEFENDANT, JEROID
12 PRICE, AFTER THE PARTY ENDED?

13 A. NO.

14 MR. PASCOE: THAT'S ALL I HAVE.

15 THE COURT: THANK YOU, SIR. MR. LITTLEJOHN?

16 CROSS-EXAMINATION

17 BY MR. LITTLEJOHN:

18 Q. MR. HAMILTON, MY NAME IS CAM LITTLEJOHN. I
19 REPRESENT JEROID PRICE.

20 A. UH-HUH.

21 Q. HOW ARE YOU DOING?

22 A. ALL RIGHT.

23 Q. DO YOU REMEMBER TALKING WITH AMOS JONES, AN
24 INVESTIGATOR, RECENTLY?

25 A. NO.

1 Q. YOU DON'T REMEMBER TALKING TO HIM?

2 A. NO.

3 Q. YOU DON'T REMEMBER TELLING HIM YOU WEREN'T COMING TO
4 COURT?

5 A. YEAH, I REMEMBER THAT.

6 Q. YOU REMEMBER---

7 A. I DON'T KNOW WHO HE IS THOUGH. I TOLD SOMEBODY
8 THAT.

9 Q. OKAY. MR. HAMILTON, THE NIGHT OF THIS PARTY, DID
10 YOU SEE CARL SMALLS?

11 A. YEAH, I SAW HIM AROUND THE PARTY.

12 Q. OKAY. WHAT WAS HE DOING AROUND THE PARTY?

13 A. HE WAS ACTING IRATE.

14 Q. ACTING IRATE.

15 A. YEAH.

16 Q. WHAT DO YOU MEAN BY IRATE?

17 A. HE WAS KIND OF LIKE BEEFING WITH PEOPLE.

18 Q. BEEFING WITH PEOPLE?

19 A. YEAH.

20 Q. ALL NIGHT?

21 A. I WASN'T THERE ALL NIGHT. I MEAN, I WASN'T ON THE
22 FLOOR ALL NIGHT, SO I WOULDN'T KNOW THAT.

23 Q. BUT THE TIMES YOU SAW HIM, HE WAS BEEFING WITH
24 PEOPLE.

25 A. YEAH.

1 Q. OKAY. NOW, DO YOU REMEMBER SEEING JEROID PRICE
2 THERE THAT NIGHT?

3 A. YEAH, I SAW HIM.

4 Q. DID YOU TALK TO HIM?

5 A. A COUPLE OF WORDS PROBABLY, YEAH.

6 Q. A COUPLE OF WORDS.

7 A. YEAH.

8 Q. DO YOU REMEMBER WHAT THOSE WORDS WERE?

9 A. NO.

10 Q. YOU DON'T REMEMBER A CONVERSATION WITH HIM?

11 A. NO.

12 Q. SO YOU HAD A CONVERSATION, BUT YOU DON'T REMEMBER
13 WHAT THAT CONVERSATION WAS.

14 A. I JUST SAID A COUPLE OF WORDS. THAT'S NOT A
15 CONVERSATION.

16 Q. WELL, I MEAN, DO YOU REMEMBER WHAT THE WORDS WERE?

17 A. NO.

18 Q. SO YOU DON'T REMEMBER WHAT YOU TALKED TO HIM ABOUT
19 THAT NIGHT.

20 A. NOTHING MAJOR.

21 Q. NOTHING MAJOR.

22 A. HUH-UH.

23 Q. DID YOU TELL HIM YOU WERE WORKING SECURITY?

24 A. I'M NOT OVER SECURITY. I MEAN, I WASN'T OVER THE
25 SECURITY FOR THE CLUB.

1 Q. YOU WERE RUNNING THE PARTY.

2 A. I PROMOTED THAT PARTY.

3 Q. YOU WERE PROMOTING THE PARTY.

4 A. YEAH.

5 Q. SO YOU TALKED TO A NUMBER OF PEOPLE ABOUT PROMOTING
6 THE PARTY, DIDN'T YOU?

7 A. NO. I MEAN, I PROMOTED THE PARTY WITH THE ALPHA'S
8 AND A.K.A.'S.

9 Q. OKAY. WELL, BY THAT I MEAN YOU HAD TO -- YOU HAD TO
10 TAKE CARE OF MAKING SURE THERE WERE BARTENDERS; RIGHT?

11 A. YEAH.

12 Q. PEOPLE TAKING UP TICKETS.

13 A. YEAH.

14 Q. PEOPLE IN CHARGE OF THE MONEY.

15 A. THAT WAS PEEWEE'S JOB THOUGH.

16 Q. OKAY.

17 A. IT WASN'T MY JOB.

18 Q. WELL, YOU WERE PROMOTING THE WHOLE THING, WEREN'T
19 YOU? WEREN'T YOU COORDINATING IT?

20 A. I DON'T OWN THE CLUB. I WAS JUST PROMOTING THE
21 PARTY.

22 Q. OKAY. YOU WERE PROMOTING THE PARTY.

23 A. YEAH.

24 Q. YOU TALKED TO A LOT OF PEOPLE ABOUT PUTTING THE
25 PARTY ON, DID YOU NOT?

1 A. YEAH. NO. I JUST TALKED TO A.K.A.'S AND ALPHA'S AT
2 U.S.C.

3 Q. WOULD THAT BE A LOT OF PEOPLE OR WOULD THAT NOT BE
4 TOO MANY PEOPLE?

5 A. JEREMY COE AND HIS BROTHER JONATHAN.

6 Q. THOSE ARE THE ONLY TWO PEOPLE YOU TALKED TO.

7 A. YEAH.

8 Q. SO YOU DIDN'T TALK TO ANY PEOPLE ABOUT BAR TENDING?

9 A. NO.

10 Q. YOU DIDN'T TALK TO ANYBODY ABOUT TAKING---

11 A. LISA -- LISA BECAUSE PEEWEE TOLD ME TO GET TWO OR
12 THREE BARTENDERS. SO I GOT LISA AND CRYSTAL. I THINK HE GOT
13 SOMEBODY ELSE.

14 Q. OKAY. SO YOU TALKED TO SOMEBODY ABOUT GETTING THE
15 BARTENDERS.

16 A. HE TALKED TO ME ABOUT GETTING BARTENDERS, AND I GOT
17 HIM THREE BARTENDERS.

18 Q. OKAY. SO THERE'S FOUR PEOPLE YOU TALKED TO ABOUT
19 PUTTING THE PARTY TOGETHER; RIGHT?

20 A. THAT'S NOT PUTTING A PARTY TOGETHER. I JUST GOT
21 BARTENDERS.

22 Q. WELL, THOSE ARE DETAILS YOU HAD TO TAKE CARE OF---

23 A. YEAH.

24 Q. OKAY. AND THEN YOU TALKED TO OTHER PEOPLE ABOUT
25 TAKING UP TICKETS?

1 A. RIGHT.

2 Q. COUNTING MONEY? DIDN'T YOU?

3 A. NO.

4 Q. I THOUGHT YOU WERE PROMOTING THE PARTY.

5 A. I WAS PROMOTING THE PARTY. THAT MEANS MAKING SURE A

6 CROWD COMES. THAT'S MY JOB.

7 Q. OKAY. WELL, YOU TALKED TO A LOT OF PEOPLE ABOUT

8 PUTTING THE PARTY ON, DIDN'T YOU?

9 A. NO. IT WAS THE A.K.A.'S AND THE---

10 Q. THAT'S AN EASY QUESTION, MR. HAMILTON.

11 A. NO, I DIDN'T. NO.

12 Q. SO YOU DIDN'T TALK TO TOO MANY PEOPLE ABOUT PUTTING

13 ON THE PARTY.

14 A. NO.

15 Q. AND YOU TALKED TO JEROID PRICE THAT NIGHT, BUT YOU

16 DON'T REMEMBER WHAT YOU SAID.

17 A. NO.

18 MR. LITTLEJOHN: ALL RIGHT. IF YOU WOULD GIVE ME

19 JUST A MOMENT, SIR.

20 THE COURT: YES, SIR.

21 BY MR. LITTLEJOHN:

22 Q. JUST A COUPLE OF FINAL THINGS, MR. HAMILTON. WERE

23 YOU IN CHARGE OF GETTING SECURITY THAT NIGHT?

24 A. NO.

25 Q. YOU WEREN'T IN CHARGE OF IT AT ALL?

1 A. NO.

2 Q. WAS THERE A PROBLEM WITH SECURITY THAT NIGHT?

3 A. YEAH. THEY DIDN'T COME.

4 Q. THEY DIDN'T COME.

5 A. NO.

6 Q. SO YOU AS THE PROMOTER AND OTHER PEOPLE WORKING
7 UNDER YOU HAD TO KIND OF PUT THE SECURITY TOGETHER AT THE
8 LAST MINUTE, DIDN'T YOU?

9 A. CAN I TELL YOU WHAT I DID FOR THE CLUB? I SET UP
10 THE PARTY BETWEEN THE CLUB AND THE ALPHA'S AND THE A.K.A.'S,
11 YEAH.

12 Q. UH-HUH.

13 A. THE CLUB IS IN CHARGE OF DOING ALL THE SECURITY AND
14 STUFF, NOT ME.

15 Q. OKAY. BUT YOU KNEW THE SECURITY DIDN'T SHOW UP.

16 A. YEAH, I KNEW THAT.

17 Q. YOU KNEW THAT WAS A PROBLEM.

18 A. YEAH.

19 Q. YOU KNEW THAT OTHER PEOPLE HAD TO PUT SECURITY
20 TOGETHER AT THE LAST MINUTE.

21 A. YEAH, AND THE DUDE, PEEWEE, HANDLED THAT.

22 Q. BUT YOU KNEW THAT WAS A PROBLEM THAT NIGHT.

23 A. YEAH, THAT WAS.

24 MR. LITTLEJOHN: OKAY. THAT'S ALL I HAVE, YOUR
25 HONOR.

1 THE COURT: THANK YOU, SIR. ANYTHING FURTHER, MR.
2 PASCOE?

3 REDIRECT EXAMINATION

4 BY MR. PASCOE:

5 Q. VERY SIMPLY, DID YOU ASK JEROID PRICE TO RUN
6 SECURITY?

7 A. I SAID NO.

8 Q. WOULD YOU EVER ASK JEROID PRICE TO BE SECURITY?

9 A. NO, I DON'T NEED TO.

10 MR. PASCOE: THAT'S ALL I HAVE.

11 THE COURT: THANK YOU, SIR. ANYTHING FURTHER, MR.
12 LITTLEJOHN?

13 MR. LITTLEJOHN: NO, YOUR HONOR.

14 THE COURT: OKAY, SIR. YOU MAY STEP DOWN. THANK
15 YOU. ANYTHING FURTHER TODAY, MR. PASCOE?

16 MR. PASCOE: NO, SIR.

17 THE COURT: OKAY. LADIES AND GENTLEMEN, WE'RE GOING
18 TO CONCLUDE FOR THE DAY WITH TESTIMONY, AND WE SHOULD, I
19 UNDERSTAND, BE ABLE TO GET TO THE CLOSING ARGUMENTS AT SOME
20 POINT IN THE MORNING AFTER WHICH I WILL CHARGE YOU ALL ON THE
21 LAW TO APPLY AND YOU CAN BEGIN YOUR DELIBERATIONS AFTER THAT.

22 TONIGHT I JUST ASK ONE MORE TIME THAT YOU ALL NOT
23 DISCUSS THE TESTIMONY OR EVIDENCE YOU'VE SEEN OR HEARD THUS
24 FAR, AND WE'LL SEE Y'ALL IN THE MORNING. Y'ALL HAVE A GOOD
25 NIGHT. THANK YOU. OH, I'M SORRY. EVERYBODY, 9:30 AGAIN IN

1 THE MORNING. SAME TIME.

2 (WHEREUPON, THE JURY WAS EXCUSED FOR THE DAY AT 4:05
3 P.M.)

4 THE COURT: THANK YOU, SIR. LET ME ASK COUNSEL
5 BEFORE WE BREAK FOR THE DAY IF ANY THOUGHT HAS BEEN GIVEN TO
6 THE VERDICT FORM AND THE LESSER INCLUDED CHARGES.

7 MR. LITTLEJOHN: YOUR HONOR, COULD -- IF THE COURT
8 WOULD INDULGE ME, COULD I HAVE A FEW MOMENTS TO TALK TO MY
9 CLIENT ABOUT THAT?

10 THE COURT: CERTAINLY. CERTAINLY. IF YOU ALL WOULD
11 PREFER, WE CAN GO BACK IN CHAMBERS AND TALK ABOUT THIS.

12 MR. LITTLEJOHN: THAT WOULD BE FINE, YOUR HONOR.

13 THE COURT: I PROBABLY HAVE SOME QUESTIONS FOR BOTH
14 SIDES AS TO THAT ANYWAY. WE'LL JUST RECESS COURT UNTIL 9:30
15 IN THE MORNING. AND, COUNSEL, WHENEVER Y'ALL GET A CHANCE,
16 IF Y'ALL CAN JUST COME BACK TOGETHER AND WE'LL TALK ABOUT THE
17 CHARGES AND VERDICT FORM. THANK YOU.

18 (WHEREUPON, THE TRIAL CONCLUDED FOR THE DAY AT 4:07
19 P.M. AND RESUMED THE FOLLOWING DAY, DECEMBER 19, 2003.)

20 THE COURT: THANK YOU, COUNSEL. I APPRECIATE YOUR
21 PATIENCE WITH US WITH THAT. IS THERE ANYTHING ELSE ON THE
22 CHARGES? I KNOW WE HAD TALKED LAST NIGHT AND WE WENT BACK
23 THROUGH OUR NOTES OF EVERYTHING. I THINK WHEN WE LEFT
24 CHAMBERS I SAID THAT I WAS RETICENT TO CHARGE HAND OF ONE.

25 GOING BACK THROUGH OUR NOTES OF TESTIMONY THOUGH, I

1 DO RECALL MR. JOHNS TESTIFIED -- JOE JOHNS -- JOE JONES
2 TESTIFYING THAT -- THAT HE SAW WHO WOULD BE MR. BROOKS
3 SNEAKING -- BASICALLY SNEAKING THROUGH THE CLUB WITH A GUN,
4 SNEAKING UP ON THE VICTIM, AND IF -- IF THAT'S TRUE IN TERMS
5 OF MY RECOLLECTION OF THE TESTIMONY, THEN THERE WOULD BE SOME
6 BASIS TO DO HAND OF ONE/HAND OF ALL AS A CHARGE.

7 MR. LITTLEJOHN: YOUR HONOR, MAY I BE HEARD?

8 THE COURT: YES, SIR. THAT'S WHY I WANTED TO HEAR
9 FROM COUNSEL.

10 MR. LITTLEJOHN: YOUR HONOR, AS I RECALL MR. JONES'
11 TESTIMONY, HE SAID THAT MR. BROOKS WAS GOING THROUGH THE
12 PARKING LOT AFTER THE PARTY HAD LET OUT AND APPEARED TO HAVE
13 A METAL OBJECT IN HIS HAND AND WAS GOING BACK TOWARD THE
14 CLUB.

15 THE COURT: I THOUGHT THAT -- I THOUGHT -- I COULD
16 BE WRONG. I THOUGHT THE TESTIMONY WAS THAT HE SAW HIM COMING
17 INTO THE CLUB LIKE THAT.

18 MR. LITTLEJOHN: WELL, HE SAW HIM WALKING THROUGH
19 THE PARKING LOT TOWARD THE DOOR.

20 THE COURT: THAT'S RIGHT. OKAY.

21 MR. LITTLEJOHN: YOUR HONOR, BUT AS I RECALL MR.
22 JONES' TESTIMONY, HE DIDN'T EVEN SEE MR. PRICE.

23 THE COURT: RIGHT.

24 MR. LITTLEJOHN: AND WHATEVER ACTIONS MR. BROOKS
25 TOOK, I DON'T SEE HOW THAT -- BY VIRTUE OF HIM JUST WALKING

1 THROUGH THE PARKING LOT WITH A GUN HOW THAT FORMS A COMMON
2 VENTURE BETWEEN THESE TWO.

3 THE COURT: COMMON -- AND THAT'S SORT OF WHAT I WAS
4 COMBING THROUGH TO FIND, IF THERE'S SOME BASIS FOR CHARGING
5 THAT, AND I THINK YOU MAY BE RIGHT. I'LL BE GLAD TO HEAR
6 FROM THE STATE.

7 MR. LITTLEJOHN: IF -- YOUR HONOR, IF I MIGHT ADD
8 ONE OTHER THING.

9 THE COURT: YES, SIR.

10 MR. LITTLEJOHN: AND ALSO THERE WAS NO EVIDENCE THAT
11 EITHER -- THAT MR. BROOKS HAD ANY WAY OF KNOWING THAT MR.
12 SMALLS WAS STILL IN THE NIGHTCLUB.

13 THE COURT: RIGHT. YEAH. I'LL BE HONEST WITH YOU.
14 THAT'S -- THAT WAS THE ONLY THING I COULD COME UP WITH THAT
15 WOULD REMOTELY SUPPORT IN MY OPINION HAND OF ONE, BUT I WAS,
16 YOU KNOW, LOOKING BECAUSE IF THE STATE'S ENTITLED TO THE
17 CHARGE JUST LIKE IF THE DEFENSE IS ENTITLED TO THE CHARGE,
18 I'M GOING TO GIVE IT, BUT THAT'S -- THAT'S ABOUT ALL I COULD
19 COME UP WITH. MR. PASCOE?

20 MR. PASCOE: YOUR HONOR, IT'S AT THE VERY LEAST
21 CIRCUMSTANTIAL EVIDENCE THAT BROOKS AND THE DEFENDANT ACTED
22 IN CONCERT. DON'T FORGET BROOKS SAID THAT HE WENT IN BECAUSE
23 HE WAS FOLLOWING JEROID PRICE BACK INTO CLUB VODOO'S, AND
24 THEN YOU HAVE JOE JONES TESTIFYING THAT HE SEES BROOKS
25 WEAVING THROUGH THE CROWD LIKE THIS, STAND STRAIGHT UP IN THE

1 EXIT AND FIRE SOMETHING. THAT'S AT THE VERY LEAST MINIMAL
2 CIRCUMSTANTIAL EVIDENCE THAT THEY COULD HAVE BEEN ACTING IN
3 CONCERT AND, OF COURSE, WE HAVE THE FACT THAT WE HAVE TWO
4 MEN, BROOKS AND PRICE, SHOOTING THE SAME PERSON. THAT IS
5 CIRCUMSTANTIAL EVIDENCE THAT THEY ACTED IN CONCERT, MORE THAN
6 ENOUGH TO HAVE THE HAND OF ONE/HAND OF ALL CHARGE.

7 MR. LITTLEJOHN: YOUR HONOR, IF I MAY, I DON'T -- I
8 DON'T RECALL MR. BROOKS SAYING HE WAS GOING BACK INTO THE
9 CLUB TO MEET WITH MR. PRICE. HE SAID HE WAS GOING BACK IN
10 THE CLUB TO FIND ROCK TO SEE IF HE WANTED TO GO OUT
11 AFTERWARDS.

12 THE COURT: YEAH, I DON'T REMEMBER---

13 MR. PASCOE: HE SAID HE WAS LOOKING FOR MR. PRICE.
14 I MEAN JUST...

15 THE COURT: I MEAN, I COULD BE WRONG. MY LAW CLERK
16 AND I DON'T -- NEITHER ONE OF US RECALL ANYTHING CONNECTING
17 FROM MR. BROOKS' TESTIMONY ANY INCLINATION ON HIS PART OR ANY
18 INTENTION ON HIS PART TO MEET UP WITH MR. PRICE, AND EVEN IF
19 I ASSUME THAT THAT WAS, IN FACT, THE TESTIMONY, I'M NOT --
20 STILL NOT QUITE SURE THAT THAT'S -- THAT'S ENOUGH TO SHOW A
21 COMMON PLAN OR SCHEME WITHOUT A LITTLE BIT MORE THERE.

22 MR. PASCOE: CAN I SAY ONE THING?

23 THE COURT: YES, SIR.

24 MR. PASCOE: IN ABUNDANCE OF CAUTION, I WOULD ASK
25 THAT IT BE CHARGED BECAUSE OF WHAT THE JURY COULD INFER. IT

1 IS NOT GOING TO BE REVERSIBLE ERROR TO STATE A CORRECT FACT
2 OF THE LAW THAT THE HAND OF ONE IS THE HAND OF ALL,
3 PARTICULARLY WHEN TWO PEOPLE SHOOT THE SAME VICTIM. SO IN
4 ABUNDANCE OF CAUTION, I'M ASKING THAT THAT CHARGE BE GIVEN
5 BECAUSE I HAVE HAD A TRIAL - NOW, IT WAS SEVEN YEARS AGO -
6 WHERE THE CHARGE WAS NOT GIVEN AND THAT THE JURY ACTUALLY
7 ASKED ABOUT IS THERE A HAND OF ONE/HAND OF ALL.

8 THE COURT: I'M -- IF I'M IN ERROR SOME WAY, IF I
9 THINK SOMEBODY IS ENTITLED TO A CHARGE, I'M GOING TO GIVE
10 THEM A CHARGE.

11 MR. PASCOE: THANK YOU, YOUR HONOR.

12 THE COURT: BUT I WANT TO BE SURE THAT THERE IS
13 EVIDENCE IN THE RECORD TO EVEN REMOTELY SUPPORT IT IN MY
14 MIND.

15 MR. LITTLEJOHN: YOUR HONOR, OF COURSE, WE DON'T
16 THINK THERE'S ANY EVIDENCE TO SUBSTANTIATE SUCH A CHARGE, AND
17 IF IT'S GOTTEN DOWN TO BEING A MATTER OF CAUTION, I THINK THE
18 COURT SHOULD ERR ON THE SIDE OF THE DEFENSE IF IT'S THAT
19 CLOSE OF A QUESTION.

20 THE COURT: ALL RIGHT. COUNSEL, LET ME TELL YOU
21 WHAT I'M GOING TO DO. I'M GOING TO CHARGE IT. I'M BASICALLY
22 PULLING TOGETHER THAT IT IS CIRCUMSTANTIAL CERTAINLY, BUT I'M
23 PULLING TOGETHER A NUMBER OF -- A NUMBER OF CIRCUMSTANTIAL
24 FACTS TO CHARGE THIS. I AM GOING TO -- IN LIGHT OF THE FACT
25 THAT I AM GOING TO CHARGE BOTH OR THE STANDARD CIRCUMSTANTIAL

COLLOQUY

1 AND DIRECT EVIDENCE CHARGE AS WELL AS THE OLD EDWARDS CHARGE,
2 THE JURY HAS TO WEED OUT ALL HYPOTHESES IN ORDER TO SUPPORT
3 THE CIRCUMSTANTIAL FACTS. I'M GOING TO CHARGE HAND OF ONE.
4 WE MAY -- WE MAY BE BACK AT THIS ISSUE THOUGH AT THE END OF
5 THIS TRIAL, BUT I'M GOING TO CHARGE IT.

6 COUNSEL, AS WELL I'M GOING TO CHARGE THE LANGUAGE
7 REGARDING THE UNLAWFUL POSSESSION OF A GUN, IN PARTICULAR THE
8 -- I'M GOING TO TELL THE JURY THAT A PERSON CAN BE ACTING
9 LAWFULLY EVEN IF HE IS IN UNLAWFUL POSSESSION OF A WEAPON IF
10 HE IS ENTITLED TO ARM HIMSELF IN SELF-DEFENSE AT THE TIME OF
11 THE SHOOTING. ANYBODY HAVE ANY EXCEPTION TO THAT OR
12 ADDITIONAL LANGUAGE THEY WANT?

13 MR. LITTLEJOHN: YOUR HONOR, COULD YOU GIVE US JUST
14 A SECOND?

15 THE COURT: YES, SIR.

16 MR. PASCOE: YOUR HONOR, CAN I RUN IN THERE REAL
17 FAST WHILE THEY'RE FIGHTING OUT...

18 THE COURT: YES, SIR.

19 MR. PASCOE: I'LL BE RIGHT BACK.

20 THE COURT: YES, SIR.

21 MR. LITTLEJOHN: YOUR HONOR, I'M SORRY. I DIDN'T
22 QUITE CATCH THE EXACT LANGUAGE.

23 THE COURT: OH. A PERSON CAN BE LAWFULLY -- CAN BE
24 ACTING LAWFULLY EVEN IF HE IS IN UNLAWFUL POSSESSION OF A
25 WEAPON IF HE IS -- IF HE WAS ENTITLED TO ARM HIMSELF IN

1 SELF-DEFENSE AT THE TIME OF THE SHOOTING.

2 MR. LITTLEJOHN: YOUR HONOR?

3 THE COURT: YES, SIR.

4 MR. LITTLEJOHN: I'M SORRY. COULD YOU READ THE
5 SECOND SENTENCE OF THAT?

6 THE COURT: OH, CERTAINLY.

7 MR. LITTLEJOHN: I DON'T HAVE THAT EXACT LANGUAGE.

8 THE COURT: IN FACT, I'LL SHOW YOU GUYS THE COPY OUT
9 OF -- THIS IS OUT OF PAT HUBBARD'S CHARGE.

10 (MR. LITTLEJOHN READS THE CHARGE TO HIMSELF.)

11 MR. LITTLEJOHN: OKAY.

12 THE COURT: IF EITHER OF YOU HAVE -- IF YOU HAVE
13 OTHER LANGUAGE YOU'D LIKE TO SUGGEST, I'D BE GLAD TO LISTEN
14 TO IT.

15 MR. LITTLEJOHN: THANK YOU, YOUR HONOR.

16 THE COURT: OKAY. ALL RIGHT.

17 MR. LITTLEJOHN: YOUR HONOR, ONE---

18 THE COURT: YES, SIR.

19 MR. LITTLEJOHN: ---FINAL THING. FIRST OFF, WE HAD
20 SUBMITTED I THINK 12 PAGES OF PROPOSED CHARGES.

21 THE COURT: YES, SIR.

22 MR. LITTLEJOHN: COULD WE JUST MAKE THAT A PART OF
23 THE RECORD?

24 THE COURT: YES, SIR. I'LL BE GLAD TO MAKE ACTUALLY
25 REQUESTS TO CHARGE COURT'S EXHIBITS, AND IS THERE -- IS

COLLOQUY

1 THERE -- YOU ALL HAD A CHANCE LAST NIGHT TO LOOK AT THE
2 COURT'S PROPOSED CHARGES. IS THERE SOMETHING OUT OF THE
3 DEFENDANT'S REQUESTS THAT YOU STILL WANT TO ADD?

4 MR. LITTLEJOHN: YOUR HONOR, THE ONLY THING I SAW
5 WAS ON PAGE 8 OF OUR REQUEST.

6 THE COURT: YES, SIR.

7 MR. LITTLEJOHN: THERE'S -- THE CHARGE IS TAKEN OUT
8 OF STATE VERSUS RASH (PHONETIC), PARTICULARLY THE LAST
9 SENTENCE OF THE SECOND PARAGRAPH, WHICH WE THINK WOULD BE
10 APPROPRIATE IN THIS CASE.

11 THE COURT: DOES THE STATE HAVE ANY OBJECTION TO
12 THAT?

13 MR. SORENSON: I'M SORRY. I APOLOGIZE. I LEFT
14 THOSE UP IN MY OFFICE. IF I COULD JUST LOOK AT WHAT THAT
15 SENTENCE IS THAT HE RESPONDED TO. YOUR HONOR, I -- I MEAN, I
16 THINK YOUR CHARGE PROBABLY ADEQUATELY COVERS AS FAR AS BEING
17 RIGHT TO ACT ON APPEARANCES. I MEAN, I THINK YOUR CHARGE
18 COVERS THAT. YOUR CHARGE IS PRETTY DETAILED, YOUR HONOR,
19 FOUR OR FIVE PAGES LONG AT LEAST.

20 THE COURT: ALL RIGHT. WELL, I'LL -- I'LL ADD THAT.
21 I'LL ADD THAT -- ACTUALLY THAT SECOND PARAGRAPH TO MY CHARGE
22 ON RIGHT TO ACT ON APPEARANCES.

23 MR. LITTLEJOHN: THANK YOU, YOUR HONOR.

24 THE COURT: AND WE'LL DO IT THAT WAY. IF THE STATE
25 WISHES TO MAKE AN EXCEPTION TO THAT CHARGE, I'LL JUST MAKE --

1 ACTUALLY I'M MAKING BOTH REQUESTS TO CHARGE COURT'S EXHIBITS.
2 I'LL NOTE ANY EXCEPTION THAT YOU ALL WISH TO MAKE ON IT.

3 OKAY. DOES THE STATE STILL INTEND TO CALL THE REPLY WITNESS?

4 MR. PASCOE: NO, SIR.

5 THE COURT: OKAY. Y'ALL READY TO GO STRAIGHT INTO
6 CLOSING?

7 MR. PASCOE: YES, SIR.

8 THE COURT: ANYTHING FURTHER, MR. LITTLEJOHN?

9 MR. LITTLEJOHN: YES, YOUR HONOR, TWO THINGS. FROM
10 LOOKING AT THE CHARGE THAT MR. SORENSON APPARENTLY INTENDS TO
11 USE IN HIS OPENING ON THE LAW, IT APPEARS TO ME THAT TWO OF
12 THE PARAGRAPHS ON THE MURDER INFORMATION HE'S GOT THERE ARE
13 NOT THE SAME LANGUAGE THAT THE COURT IS USING IN ITS CHARGE,
14 AND I DON'T KNOW THAT THAT LANGUAGE REALLY APPEARS -- LET
15 ME... (MR. LITTLEJOHN SHOWS A DOCUMENT TO THE COURT.) AND I
16 DON'T KNOW THAT THAT LANGUAGE REALLY APPEARS IN A SIMILAR --
17 IN A SIMILAR FORM. I'M CONCERNED WITH THIS PARAGRAPH AND
18 THIS PARAGRAPH.

19 MR. SORENSON: I THINK BOTH OF THOSE ARE CORRECT
20 STATEMENTS OF THE LAW, YOUR HONOR.

21 THE COURT: IT'S WORDED A LITTLE DIFFERENT, BUT I'LL
22 -- I ALWAYS TELL THEM THAT ANYTHING THEY SAY ANYWAY, ANYTHING
23 COUNSEL TELLS THEM, IS NOT THE LAW, NOT TO BE TAKEN AS
24 EVIDENCE. I'M GOING TO CHARGE THEM ON THE LAW. I THINK I
25 AGREE THAT THIS -- IT MAY NOT BE WORDED THE EXACT SAME, BUT I

COLLOQUY

1 DON'T SEE ANYTHING IN THERE THAT'S NOT IN SOME OF THE CASES.
2 IS THERE ANYTHING IN PARTICULAR IN THOSE TWO PARAGRAPHS?

3 MR. LITTLEJOHN: YOUR HONOR, ONE THING THERE WAS --
4 THERE WAS A TERM IMPLIED WHICH I DON'T THINK IS IN YOUR
5 HONOR'S INSTRUCTION. IT'S JUST NOT THE SAME -- THE SAME
6 LANGUAGE THE COURT INTENDS TO USE, AND I JUST FELT LIKE THAT
7 WAS -- YOU KNOW, IF HE WANTS TO USE STRAIGHT SOMETHING OUT OF
8 YOUR CHARGE I CERTAINLY HAVE NO OBJECTION TO THAT, AND I
9 THINK HIS CHARGE ON SELF-DEFENSE, THE SECOND ONE OVER HERE,
10 IS SO CLOSE IT DOESN'T -- I DON'T HAVE ANY PROBLEM WITH IT.

11 MR. SORENSON: I MEAN THAT'S A...

12 THE COURT: YEAH, I'LL---

13 MR. SORENSON: I THINK THAT'S A CORRECT STATEMENT OF
14 THE LAW.

15 THE COURT: I'LL LET HIM USE IT. I'M GOING TO TELL
16 THEM THAT THEY'RE -- THEY'LL GET THE LAW AND THEY SHOULD ONLY
17 APPLY THE LAW AS I GIVE IT TO THEM RATHER THAN COUNSEL
18 ANYWAY. SO I'LL NOTE YOUR EXCEPTION AND JUST FOR THE RECORD
19 READ THAT -- I THINK THE TWO PARAGRAPHS YOU'RE REFERRING TO,
20 SIR, IS IN THE PROSECUTION'S EXHIBIT. THERE IS -- MALICE IS
21 A TERM IMPORTING WICKEDNESS AND EXCLUDING JUST CAUSE OR
22 EXCUSE, THAT IT'S SOMETHING THAT SPRINGS FROM WICKEDNESS,
23 FROM DEPRAVITY, FROM A HEART DEVOID OF SOCIAL DUTY AND
24 FATALLY BENT UPON MISCHIEF.

25 THE NEXT PARAGRAPH IS MALICE MAY BE IMPLIED FROM THE

1 WILLFUL, DELIBERATE, AND INTENTIONAL DOING OF AN UNLAWFUL ACT
2 WITHOUT JUST CAUSE OR EXCUSE OR FROM THE USE OF A DEADLY
3 WEAPON. AND I THINK, MR. LITTLEJOHN, YOU PARTICULARLY HAD
4 SOME OBJECTION TO THE USE OF THE WORD IMPLIED, I TAKE IT,
5 RATHER THAN---

6 MR. LITTLEJOHN: YES, YOUR HONOR. JUST NOTE MY
7 OBJECTION IF YOU WOULD.

8 THE COURT: RATHER THAN -- I SUPPOSE YOU WOULDN'T
9 HAVE THE SAME OBJECTION FROM INFERRED?

10 MR. LITTLEJOHN: WELL, I BELIEVE THAT'S THE TERM THE
11 COURT---

12 THE COURT: RIGHT.

13 MR. LITTLEJOHN: ---WOULD USE; YES, SIR.

14 THE COURT: I'LL NOTE YOUR EXCEPTION TO THAT. I'LL
15 CERTAINLY INSTRUCT THE JURY THAT THEY'RE TO TAKE THE LAW FROM
16 ME AND NOT FROM COUNSEL.

17 MR. LITTLEJOHN: YOUR HONOR, ONE OTHER THING.

18 THE COURT: YES, SIR.

19 MR. LITTLEJOHN: DURING THE EXAMINATION OF
20 LIEUTENANT SMITH BY MR. PASCOE, THERE WAS TESTIMONY BROUGHT
21 OUT ABOUT A WITNESS NAMED JEFFREY LEWIS AND HOW MR. LEWIS HAD
22 BEEN INTERVIEWED AND HOW THEY HAD GOTTEN HIM SUBPOENAED AND
23 THEY TRIED TO FIND MR. LEWIS AND MR. LEWIS'S PICTURE IS IN
24 THERE WITH THE DEFENDANT. YOUR HONOR---

25 THE COURT: IS THAT J-LEW?

COLLOQUY

1 MR. LITTLEJOHN: J-LEW, YES, SIR. I DON'T KNOW IF
2 MR. PASCOE IS GOING TO ARGUE THAT -- YOU KNOW, THAT THE JURY
3 COULD IMPLY SOMETHING FROM THAT OR THEY COULD INFER J-LEW
4 WASN'T HERE BECAUSE OF SOMETHING THAT THE DEFENDANT DID, BUT
5 THERE'S ABSOLUTELY NOTHING IN THE RECORD TO SUPPORT THAT AND
6 I WOULD MAKE A MOTION IN LIMINE TO PROHIBIT ANY ARGUMENT SUCH
7 AS THAT.

8 THE COURT: MR. PASCOE?

9 MR. PASCOE: I'M NOT PLANNING ON DOING WHAT MR.
10 LITTLE -- MR. LITTLEJOHN'S WORRIED ABOUT ME SAYING HE WAS
11 SCARED OF THE DEFENDANT OR ANYTHING LIKE THAT, JUST THAT HE
12 DIDN'T HONOR HIS SUBPOENA. HE DIDN'T SHOW UP FOR COURT;
13 THAT'S IT.

14 MR. LITTLEJOHN: VERY GOOD.

15 THE COURT: I TAKE IT THERE'S NO INFERENCE THAT THE
16 DEFENSE DID ANYTHING TO KEEP HIM FROM SHOWING UP OR YOU'RE
17 NOT GOING TO ARGUE THAT TO THEM.

18 MR. PASCOE: I'M NOT GOING TO ARGUE THAT.

19 THE COURT: VERY WELL.

20 MR. PASCOE: EXACTLY WHAT I'M GOING TO SAY IS THE
21 FACT THAT, YOU KNOW, JEFFREY LEWIS DIDN'T HONOR HIS
22 SUBPOENA---

23 THE COURT: RIGHT.

24 MR. PASCOE: DIDN'T COME TO COURT, YOU KNOW,
25 SOMETHING LIKE THAT.

1 THE COURT: OKAY. THANK YOU, SIR.

2 MR. LITTLEJOHN: YOUR HONOR, THE THIRD THING: I
3 HAVEN'T SEEN IT, BUT I UNDERSTAND THERE WAS SOME PRESS
4 GENERATED ABOUT MR. LEWIS AND HIS NOT BEING HERE AND THERE'S
5 BEEN PICTURES OF HIM ON THE T.V. AND BOLO'S AND ALL THAT SORT
6 OF THING, AND I WOULD JUST ASK THE COURT TO MAKE A GENERIC
7 REQUEST OF THE JURY IF ANYBODY HAS SEEN ANYTHING.

8 THE COURT: AND IN FACT---

9 MR. LITTLEJOHN: I DON'T WANT TO POINT OUT ANYTHING.

10 THE COURT: RIGHT, BUT I THINK IT'S GOOD TO REMIND
11 THEM AGAIN THAT BECAUSE THERE HAD BEEN PRESS IN THE VERY
12 BEGINNING OF THIS TRIAL AND, YOU KNOW, WE'VE BEEN CONCERNED
13 THROUGHOUT THIS TRIAL ABOUT THEM READING ANYTHING OR SEEING
14 ANYTHING ON THE NEWS THAT THEY'RE TO VIEW THIS CASE ONLY
15 BASED UPON THE EVIDENCE THAT WAS PRESENTED IN THIS TRIAL AND
16 DISREGARD ANYTHING THAT THEY MAY HAVE SEEN ON THE NEWS
17 INTENTIONALLY OR UNINTENTIONALLY AND I'LL REMIND THEM OF
18 THAT.

19 MR. LITTLEJOHN: OKAY. WOULD THE COURT MAKE AN
20 INQUIRY IF ANYBODY HAS ON THE JURY---

21 THE COURT: SURE. BE GLAD TO DO THAT.

22 MR. LITTLEJOHN: THANK YOU.

23 THE COURT: OKAY. ANYTHING FURTHER?

24 MR. PASCOE: NO, SIR.

25 THE COURT: OKAY. WE'RE READY FOR THE JURY, SIR.

COLLOQUY

1 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT
2 10:19 A.M.)

3 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN. I
4 APPRECIATE YOUR PATIENCE WITH US. I HAD TO TAKE UP SOME
5 MATTERS THAT WERE UNRELATED TO THIS CASE THAT PUSHED US BACK
6 A LITTLE BIT, AND I APOLOGIZE FOR THE DELAY IN BRINGING YOU
7 OUT HERE. WE'RE READY TO CONTINUE. LADIES AND GENTLEMEN,
8 YOU'VE HEARD ALL THE EVIDENCE THAT'S GOING TO BE PRESENTED IN
9 THIS CASE, ALL THE TESTIMONY AND EXHIBITS THAT ARE GOING TO
10 BE ENTERED INTO THE RECORD, AND WE'RE READY TO BEGIN WITH
11 CLOSING ARGUMENTS.

12 I TOLD YOU ALL AT THE VERY BEGINNING OF THIS CASE
13 THAT CLOSING ARGUMENTS, LIKE THE OPENING STATEMENTS THAT YOU
14 ALL HEARD, ARE NOT EVIDENCE AND THEY'RE NOT TO BE CONSIDERED
15 BY YOU AS EVIDENCE. THEY'RE A CHANCE FOR THE ATTORNEYS TO
16 SUMMARIZE THEIR CASE, WRAP UP WHAT THEY BELIEVE THE EVIDENCE
17 HAS SHOWN TO YOU, AND THEN A CHANCE TO ARGUE TO YOU THEIR
18 CASE, BUT CLOSING ARGUMENTS ARE NOT EVIDENCE, LADIES AND
19 GENTLEMEN, LIKE OPENING STATEMENTS AND LIKE QUESTIONS FROM
20 THE LAWYERS TO THE WITNESSES. NONE OF THAT IS EVIDENCE.

21 AT THE CLOSE OF THE CLOSING ARGUMENTS, LADIES AND
22 GENTLEMEN, I WILL CHARGE YOU ON THE LAW TO BE APPLIED TO THIS
23 CASE. DURING THE COURSE OF CLOSING ARGUMENTS, THE LAWYERS
24 HAVE A CHANCE TO ARGUE TO YOU WHAT THEY BELIEVE THE LAW IS.
25 LISTEN TO THEM, BUT IN THE END, LADIES AND GENTLEMEN, WHEN I

1 CHARGE YOU ON THE LAW, THAT'S THE LAW THAT YOU ARE TO APPLY
2 TO THIS CASE, NOT WHAT YOU BELIEVE THE LAW IS OR SHOULD BE
3 AND NOT WHAT COUNSEL TELLS YOU THE LAW IS TO BE APPLIED TO
4 THIS CASE. I ASK THAT YOU NOW GIVE YOUR FULL ATTENTION TO
5 COUNSEL AS THEY DO THEIR CLOSING ARGUMENTS. MR. SORENSON?

6 MR. SORENSON: THANK YOU, YOUR HONOR. MAY IT PLEASE
7 THE COURT?

8 THE COURT: YES, SIR.

9 MR. SORENSON: GOOD MORNING, MADAM FORELADY, LADIES
10 AND GENTLEMEN OF THE JURY. I'M GOING TO START OFF BY
11 THANKING YOU, THANKING YOU FOR YOUR TIME, MOST IMPORTANTLY
12 THANKING YOU FOR THE ATTENTIVENESS THAT YOU'VE GIVEN TO THIS
13 MATTER OVER THE LAST SEVERAL DAYS, ON BEHALF OF THE STATE OF
14 SOUTH CAROLINA, THE PEOPLE OF RICHLAND COUNTY, THE RICHLAND
15 COUNTY SHERIFF'S DEPARTMENT, AND MOST IMPORTANTLY ON BEHALF
16 OF THE FAMILY OF CARL SMALLS. I ALSO WANT TO TAKE THIS TIME
17 TO APOLOGIZE TO YOU. IF ANYTHING I'VE DONE, MR. PASCOE'S
18 DONE OR MR. JEFFRIES HAS DONE HAS OFFENDED YOU IN ANY WAY OR
19 MADE YOU UNCOMFORTABLE IN ANY WAY, THAT WAS NOT OUR INTENT.

20 AS JUDGE LLOYD INDICATED TO YOU, WE'VE REACHED THE
21 TIME IN THIS PROCESS FOR CLOSING ARGUMENTS. WHAT I'D LIKE TO
22 DO IS JUST TAKE A FEW MOMENTS OF YOUR TIME, HOPEFULLY NOT
23 MORE THAN FIVE OR TEN MINUTES OF YOUR TIME, TO TALK TO YOU A
24 LITTLE BIT ABOUT THE LAW IN THE CASE. WHEN I'M DONE, MR.
25 LITTLEJOHN IS GOING TO HAVE AN OPPORTUNITY TO COME UP BEFORE

CLOSING ARGUMENT BY MR. SORENSON

1 YOU AND SPEAK TO YOU, AND THEN FINALLY MR. PASCOE IS GOING TO
2 HAVE AN OPPORTUNITY TO COME UP BEFORE YOU TO TALK ABOUT THE
3 FACTS. OKAY?

4 AS HIS HONOR INDICATED TO YOU, AFTER THAT'S DONE,
5 HE'S GOING TO CHARGE YOU ON THE LAW IN THE CASE BECAUSE HE'S
6 THE JUDGE OF THE LAW. JUST LIKE JUDGE LLOYD IS THE JUDGE OF
7 THE LAW IN THE CASE, YOU, LADIES AND GENTLEMEN, ARE ALSO
8 JUDGES, THE JUDGES OF THE FACTS. AFTER HIS CHARGE ON THE
9 LAW, YOU'RE GOING TO HAVE AN OPPORTUNITY TO GO BACK INTO YOUR
10 JURY ROOM AND BEGIN DELIBERATING AND BEGIN TALKING ABOUT THE
11 CASE FOR THE FIRST TIME. GO BACK THERE AND YOU'LL HAVE AN
12 OPPORTUNITY TO WEIGH THE FACTS, WEIGH THE EVIDENCE, AND
13 ULTIMATELY JUDGE THE CREDIBILITY OR THE BELIEVABILITY OF THE
14 WITNESSES YOU'VE HEARD OVER THE LAST FOUR DAYS AND THE
15 EVIDENCE THAT YOU HAVE RECEIVED. AT THE END OF THAT YOU'RE
16 GOING TO HAVE AN OPPORTUNITY TO COME BACK AND REACH A
17 VERDICT.

18 LADIES AND GENTLEMEN, AS YOU HEARD AT THE BEGINNING,
19 MR. PRICE IS CHARGED WITH ONE COUNT OF MURDER. JUST LIKE ANY
20 CASE IN OUR STATE OR IN OUR GREAT COUNTRY, THE STATE OF SOUTH
21 CAROLINA HAS THE BURDEN, THE BURDEN OF PROVING MR. PRICE
22 GUILTY TO YOU BEYOND A REASONABLE DOUBT. YOU'LL NOTICE WHEN
23 JUDGE LLOYD CHARGES YOU ON THE LAW HE'S NOT GOING TO SAY
24 BEYOND A SHADOW OF A DOUBT OR BEYOND ANY DOUBT. IT'S BEYOND
25 A REASONABLE DOUBT.

1 THERE'S MANY THINGS IN THIS WORLD, LADIES AND
2 GENTLEMEN, THAT CANNOT BE PROVED WITH ABSOLUTE CERTAINTY.
3 VERY SIMPLY, PROOF BEYOND A REASONABLE DOUBT MEANS A DOUBT
4 THAT AFTER YOU'VE HAD AN OPPORTUNITY TO JUDGE AND WEIGH ALL
5 THE FACTS, ALL THE EVIDENCE, ALL THE WITNESSES, COMBINED
6 WITH THE LAW THAT JUDGE LLOYD CHARGES YOU ON, IF YOU'RE
7 FIRMLY CONVINCED AT THAT TIME OF JEROID PRICE'S GUILT, UNDER
8 YOUR OATH YOU'RE REQUIRED TO RETURN A VERDICT OF GUILTY. IF,
9 HOWEVER, THERE'S A REAL POSSIBILITY THAT HE'S NOT GUILTY,
10 THEN YOUR DUTY IS TO RETURN A VERDICT OF NOT GUILTY.

11 NOW, AS MR. PASCOE TOLD YOU MONDAY AFTERNOON ON THE
12 CHARGE OF MURDER, THE MOST SERIOUS CHARGE A PERSON CAN BE
13 CHARGED WITH HERE IN OUR STATE, IT ALSO, HOWEVER, HAPPENS TO
14 HAVE PROBABLY THE MOST SIMPLE DEFINITION. MURDER, VERY
15 SIMPLY, IS THE UNLAWFUL KILLING OF ANOTHER PERSON WITH MALICE
16 AFORETHOUGHT, EITHER EXPRESS OR IMPLIED OR INFERRED.
17 UNLAWFUL KILLING OF ANOTHER PERSON WITH MALICE AFORETHOUGHT,
18 EITHER EXPRESS OR IMPLIED. I'M GOING TO TAKE A FEW MINUTES,
19 LADIES AND GENTLEMEN, TO TALK TO YOU ABOUT WHAT THAT MEANS.

20 NOW, MALICE, LADIES AND GENTLEMEN, ESSENTIALLY IS A
21 COUPLE OF DEFINITIONS AND HIS HONOR IS GOING TO CHARGE YOU ON
22 THE DEFINITION OF MALICE. IN ITS POPULAR SENSE ESSENTIALLY
23 IT MEANS HATRED, ILL WILL, HOSTILITY TOWARDS ANOTHER PERSON,
24 IMPORTS WICKEDNESS, EXCLUDING JUST CAUSE OR EXCUSE. IT MAY
25 BE IMPLIED FROM THE WILLFUL, DELIBERATE, AND INTENTIONAL

1 DOING OF AN UNLAWFUL ACT WITHOUT JUST CAUSE OR EXCUSE OR FROM
2 THE USE OF A DEADLY WEAPON. VERY SIMPLY, LADIES AND
3 GENTLEMEN, AS I INDICATED, MALICE CAN BE FOUND EITHER EXPRESS
4 OR IMPLIED.

5 EXAMPLES OF EXPRESS MALICE: IF SOMEONE SAYS, "I'M
6 GOING TO KILL YOU," THAT'S EXPRESS MALICE. IN THIS CASE THE
7 EXAMPLE OF EXPRESS MALICE IS WHEN, I SUBMIT TO YOU, THE
8 DEFENDANT TOLD THE VICTIM A SHORT TIME BEFORE HE WAS KILLED
9 THAT YOU'RE GOING TO FALL LIKE THE MATRIX, MAKING HIS HANDS
10 LIKE THAT. THAT'S EXPRESS MALICE. OTHER FORMS OF EXPRESS
11 MALICE CAN BE LYING IN WAIT FOR SOMEBODY OR ACTS OF
12 PREPARATION SUCH AS GOING OUT TO YOUR CAR TO GET A GUN.

13 IMPLIED OR INFERRED MALICE, LADIES AND GENTLEMEN, IS
14 SOMETHING THAT YOU CAN IMPLY OR INFER FROM THE ACTS OF THE
15 DEFENDANT SUCH AS THE USE OF A DEADLY WEAPON. THE USE OF A
16 DEADLY WEAPON, LADIES AND GENTLEMEN, YOU CAN THEN INFER OR
17 IMPLY THAT HE HAD MALICE IN HIS HEART WHEN HE FIRED THOSE
18 FATAL BLOWS.

19 NOW, LADIES AND GENTLEMEN, AS I INDICATED TO YOU
20 EARLIER, WHEN YOU GO BACK IN THE JURY ROOM, YOU'RE GOING TO
21 ULTIMATELY BE JUDGES ALSO, JUDGES OF THE FACTS AND JUDGES OF
22 THE CREDIBILITY OF THE WITNESSES AND THE EVIDENCE. VERY
23 SIMPLY, LADIES AND GENTLEMEN, CREDIBILITY MEANS
24 BELIEVABILITY. YOU'RE GOING TO HAVE TO GO BACK THERE AND
25 DETERMINE HOW BELIEVABLE EACH AND EVERY WITNESS IS THAT

1 YOU'VE HEARD FROM THIS WITNESS STAND, WITNESSES THAT THE
2 STATE'S CALLED, THE WITNESSES THAT THE DEFENSE CALLED, AND I
3 SUBMIT TO YOU THAT WHEN MR. PRICE TOOK THE WITNESS STAND HE
4 BECAME A WITNESS JUST LIKE ANY OTHER WITNESS WHOSE
5 CREDIBILITY AND BELIEVABILITY YOU HAVE TO JUDGE.

6 YOU MAY ASK YOURSELF: HOW DO WE BECOME QUALIFIED TO
7 DO THAT? I'M SURE MONDAY MORNING WHEN YOU CAME IN HERE YOU
8 WEREN'T EXPECTING FRIDAY MORNING TO BE SITTING IN THE
9 POSITION YOU'RE SITTING. I SUBMIT TO YOU, LADIES AND
10 GENTLEMEN, IT'S SOMETHING YOU'VE BEEN TRAINED FOR, PREPARING
11 FOR, ALL OF YOUR LIVES. EVERY DAY YOU DEAL WITH PEOPLE,
12 WHETHER IT'S YOUR CHILDREN, YOUR SPOUSES, CO-WORKERS, PEOPLE
13 AT SCHOOL, CO-STUDENTS. YOU JUDGE THEIR CREDIBILITY AND
14 THEIR BELIEVABILITY.

15 THINGS THAT YOU LOOK AT ARE: THE WITNESS'S DEemeanor
16 ON THE WITNESS STAND. DID HE APPEAR TO BE HESITANT?
17 FORTHRIGHT? APPEAR TO BE HOLDING SOMETHING BACK? HAS THE
18 WITNESS CORROBORATED, SUPPORTED, OR NOT CORROBORATED,
19 CONTRADICTED BY OTHER TESTIMONY, OTHER EVIDENCE THAT'S BEEN
20 PRESENTED BEFORE YOU? DID THE WITNESS HAVE A BIAS OR A
21 PREJUDICE OR SOME MOTIVE TO COME IN HERE AND NOT TELL YOU THE
22 TRUTH? POSSIBLY HAVE SOMEBODY THEY WERE TRYING TO PROTECT?
23 THOSE ARE ALL FACTORS THAT YOU TAKE INTO CONSIDERATION WHEN
24 YOU GET BACK IN YOUR JURY ROOM AND DETERMINE WHAT HAPPENED
25 OUT THERE ON DECEMBER 7TH, 2002, AT THAT NIGHTCLUB.

CLOSING ARGUMENT BY MR. SORENSON

1 NOW, LADIES AND GENTLEMEN, THE LAST -- LAST THING I
2 WANT TO TALK TO YOU ABOUT IS THE JUDGE IS GOING TO CHARGE YOU
3 ON THE LAW OF SELF-DEFENSE. I'M GOING TO TAKE JUST A MOMENT
4 TO KIND OF GO OVER WITH YOU THE ELEMENTS OF SELF-DEFENSE.
5 VERY SIMPLY, LADIES AND GENTLEMEN, FOR SELF-DEFENSE TO APPLY
6 THERE ARE FOUR ELEMENTS THAT MUST BE -- MUST BE FOUND. THE
7 DEFENDANT MUST BE WITHOUT FAULT, WITHOUT FAULT, IN BRINGING
8 ON THE DIFFICULTY. YOU HAVE TO FIND THAT WHEN JEROID PRICE
9 WENT AND GOT THAT GUN OUT OF HIS VEHICLE AND BROUGHT IT BACK
10 INTO THAT NIGHTCLUB THAT HE WAS NOT -- WAS WITHOUT FAULT.

11 THE DEFENDANT MUST HAVE ACTUALLY BELIEVED HE WAS IN
12 IMMINENT DANGER OF LOSING HIS LIFE OR SUSTAINING SERIOUS
13 BODILY INJURY OR THAT HE ACTUALLY WAS IN SUCH DANGER WHEN HE
14 FIRED THOSE FATAL BLOWS IN THAT HALLWAY. THIRD, IF HIS -- IF
15 IT'S BASED ON HIS BELIEF, THEN YOU HAVE TO FIND THAT A
16 REASONABLE PERSON WOULD HAVE ENTERTAINED THAT SAME BELIEF.
17 IF HE ACTUALLY WAS IN IMMINENT DANGER, THAT A REASONABLE
18 PERSON WOULD HAVE STRUCK THE FATAL BLOW IN ORDER TO SAVE
19 HIMSELF FROM SERIOUS BODILY HARM OR FROM LOSING HIS LIFE.

20 OKAY. AND I'M GOING TO GET INTO A LITTLE BIT OF
21 THIS IN A MOMENT. FOURTH, THE DEFENDANT HAD NO OTHER
22 PROBABLE MEANS OF AVOIDING THAT DANGER. IN OTHER WORDS, HE
23 HAD NO WAY -- MEANS OF ESCAPING, RETREATING, LEAVING AND
24 GETTING IN HIS CAR AND DRIVING OFF.

25 LADIES AND GENTLEMEN, THAT'S THE LAW ON SELF-DEFENSE

1 HERE IN SOUTH CAROLINA. I SUBMIT TO YOU, LADIES AND
2 GENTLEMEN, WHEN YOU LOOK AT -- WHEN YOU GET BACK IN YOUR JURY
3 ROOM AND YOU LOOK AT ALL THE EVIDENCE, LADIES AND GENTLEMEN,
4 IF YOU FIND THAT JEROID PRICE WAS TELLING YOU THE TRUTH ON
5 THE WITNESS STAND, THOSE EVENTS UNFOLDED THE WAY THEY
6 UNFOLDED IN THAT HALLWAY, THAT HE WENT AND GOT THAT GUN FROM
7 HIS CAR TO GO AND DO SOME WORK INSIDE THAT CLUB AND THAT
8 THOSE SHOTS HAPPENED THE WAY THEY HAPPENED, HIS SHOTS, MR.
9 BROOKS' SHOT, THAT HE WAS NOT AT FAULT IN BRINGING ON THAT
10 DIFFICULTY, EARLIER IN THE CLUB HE DID NOT MAKE THOSE
11 STATEMENTS, IF YOU FIND ALL THAT, LADIES AND GENTLEMEN, FIND
12 HIM NOT GUILTY. FIND HIM NOT GUILTY.

13 I SUBMIT TO YOU, LADIES AND GENTLEMEN, TO DO THAT
14 YOU'RE GOING TO HAVE TO DISREGARD EVERY OTHER PIECE OF
15 EVIDENCE AND EVERY OTHER WITNESS YOU'VE HEARD FROM THIS
16 WITNESS STAND OVER THE LAST FOUR DAYS. YOU'RE GOING TO HAVE
17 TO DISREGARD MARCUS JONES' TESTIMONY, DISREGARD THE
18 PATHOLOGIST, THE BALLISTICS EXPERT, THE CRIME SCENE EXPERTS,
19 ALL THE WITNESSES INSIDE THE CLUB THAT HAVE TESTIFIED, LADIES
20 AND GENTLEMEN.

21 MR. PASCOE IS GOING TO HAVE AN OPPORTUNITY TO GET
22 BACK UP HERE IN CLOSING AND GO OVER THOSE FACTS WITH YOU, THE
23 FACTS THAT I SUBMIT TO YOU SUPPORT THAT THE ONLY REASONABLE
24 VERDICT IN THIS CASE IS THAT THAT DEFENDANT IS GUILTY.
25 LADIES AND GENTLEMEN, I'VE NEVER HAD AN OPPORTUNITY TO SIT ON

CLOSING ARGUMENT BY MR. LITTLEJOHN

1 A JURY. MY JOB PRECLUDES ME FROM BEING ABLE TO DO THAT. I
2 CAN'T IMAGINE HOW DIFFICULT IT WOULD HAVE BEEN FOR THE LAST
3 FOUR DAYS FOR THE TWELVE OF Y'ALL TO HAVE SAT THERE AND NOT
4 BEEN ABLE TO SAY A WORD, SIT THERE QUIETLY AND LISTEN TO US
5 TALK WITHOUT SAYING A WORD.

6 IN A SHORT TIME, LADIES AND GENTLEMEN, WHEN WE'RE
7 DONE TALKING AND HIS HONOR IS DONE CHARGING YOU ON THE LAW,
8 YOU'RE GOING TO HAVE AN OPPORTUNITY TO GO BACK INTO THAT JURY
9 ROOM, DELIBERATE AND REACH A VERDICT AND ULTIMATELY RETURN
10 IRONICALLY THE MOST POWERFUL WORD THAT WILL BE HEARD IN THIS
11 COURTROOM ALL WEEK. I SUBMIT TO YOU WHEN YOU LOOK AT ALL THE
12 EVIDENCE, YOU WEIGH ALL THE EVIDENCE, THE ONLY REASONABLE
13 VERDICT, THE ONLY JUST VERDICT, THAT CAN BE REACHED IS ONE
14 THAT HOLDS THAT MAN, JEROID PRICE, ACCOUNTABLE, HOLDS HIM
15 RESPONSIBLE, TELLS HIM THE TIME FOR RUNNING, HIDING, LYING IS
16 OVER. IT'S A VERDICT OF GUILTY, LADIES AND GENTLEMEN. THANK
17 YOU.

18 THE COURT: THANK YOU, MR. SORENSON. MR.
19 LITTLEJOHN?

20 MR. LITTLEJOHN: MAY IT PLEASE THE COURT?

21 THE COURT: YES, SIR.

22 MR. LITTLEJOHN: MADAM FORELADY, LADIES AND
23 GENTLEMEN, GOOD MORNING. I THINK MY WIFE'S GIVEN ME AN EARLY
24 CHRISTMAS PRESENT AND THAT'S HER COLD. LIKEWISE, I WANT TO
25 THANK YOU FOR YOUR ATTENTION, YOUR PATIENCE, DURING THE

1 COURSE OF THIS TRIAL. THIS HAS BEEN KIND OF A LENGTHY TRIAL
2 FOR STATE COURT, YOU KNOW, NOT AS LENGTHY AS TRIALS LIKE THEY
3 HAVE IN CALIFORNIA, FOR INSTANCE, BUT I NOTICE THAT EVEN
4 THOUGH THIS HAS BEEN A WEEK-LONG SITUATION THAT EACH AND
5 EVERY ONE OF YOU HAS LISTENED VERY CAREFULLY TO THE
6 TESTIMONY. YOU'VE REVIEWED THE EVIDENCE THAT WAS GIVEN TO
7 YOU. YOU'VE LISTENED TO JUDGE LLOYD'S INSTRUCTIONS WITH
8 CARE, AND FOR THAT I THANK YOU AND JEROID PRICE THANKS YOU.

9 NOW, AT THIS POINT IT'S MY JOB TO GIVE A SUMMARY
10 ARGUMENT ON BEHALF OF JEROID PRICE, AND WHAT I WANT TO TALK
11 ABOUT ARE THE FACTS OR THE LACK OF FACTS THAT HAVE BEEN
12 PRESENTED TO YOU THIS WEEK. HIS HONOR IS GOING TO INSTRUCT
13 YOU AS TO THE LAW THAT YOU ARE TO APPLY TO THE FACTS AS YOU
14 FIND THEM. SO I'M NOT GOING TO DWELL ON ALL THE LEGALITIES
15 BECAUSE WHAT I SAY IS NOT LEGAL INSTRUCTION. WHAT JUDGE
16 LLOYD SAYS IS YOUR LEGAL INSTRUCTION. BUT I WANT TO TALK
17 ABOUT WHAT'S PRESENTED, WHAT HAS BEEN PRESENTED TO YOU.

18 NOW, I'M GOING TO TRY AND RECOUNT THE PERTINENT
19 FACTS AS BEST I CAN. IF I MAKE A MISTAKE WHICH I PROBABLY
20 WILL, I JUST WANT YOU TO KNOW THAT IT COMES FROM MY GRAY-
21 HEADED HEAD AND NOT MY HEART. YOU ARE THE JUDGES OF THE
22 FACTS. YOU HEARD THE TESTIMONY, AND COLLECTIVELY IT'S UP TO
23 YOU TO DETERMINE WHAT THE TESTIMONY WAS AND WHAT THE EVIDENCE
24 IS. I'M SURE I'LL PROBABLY FORGET SOMETHING AND MR. PASCOE
25 WILL GET UP HERE AND REMIND YOU. HE GETS THE LAST ARGUMENT

CLOSING ARGUMENT BY MR. LITTLEJOHN

1 AND THAT'S THE WAY OUR SYSTEM WORKS BECAUSE THEY HAVE THE
2 BURDEN OF PROOF. THEY HAVE TO PROVE THEIR CASE BEYOND A
3 REASONABLE DOUBT. THEY GET THE LAST ARGUMENT IN A CASE LIKE
4 THIS, AND HE'S GOING TO GET UP AND SAY THINGS AND I'M GOING
5 TO BE MAYBE SQUIRMING OVER THERE BECAUSE I WANT TO GET UP AND
6 RESPOND, BUT I WON'T BE ABLE TO BECAUSE THIS IS MY LAST TIME
7 TO ADDRESS YOU.

8 NOW, LADIES AND GENTLEMEN, WHEN WE STARTED THIS CASE
9 I TOLD YOU THAT WE WOULDN'T KNOW WHAT HAPPENED FROM THE
10 STATE'S EVIDENCE, WHAT HAPPENED ON DECEMBER 7TH, 2002, AT THE
11 VODOO CLUB, THAT YOU WOULD NOT BE CONVINCED THAT A MURDER
12 TOOK PLACE. I WOULD SUBMIT TO YOU THAT'S STILL THE CASE.
13 NOW, IF YOU TAKE THE CASE PRESENTED BY THE STATE AND YOU BOIL
14 IT DOWN, IT APPEARS TO ME THAT WHAT THEY'VE DONE IS INSTEAD
15 OF USING ONE APPROACH TO THIS CASE, ONE THEORY OF
16 PROSECUTION, THEY'VE USED THREE DIFFERENT APPROACHES. OKAY?
17 THREE DIFFERENT WAYS THEY'VE COME AT THIS CASE TO PROVE THEIR
18 CASE.

19 THE FIRST APPROACH: THEIR APPROACH IS THAT JEROID
20 PRICE IS A MEMBER OF THE BLOODS AND, THEREFORE, HE MUST BE
21 GUILTY OF SOMETHING. I DON'T KNOW WHETHER THEY'RE TRYING TO
22 PROVE GUILT BY ASSOCIATION. YOU KNOW, LADIES AND GENTLEMEN,
23 THERE'S NO LAW THAT SAYS YOU CAN'T BE A BLOOD. THERE'S NO
24 LAW THAT SAYS YOU CAN'T BE A CRYPT. THERE'S NO LAW THAT SAYS
25 YOU CAN'T BE A MASON OR A CIVITAN OR A SHRINER BECAUSE WE

1 HAVE THE RIGHT TO ASSOCIATE UNDER THE CONSTITUTION IN THIS
2 COUNTRY. SO IT'S NOT ILLEGAL TO BE A MEMBER OF A GANG.

3 AND, YOU KNOW, THEY WENT OUT OF THEIR WAY TO THROW
4 AS MUCH RED STUFF INTO THIS COURTROOM AS THEY COULD. BUT I
5 WOULD SUBMIT TO YOU, LADIES AND GENTLEMEN, WHETHER JEROID
6 PRICE IS A BLOOD OR NOT A BLOOD DOESN'T PROVE WHAT HAPPENED
7 ON DECEMBER 7TH, 2002, AT THE VOODOO CLUB.

8 WHAT DOES RED CLOTHING PROVE? JEROID PRICE HAD RED
9 CLOTHING. HE ADMITTED IT. YOU KNOW, THEY WANT TO SAY RED,
10 RED, RED. RED THIS. YOU KNOW, THEY PUT INTO EVIDENCE
11 EXHIBIT 62 WITH A BUNCH OF RED CLOTHING, STUFF THEY FOUND OUT
12 OF HIS APARTMENT. DO YOU THINK THAT'S JEROID PRICE'S? DO
13 YOU THINK HE HAD A LITTLE BLOOD DROPLET THERE AT THE HOUSE OR
14 SOMETHING? HE HAD OTHER CLOTHING.

15 NOW, THEY'RE GOING TO SAY, WELL, THAT PROVES HE'S A
16 BLOOD. THAT'S UP TO YOU, LADIES AND GENTLEMEN. THEY'RE
17 GOING TO SAY, WELL, HE HAD ALL THESE RAP LYRICS AND WRITINGS
18 AND THINGS THAT TALK ABOUT BLOODS AND THAT SORT OF THING.
19 THERE'S NOTHING IN HERE ABOUT WHAT HAPPENED IN THAT HALLWAY
20 ON DECEMBER 7TH, NOT A THING. THERE'S NO PROOF. THEY DIDN'T
21 DO ANY HANDWRITING EXEMPLARS OR ANYTHING TO SHOW THAT JEROID
22 PRICE HAD WRITTEN THIS OR THAT HE HAD HAD ANYTHING TO DO WITH
23 ITS PREPARATION OR ITS COPYING OR ANYTHING ELSE. SO FAR AS
24 WE KNOW, THAT WAS PREPARED LONG BEFORE DECEMBER 7TH.

25 AND THEY'RE GOING TO GET UP HERE AND TALK ABOUT

CLOSING ARGUMENT BY MR. LITTLEJOHN

1 FLACK JACKETS, I'M SURE. WHAT DO FLACK JACKETS HAVE TO DO
2 WITH DECEMBER 7TH? THEY'RE GOING TO TALK ABOUT THE GUNS HE
3 HAD IN HIS APARTMENT AND THE EMPTY BOXES AND THE BULLETS.
4 WHAT DO THEY HAVE TO DO WITH DECEMBER 7TH? NONE OF THAT WAS
5 CONNECTED BY THE SHERIFF'S DEPARTMENT WITH THE VODOO LOUNGE
6 AND WHAT HAPPENED ON DECEMBER 7TH.

7 I SUBMIT TO YOU, LADIES AND GENTLEMEN, THEY CAN'T
8 MAKE THEIR CASE, SO THEY HAVE TO CONVICT JEROID PRICE BASED
9 ON SOME HEARSAY THAT HE WAS A BLOOD. PLEASE DON'T GET
10 SIDETRACKED BY THAT. WE'RE TALKING ABOUT DECEMBER 7TH AT THE
11 VODOO LOUNGE.

12 NOW, WHAT ELSE DID THEY DO? THEY CALLED THEIR
13 TRAINED EXPERT, THE INVESTIGATOR, THE ONE THAT WORKS FOR THE
14 RICHLAND COUNTY SHERIFF'S DEPARTMENT WHICH I MIGHT REMIND YOU
15 WERE THE SAME PEOPLE THAT BROUGHT THIS CASE AND WERE
16 RESPONSIBLE FOR PUTTING IT TOGETHER. HE TOLD YOU HE HAD TWO
17 YEARS OF TRAINING WHICH, AS FAR AS I COULD TELL, CONSISTED OF
18 HIM GOING TO A BUNCH OF MEETINGS PUT ON BY OTHER POLICE
19 OFFICERS TALKING ABOUT GANGS, BUT HE WAS A SO-CALLED EXPERT
20 AND HE WANTED TO TRY WITH HIS TESTIMONY TO CONVINCE YOU THAT
21 JEROID PRICE WAS A BAD GUY AND LET'S ASSUME THEN ERGO HE
22 SHOULD -- HE SHOULD BE CONVICTED.

23 WELL, LADIES AND GENTLEMEN, WE DON'T TALK -- WE
24 DON'T TAKE PEOPLE'S LIBERTY AWAY FROM THEM BECAUSE THE POLICE
25 DON'T LIKE THEM. THIS IS AMERICA. THIS ISN'T IRAQ UNDER

1 SADDAM.

2 IF YOU TAKE ALL THEIR GANG TESTIMONY, IT DOESN'T
3 TELL YOU SQUAT ABOUT WHAT HAPPENED IN THAT HALLWAY, NOT A
4 THING. ON THE OTHER HAND, THE FACT THAT CARL SMALLS WAS A
5 CRYPT, THAT DOESN'T TELL YOU ANYTHING ABOUT WHAT HAPPENED.
6 NOW, MR. PASCOE I'M SURE IS GOING TO GET UP HERE AND SAY,
7 WELL, THAT ESTABLISHES MOTIVE. THERE WAS A MOTIVE FOR JEROID
8 PRICE TO DO WHAT HE DID. WELL, LADIES AND GENTLEMEN, THAT --
9 YOU KNOW, THAT CUTS BOTH WAYS. IF THERE WAS A MOTIVE THAT
10 DAY, WAS THERE A MOTIVE FOR CARL SMALLS TO ATTACK JEROID
11 PRICE BECAUSE HE HEARD HE WAS A BLOOD? YOU TAKE THAT
12 EVIDENCE FOR WHAT IT'S WORTH.

13 NOW, LET'S TALK ABOUT THE STATE'S SECOND APPROACH TO
14 THIS CASE, AND THIS APPROACH IS THE ONLY ONE THAT COMES CLOSE
15 TO MAKING OUT A CASE OF MURDER. OKAY? THE SECOND APPROACH
16 IS MARCUS JONES OR MARCUS MARTIN AS LIEUTENANT SMITH HAD IN
17 HIS STATEMENT, BUT THE MAN'S NAME IS MARCUS JONES. IF YOU
18 REMEMBER MARCUS JONES, HE SAID THAT HE SAW A PERSON STANDING
19 OVER CARL SMALLS. SMALLS WAS ON HIS BACK, AND THE MAN SHOT
20 HIM ON THE FLOOR AS HE WAS STRADDLING HIM. THEY WANT YOU TO
21 GUESS THAT THAT SHOOTER WAS JEROID PRICE, AND I'LL GET TO
22 THAT IN A MINUTE.

23 NOW, MR. JONES SEEMED LIKE A BRIGHT YOUNG MAN TO ME,
24 AND HE SEEMED LIKE SOMEBODY THAT APPEARED TO THINK THAT HE
25 HAD SEEN WHAT HE WAS TELLING YOU ABOUT. BUT I THOUGHT IT WAS

1 A LITTLE ODD AND HE WAS THE ONLY WITNESS THAT DID THAT: HE
2 WOULD SAY SOMETHING AND THEN HE WOULD SAY, WELL, MY COMMON
3 SENSE TOLD ME THAT THIS IS WHAT HAPPENED AND MY COMMON SENSE
4 TOLD ME THIS IS WHAT HAPPENED, LIKE IT WASN'T SOMETHING HE
5 REALLY SAW, BUT HE WANTED TO APPLY HIS COMMON SENSE AND COME
6 TO AN ASSUMPTION.

7 THAT'S UP -- THAT'S UP TO YOU, LADIES AND GENTLEMEN.
8 Y'ALL ARE THE JUDGES OF THE CREDIBILITY. YOU CAN TAKE THAT
9 INTO CONSIDERATION IF YOU WILL. BUT THERE ARE, LADIES AND
10 GENTLEMEN, A HOST OF PROBLEMS WITH MR. JONES' TESTIMONY AND
11 WITH THE ACCURACY OF WHAT HE SAID HE SAW.

12 NUMBER ONE, IF YOU REMEMBER -- AND I'M REFERRING TO
13 STATE'S EXHIBIT 1 FOR THE RECORD. IF YOU REMEMBER, MR. JONES
14 WAS STANDING UP HERE ON THE STAGE AND HE -- HE TOLD YOU HE
15 WAS STANDING ON THIS SIDE OF THE STAGE OVER HERE AND HE WAS
16 LOOKING ALL THE WAY ACROSS THE DANCE FLOOR, ALL THE WAY
17 ACROSS THE VODOO CLUB. HE SAID THERE WAS A HAZE, A FOG,
18 CREATED BY THE DRAFT WHEN THE DOOR OPENED. THAT'S A LONG
19 WAY, A LONG WAY, TO SEE SOMETHING TO PROVE IT BEYOND A
20 REASONABLE DOUBT, ESPECIALLY WHEN YOU'RE LOOKING THROUGH A
21 FOG, LOOKING THROUGH A HAZE.

22 YOU'RE IN A BIG ROOM AND THINK ABOUT THIS: DO YOU
23 THINK THE SHOTS MAY HAVE ECHOED IN THAT ROOM MAYBE THROWING
24 HIS TIMING OFF? I DON'T KNOW. THAT'S UP TO YOU. BUT WHEN
25 YOU LOOK AT THAT ONE THING ALONE, THAT'S REASONABLE DOUBT.

1 BUT LET'S GO ON.

2 SECONDLY, MR. JONES DIDN'T IDENTIFY JEROID PRICE AS
3 BEING THE PERSON THAT HE SAW FIRING THOSE SHOTS. THAT SHOWS
4 HOW LITTLE HE COULD SEE IN THAT BACK LIT HALLWAY. OKAY? YOU
5 REMEMBER WHEN I SHOWED HIM A PICTURE AND HE -- HE SAID, YEAH,
6 THERE'S A FIGURE IN THAT PICTURE, BUT I CAN'T MAKE IT OUT.
7 AND, YOU KNOW, THIS PICTURE, STATE'S EXHIBIT 10, I SHOWED IT
8 TO HIM AND HE SAID, YOU KNOW, YOU CAN'T SEE THE FEATURES OF
9 THE PERSON THAT'S STANDING BACK THERE IN THAT HALLWAY.

10 NOW, THE REASON I BRING THAT OUT IS THIS: YOU KNOW,
11 IF IT WAS JEROID PRICE AND HE GOT A GOOD LOOK, MAYBE HE
12 SHOULD HAVE IDENTIFIED HIM. IS THAT IMPORTANT? WELL, MAYBE
13 NOT BECAUSE WE KNOW THAT JEROID PRICE WAS IN THAT HALLWAY,
14 BUT IT JUST GOES TO SHOW WHAT A DIFFICULT TIME HE HAD SEEING
15 WHAT WAS GOING ON IN THAT HALLWAY.

16 NOW, THIRD, MR. JONES TOLD YOU THAT HE COULD SEE
17 CARL SMALLS ON HIS BACK WHEN THE SHOTS WERE FIRED. YOU
18 REMEMBER MR. PASCOE HAD TO LAY DOWN IN THE COURTROOM TO SHOW
19 HOW MR. SMALLS WAS SUPPOSEDLY ON HIS BACK, ACCORDING TO MR.
20 JONES. LADIES AND GENTLEMEN, WE KNOW THIS COULDN'T HAVE
21 HAPPENED. WE KNOW THAT THE PHYSICAL EVIDENCE COMPLETELY
22 REFUTES THIS.

23 PHYSICAL EVIDENCE. LET ME DIGRESS JUST A SECOND.
24 YOU KNOW, IT WAS KIND OF STRANGE, I THOUGHT, ME HAVING TO PUT
25 UP ALL THESE EXPERTS. I FELT LIKE I WAS A PROSECUTOR AGAIN,

CLOSING ARGUMENT BY MR. LITTLEJOHN

1 BUT WE HAD TO. WE HAD TO PUT THAT EVIDENCE UP BECAUSE THE
2 STATE DIDN'T BOTHER TO PUT A LOT OF EVIDENCE UP THAT THEY
3 SHOULD HAVE PUT UP. THEY DIDN'T BOTHER TO PUT UP THEIR
4 BALLISTICS EXPERT. THEY DIDN'T BOTHER TO EXAMINE THE
5 VICTIM'S CLOTHING AND PUT SOMEBODY UP TO TESTIFY ABOUT WHAT
6 THE CLOTHING COULD HAVE TOLD YOU. THEY DIDN'T BOTHER TO TRY
7 AND INTERPRET THE BLOOD SPATTERS THAT WERE FOUND THERE OR TO
8 TRY AND INTERPRET THE POSITION OF THE MAN'S BODY TO HELP YOU
9 OUT TO FIND THE TRUTH.

10 AS AN ASIDE WHILE I'M AT IT, THEY DIDN'T EVEN BOTHER
11 TO TEST CARL SMALLS' BLOOD TO SEE IF HE HAD ECSTASY OR P.C.P.
12 OR AMPHETAMINES OR OTHER DRUGS IN HIS SYSTEM. THOSE RESULTS
13 COULD HAVE BEEN IMPORTANT TO THE TRUTH, BUT WE'LL NEVER KNOW
14 BECAUSE THEY DIDN'T BOTHER.

15 NOW, BACK TO WHERE WE WERE. THEY WANT YOU TO
16 SUPPOSE THAT THIS MAN WAS ON HIS BACK AND WAS SHOT AND
17 SOMEHOW GOT TURNED OVER. THEY TRIED, THEY TRIED, THEY TRIED
18 TO GET MR. SMALLS TURNED OVER. THEY WANTED TO USE GUESSWORK,
19 SPECULATION, TO TURN HIM OVER BECAUSE THAT WAS THE ONLY WAY
20 IT WOULD BE CONSISTENT WITH MR. JONES' TESTIMONY AND THAT'S
21 THEIR SECOND APPROACH, AND THAT'S THE ONLY WAY THEY CAN PROVE
22 MURDER.

23 BUT YOU REMEMBER THE TESTIMONY THAT WE HAD TO PUT
24 UP: MR. GIRNDT, MR. GIRNDT WHO USED TO BE WITH S.L.E.D.,
25 QUALIFIED BY THE COURT AS AN EXPERT IN CRIME RECONSTRUCTION.

1 HE SAID THERE WAS ABSOLUTELY NO EVIDENCE TO INDICATE THAT MR.
2 SMALLS WAS IN ANY POSITION OTHER THAN FACEDOWN. THERE WAS NO
3 EVIDENCE ON THE FLOOR. THERE WAS NO ROOM TO TURN, AND YOU'LL
4 HAVE THE PICTURES BACK THERE, LADIES AND GENTLEMEN. AND I
5 DON'T MEAN TO -- I DON'T MEAN TO DWELL ON SOMETHING THAT
6 MIGHT BE UNPLEASANT, BUT IT'S IMPORTANT. BUT YOU CAN SEE
7 FROM THE PICTURES - AND I'M REFERRING TO EXHIBITS 16 AND 24
8 OF THE STATE - THAT WAS A GOOD BIG MAN. THAT WAS A NARROW
9 HALLWAY. PHYSICALLY THERE WASN'T ANY ROOM TO TURN HIM.

10 MR. GIRNDT TOLD YOU - AND I HAD NEVER THOUGHT ABOUT
11 THIS - IF YOU TURN SOMEBODY OVER, THEIR LEGS ARE GOING TO
12 CROSS. THAT'S NOT -- THAT ISN'T WHAT HAPPENED. HE ALSO TOLD
13 YOU ABOUT HOW GRAVITY WOULD CAUSE THE BLOOD AND URINE TO
14 DEPOSIT ON ONE SIDE OF HIS BODY, AND AS YOU CAN SEE FROM THE
15 PHOTOS THAT HAPPENED BECAUSE HE FELL FACEDOWN. HOW WOULD HE
16 GET TURNED OVER? THAT WAS A BIG MAN. LADIES AND GENTLEMEN,
17 I SUBMIT TO YOU IT WOULD TAKE SOME BIG PEOPLE TO TURN THAT
18 MAN OVER. THE SHOTS WERE ALL TO THE FRONT. YOU'LL SEE
19 ANOTHER PICTURE. THERE'S NO BLOOD ON THE BACK OF HIS SHIRT.

20 NOW, THE STATE WANTS TO CORROBORATE THEIR THEORY BY
21 SAYING, WELL, THERE WAS A HOLE IN THE FLOOR. OKAY? THEY
22 DIDN'T PUT UP ANY EXPERTS ABOUT THE HOLE IN THE FLOOR. THEY
23 HAD THE DEPUTY, THE NICE LADY THAT COLLECTED ALL THE EVIDENCE
24 -- SHE SAID THERE WAS A HOLE IN THE FLOOR. THAT'S ALL YOU'VE
25 GOT, AND THEY DIDN'T PROVE THAT THE HOLE IN THE FLOOR WAS

CLOSING ARGUMENT BY MR. LITTLEJOHN

1 CAUSED BY A GUNSHOT. THEY DIDN'T REALLY SHOW YOU WHERE THE
2 HOLE IN THE FLOOR WAS, BUT THEY WANT TO SAY THE HOLE IN THE
3 FLOOR CORROBORATES IT.

4 WELL, MR. GIRNDT TOLD YOU AND YOU CAN SEE FROM THE
5 PHOTOS -- AGAIN, TALKING ABOUT STATE'S EXHIBIT 24, HERE'S THE
6 HOLE IN THE FLOOR, LADIES AND GENTLEMEN. IT DOESN'T LINE UP.
7 IT DOESN'T CORROBORATE. IT DOESN'T -- IT DOESN'T SHOW THAT
8 MR. JONES WAS TELLING THE TRUTH. YOU KNOW, IN ORDER FOR THIS
9 HOLE IN THE FLOOR TO BE PLAUSIBLE, THEN MR. SMALLS' BODY
10 WOULD HAVE HAD TO HAVE BEEN PROPPED UP AGAINST THE WALL IN
11 ORDER TO GET HIM IN SUCH AN ANGLE THAT THE HOLE IN THE FLOOR
12 WOULD CORRESPOND WITH THE THROUGH-AND-THROUGH WOUND, ASSUMING
13 HE WAS TURNED OVER THAT WAY. OF COURSE, IF HE'S OVER THAT
14 WAY, THERE'S NO WAY THE SHOOTER COULD STRADDLE HIM.

15 IF HE'S TURNED OVER THIS WAY, LADIES AND GENTLEMEN,
16 THEN THE HOLE IN THE FLOOR IS ALL THE WAY ACROSS THAT LITTLE
17 HALLWAY. BUT THEY SAY THAT CORROBORATES MR. JONES, AND THAT
18 ALL ASSUMES THAT YOU MAGICALLY MOVED MR. SMALLS' BODY BACK
19 DOWN TO WHERE THE HOLE IN THE FLOOR IS AND THAT'S ALL
20 ASSUMING THE HOLE IN THE FLOOR WAS CAUSED BY A BULLET.

21 BUT ANOTHER THING, LADIES AND GENTLEMEN, THAT MAKES
22 THAT SO HIGHLY IMPROBABLE, IF NOT IMPOSSIBLE: LET'S ASSUME
23 AGAIN -- WE'LL ASSUME FOR A MINUTE - ALL RIGHT - THAT MR.
24 SMALLS WAS TURNED, THAT HE WAS OVER HERE AGAINST THIS WALL.
25 OKAY? DR. BURNS TOLD YOU - AND I'M REFERRING TO STATE'S

1 EXHIBIT 4 - THAT THE SECOND WOUND -- NOT THE SECOND BUT ONE
2 OF THE WOUNDS TO MR. SMALLS ENTERED HERE, LEFT HIP. IT CAME
3 TO REST BACK HERE IN THE RIGHT BUTTOCKS. YOU REMEMBER I
4 ASKED HIM VERY SPECIFICALLY: DID THAT BULLET HIT ANYTHING?
5 DID IT HIT ANY BONE? DID IT DO ANYTHING THAT WOULD DEFLECT
6 OR CHANGE ITS TRAVEL IN THE WAY IT WENT THROUGH HIS BODY?
7 AND HE SAID, NO, IT MOST PROBABLY MAINTAINED THE SAME ANGLE.
8 WELL, IF YOU LOOK AT THAT, LADIES AND GENTLEMEN, AND YOU
9 FIGURE THAT HE'S SOMEHOW TURNED OVER THIS WAY, THEN THAT SHOT
10 HAD TO COME FROM OUT OF THIS WALL TO GO ON THAT ANGLE.

11 ANOTHER THING: WE HEARD THE TESTIMONY FROM
12 LIEUTENANT POWELL, THE S.L.E.D. AGENT, ABOUT THE GUNSHOT
13 RESIDUE, I GUESS HIS INTERPRETATION OF THE -- OF THE
14 INFORMATION THAT WAS COLLECTED BY THE OTHER AGENT WHO WAS ON
15 MATERNITY LEAVE. LIEUTENANT POWELL WOULDN'T FOR THE LIFE OF
16 HIM PUT THAT GUN ANY CLOSER THAN THREE AND A HALF FEET AWAY
17 FROM CARL SMALLS' LEFT HAND WHERE ALL THOSE DEPOSITS, ALL
18 THOSE METAL DEPOSITS, PRIMER DEPOSITS, WERE FOUND. I WONDER
19 WHY.

20 WELL, THAT WOULD NEGATE THEIR THEORY. YOU KNOW,
21 THEY'VE GOT TO PUT THAT GUN AWAY FROM MR. SMALLS. THEY'VE
22 GOT TO PUT MR. SMALLS ON THE FLOOR, AND THREE AND A HALF TO
23 FIVE FEET WOULD DO THAT. OKAY? BUT THE THEORY THAT CARL
24 SMALLS WAS ON HIS BACK ON THE FLOOR JUST DOESN'T FLY.

25 WE HAD TO CALL JEFF HOLLIFIELD WHO DOESN'T WORK FOR

1 LAW ENFORCEMENT TO EXPLAIN TO YOU IN DETAIL HOW THE
2 CONCENTRATIONS OF PRIMER RESIDUE, THE METALS HE TALKED ABOUT,
3 HOW THEY FORM A BALLOON OF METAL PARTICLES AROUND THE GUN
4 WHEN IT'S FIRED. YOU KNOW, HE DESCRIBED - AND I USE THIS BY
5 EXAMPLE - HOW WHEN THE SHELL IS DISCHARGED AND THE OTHER --
6 THE PRIMER GOES OFF, SETS OFF THE GUNSHOT, THERE'S A BALLOON
7 THAT SURROUNDS THAT GUN AND HE SAID THAT BALLOON WAS ABOUT A
8 FOOT IN DIAMETER, AND THAT'S WHERE YOU GET THE PRIMER.
9 THAT'S WHERE YOU GET THE METAL DEPOSITS.

10 AND IT'S NOT A BALLOON OUT OF THE BARREL LIKE MR.
11 SORENSON KEPT SAYING, BUT IT'S A BALLOON THAT SURROUNDS THE
12 GUN. AND HE TOLD YOU HOW THAT BALLOON WOULD CAUSE THOSE
13 METAL DEPOSITS TO BE ON CARL SMALLS' LEFT HAND WHICH MEANS
14 HIS HAND WAS WITHIN THAT BALLOON WHEN THAT GUN WENT OFF AND
15 HIS HAND WASN'T DOWN ON THE FLOOR.

16 YET ANOTHER THING: WE HAD TO BRING OUT -- WE HAD TO
17 CALL MR. COLLINS, THE SHERIFF'S DEPARTMENT MAN, BECAUSE HE'S
18 THE ONE THAT DID THE BALLISTIC COMPARISON. THEY DIDN'T
19 BOTHER TO CALL HIM, AND THE REASON WE CALLED HIM IS BECAUSE
20 THE STATE KEPT HARPING ON THIS HOLE IN THE FLOOR. ALL RIGHT?
21 WELL, OBVIOUSLY FROM MR. COLLINS' TESTIMONY THERE WAS A
22 FRAGMENTED PROJECTILE. IT WAS ITEM NUMBER 3 IN HIS REPORT.
23 HE SAID HE DIDN'T KNOW WHERE IT CAME FROM, DIDN'T KNOW HOW
24 LONG IT HAD BEEN THERE. HE DIDN'T DO ANY TEST TO SEE IF IT
25 HAD ANY BLOOD ON IT OR D.N.A. THAT WOULD INDICATE MAYBE IT

1 PASSED THROUGH A BODY.

2 BUT WE DO KNOW THAT THAT PROJECTILE CAME FROM
3 ANOTHER GUN OTHER THAN THE 40, OTHER THAN THE 380. COULD
4 THAT HAVE CAUSED THE BULLET HOLE IN THE FLOOR? YOU KNOW, I
5 ASKED HIM IN -- YOU KNOW, IT SEEMS TO ME IT WOULD BE KIND OF
6 EASY FOR THE SHERIFF'S DEPARTMENT TO DO. THEY COULD HAVE
7 RESEARCHED. THEY COULD HAVE SEEN IF THERE WERE ANY OTHER
8 SHOOTINGS AT THIS PLACE, IF THERE WERE ANY OTHER REPORTS
9 WHERE THERE WAS OTHER PROJECTILES OR OTHER GUNSHOTS THAT WENT
10 OFF THAT COULD HAVE CAUSED THAT HOLE IN THE FLOOR BUT, LADIES
11 AND GENTLEMEN, I'M GETTING A LITTLE PAST MY JOB. YOU KNOW,
12 IT'S NOT UP TO ME TO PROVE THIS CASE. IT'S UP TO THE STATE
13 TO PROVE IT. BUT THAT'S ANOTHER THING THEY DIDN'T BOTHER TO
14 DO FOR YOU SO YOU COULD KNOW THE TRUTH.

15 THAT'S ALL I'VE GOT ON FORENSIC EVIDENCE, BUT I'VE
16 GOT TWO MORE THINGS. SHONTE BOYD. DO YOU REMEMBER MS. BOYD?
17 SHE WAS THE NICE YOUNG LADY FROM GREENVILLE, WORKS FOR BB&T,
18 JUST GOT HER LOAN OFFICER'S CERTIFICATE ON WEDNESDAY, I
19 BELIEVE. SHE WAS THERE WORKING FOR HER SORORITY, TAKING UP
20 THE MONEY. SHE DIDN'T HAVE ANY DOG IN THIS AT ALL.

21 IF YOU REMEMBER, SHE SAID SHE WAS IN THE LITTLE
22 OFFICE AREA WHEN SHE HEARD THE SHOTS. SHE AND HER SORORITY
23 SISTER TOOK OFF. AFTER SHE HEARD ALL THE SHOTS, SHE LOOKED
24 DOWN THAT HALLWAY AND SHE SAW CARL SMALLS FALLING FACE FIRST.
25 NOW, LADIES AND GENTLEMEN, THAT -- THAT SHOWS THERE WASN'T A

1 SHOOTER STANDING OVER CARL SMALLS SHOOTING HIM IN THE FRONT
2 WHILE HE WAS ON THE FLOOR.

3 LET'S TALK ABOUT ONE LAST THING AND THEN I'M GOING
4 TO LEAVE MARCUS JONES AND THE STATE'S SECOND THEORY OF THIS
5 CASE. YOU REMEMBER WHEN MR. JONES WAS ON THE STAND AND I
6 POINTED THIS OUT A MINUTE AGO. HE SAID HE WAS ON THE
7 LEFT-HAND SIDE OF THE STAGE HERE WHEN HE HEARD THE SHOTS WHEN
8 HE LOOKED DOWN TOWARD THE HALLWAY. OKAY? I SHOWED HIM THIS
9 PICTURE WHICH IS STATE'S EXHIBIT NUMBER 10, AND I ASKED HIM
10 IF THAT SHOWED THE ANGLE THAT HE WAS LOOKING AT AND HE SAID,
11 YEAH.

12 NOW, I HAD A PICTURE OF THIS -- THEY GAVE ME A
13 PICTURE OF THIS AND I MUST HAVE LOOKED AT THIS PICTURE TEN
14 TIMES AND THEN FINALLY -- I FINALLY LOOKED AT IT VERY
15 CLOSELY, LADIES AND GENTLEMEN, AND IF YOU'LL LOOK AT THIS
16 PICTURE THE MAN -- LET ME -- REMEMBER, THIS IS WHAT THE
17 SHERIFF'S DEPARTMENT SAID WAS AN ACCURATE PHOTO OF HOW THIS
18 PLACE APPEARED ON THE NIGHT IN QUESTION. IF YOU LOOK VERY
19 CLOSELY AT THE MAN STANDING IN THE HALLWAY, YOU CAN'T SEE
20 BELOW HIS KNEES. YOU CANNOT SEE BELOW HIS KNEES, SO HOW CAN
21 YOU SEE THE FLOOR? HOW COULD YOU SEE A MAN LAYING ON THE
22 FLOOR? AND THE REASON YOU CAN'T IS BECAUSE AS SHOWN IN
23 STATE'S EXHIBIT 8 THERE'S A BIG OL' TABLE OR SOMETHING OR A
24 BAR OR SOMETHING THAT BLOCKS YOUR VIEW. I SUBMIT TO YOU,
25 LADIES AND GENTLEMEN, IT COULDN'T HAVE HAPPENED LIKE MARCUS

1 JONES SAID IT HAPPENED, AND THE STATE'S SECOND APPROACH TO
2 THIS CASE CAN'T BE BELIEVED AT ALL.

3 NOW, LET'S TALK ABOUT THE STATE'S THIRD APPROACH TO
4 THIS CASE. THIS APPROACH I WOULD CALL THE RYAN-BROOKS-SAYS-
5 IT'S-SELF-DEFENSE-BUT-WE-DON'T-BELIEVE-IT APPROACH. RYAN
6 BROOKS, THAT WAS THE MAN THEY CALLED AS THEIR VERY FIRST
7 WITNESS, A FRIEND OF JEROID PRICE. YOU KNOW, IT'S FUNNY WHEN
8 HE -- HE WAS THE FIRST WITNESS UP. YOU KNOW, HE TOLD ABOUT
9 WHAT HAPPENED. HE TOLD HOW MR. SMALLS PINNED JEROID PRICE UP
10 AGAINST THAT WALL, HOW HE WAS FEARFUL THAT HE WAS GOING TO BE
11 KILLED AND HIS FRIEND, JEROID PRICE, WAS GOING TO BE KILLED,
12 AND HE TOOK A SHOT AT HIM TO KEEP THAT FROM HAPPENING, BUT
13 THEY DON'T WANT TO BELIEVE HIM.

14 BUT IT'S FUNNY, YOU KNOW, YOU KIND OF -- SOMETIMES A
15 TRIAL IS LIKE A JIGSAW PUZZLE. YOU HAVE TO TAKE LITTLE
16 PIECES AND PUT THEM BACK TOGETHER, BUT IT'S FUNNY.
17 LIEUTENANT SMITH TALKED TO JEROID PRICE AFTER THIS. JEROID
18 PRICE WAS CALLING HIM. DO YOU REMEMBER? AND LIEUTENANT
19 SMITH TOLD JEROID PRICE DURING A PHONE CALL THAT RYAN BROOKS
20 CAME IN AND TOLD THE TRUTH. THE STORY BACK THEN WAS THE
21 TRUTH, BUT THE STORY TODAY -- THEY CAN'T HAVE IT BOTH WAYS
22 BECAUSE THAT MEANS JEROID PRICE IS NOT GUILTY. AND IF YOU'RE
23 THE PROSECUTION, YOU CAN'T HAVE THAT.

24 YOU CAN'T BELIEVE OUR EYEWITNESS, ACCORDING TO THE
25 STATE, BECAUSE THEN YOU CAN'T CONVICT THIS BLOOD. SO THE

CLOSING ARGUMENT BY MR. LITTLEJOHN

1 STATE REVERSES FIELDS AND, YOU KNOW, ALL OF A SUDDEN RYAN
2 BROOKS IS NOT TELLING THE TRUTH ANYMORE AND THIS IS HOW,
3 LADIES AND GENTLEMEN -- IF YOU GET THE BIG PICTURE HERE, THIS
4 IS HOW THEY GO ABOUT PROVING AND THEY HAVE THE BURDEN. THIS
5 IS HOW THEY GO ABOUT PROVING THAT THIS WAS NOT SELF-DEFENSE
6 BEYOND A REASONABLE DOUBT. THAT'S THEIR THIRD APPROACH. HIS
7 HONOR IS GOING TO TELL YOU IT'S COMPLETELY UP TO THEM TO
8 PROVE THAT IT WAS NOT SELF-DEFENSE BEFORE YOU CAN CONVICT
9 JEROID PRICE.

10 NOW, WHAT IS THE EVIDENCE BEFORE YOU? WHAT'S THE
11 EVIDENCE OF WHAT HAPPENED IN THAT HALLWAY AT 2:18 A.M. ON
12 DECEMBER 7TH? WELL, YOU'VE GOT EVIDENCE IN SOME SHAPE OR
13 FORM FROM NUMEROUS WITNESSES THAT PRIOR TO THAT DURING THE
14 COURSE OF THE EVENING THAT CARL SMALLS WAS GOING AROUND
15 PROVOKING PEOPLE, THAT HE WAS CAUSING CONFRONTATIONS, THAT HE
16 EVEN HAD ONE WITH HIS GIRLFRIEND EVEN THOUGH SHE SAID HE
17 WASN'T UPSET. APPARENTLY IT WAS BAD ENOUGH THAT THE D.J. HAD
18 TO CALM HIM DOWN. IT WAS BAD ENOUGH CARL SMALLS GRABBED HER
19 BY HER BLOUSE, AND THERE WERE OTHER CONFRONTATIONS AND THOSE
20 WENT ON PRIOR TO WHAT HAPPENED AT 2:18.

21 NOW, THE EVIDENCE SHOWS THAT JEROID PRICE WENT OUT
22 TO HIS CAR AND HE GOT A GUN AND HE PUT IT UNDER HIS SHIRT.
23 THE EVIDENCE SHOWS THAT CARL SMALLS WAS IN THE HALLWAY WHEN
24 JEROID PRICE GOT BACK TO THE CLUB. AND I'VE NEVER QUITE
25 UNDERSTOOD THIS AND I WISH IT HADN'T HAVE HAPPENED THIS WAY,

1 LADIES AND GENTLEMEN, BUT IT DID. CARL SMALLS WENT OUT AND
2 ASKED DERRICK WATSON AND SHAWN SMITH, ANDREW PINNOCK OR
3 WHOEVER ELSE WAS IN THE CAR IF THEY HAD A GUN THAT HE COULD
4 USE. THEY SAID THEY DIDN'T.

5 AT THAT POINT HE COULD HAVE ASKED FOR A RIDE AWAY
6 FROM THE VODOO LOUNGE. THEY HAD PLENTY OF ROOM IN THAT BIG
7 CAR, BUT HE DIDN'T. I WISH HE HAD. BUT INSTEAD HE MADE A
8 9-1-1 CALL WHICH I DON'T QUITE UNDERSTAND. THAT'S UP TO YOU
9 TO INTERPRET THAT. AND THEN HE WENT BACK INTO THE LOUNGE.
10 WE KNOW ALL THOSE THINGS HAPPENED. WE KNOW HE WAS IN THE
11 LOUNGE WHEN JEROID PRICE GOT BACK THERE.

12 NOW, JEROID PRICE DID HAVE HIS GUN ON HIM, AND HE
13 TOLD YOU THAT HE WENT BACK THERE BECAUSE ROCK AND TY HAD
14 ASKED HIM TO HELP THEM WATCH HIS BACK -- WATCH THEIR BACK.
15 NOW, MR. PASCOE IS GOING TO SAY, WELL, ROCK DENIES THAT.
16 WELL, YOU KNOW, I STARTED THINKING ABOUT THAT. I'M
17 DIGRESSING, I REALIZE; I'M SORRY.

18 ROCK WAS A PROMOTER OF THIS PARTY. OKAY? HE WAS IN
19 CHARGE OF THE VARIOUS ASPECTS OF PUTTING THE WHOLE PARTY
20 TOGETHER. SOMEBODY GOT KILLED. DO YOU THINK MAYBE ROCK IS
21 WORRIED ABOUT GETTING SUED? THAT'S UP TO YOU. THAT'S UP TO
22 YOU TO CONSIDER.

23 BUT, ANYWAY, YOU HEARD JEROID PRICE. HE WENT BACK
24 THERE WITH THE GUN UNDER HIS SHIRT, COULDN'T SEE THE GUN.
25 WHEN HE GOT BACK IN THE VODOO LOUNGE, HE WALKED IN THE EXIT

1 DOOR AND THE FIRST THING HE SAW WAS CARL SMALLS. CARL SMALLS
2 CURSED JEROID PRICE. YOU HEARD THAT FROM RYAN BROOKS.
3 JEROID PRICE SAID, "MAN," LIKE LET'S DON'T DO THIS. AND THE
4 NEXT THING YOU KNOW CARL SMALLS, THE 280-POUND DEFENSIVE
5 TACKLE, CHARGED JEROID PRICE AND PINNED HIS BODY UP AGAINST
6 THE WALL. THAT'S THE EVIDENCE, LADIES AND GENTLEMEN.

7 ONLY THEN DID THE GUN COME OUT. ONLY THEN DID CARL
8 SMALLS GRAB THE GUN AND BEGIN TO TUSSLE WITH JEROID PRICE
9 OVER THE GUN. LUCKILY FOR JEROID PRICE, RYAN BROOKS CAME
10 ALONG ABOUT THAT TIME. YOU REMEMBER JEROID. HE WAS -- HE
11 SAID HE LOOKED UP AT RYAN LIKE PLEASE DO SOMETHING FOR ME
12 BECAUSE HE KNEW THE TROUBLE HE WAS IN. HE KNEW HOW MUCH
13 BIGGER AND HOW MUCH STRONGER THAT MAN WAS THAN HE WAS. HE
14 KNEW HE HAD A HOLD OF THE GUN. AND THE EVIDENCE SHOWS AND
15 IT'S EVIDENCE, LADIES AND GENTLEMEN, RYAN BROOKS FIRED A
16 SHOT.

17 THAT SHOT HIT CARL SMALLS IN THE HIP, AND MR. PASCOE
18 IS GOING TO GET UP HERE AND I'M SURE HE'S GOING TO TALK ABOUT
19 THE ANGLE OF THAT SHOT, BUT, LADIES AND GENTLEMEN, IF YOU
20 LOOK AT IT, IF YOU REMEMBER THE DEMONSTRATION, THE WAY JEROID
21 PRICE -- MR. BROOKS SAID THAT CARL SMALLS WAS STANDING, THAT
22 SHOT'S NOT IMPROBABLE. THERE WAS A LOT GOING ON AT THAT
23 MOMENT; I CAN ASSURE YOU THAT. AND THE BULLET ENDED UP IN
24 THE CORNER.

25 THE EVIDENCE SHOWS AT THAT POINT JEROID MANAGED TO

1 TURN THE GUN AWAY FROM HIMSELF AND A SHOT WENT OFF HITTING
2 CARL SMALLS. CARL SMALLS WAS STILL ON TOP OF JEROID, AND
3 JEROID FIRED ANOTHER TIME. BY THAT TIME THE RESIDUE WAS ON
4 CARL SMALLS' HAND. CARL SMALLS FELL FACEDOWN IN THAT NARROW
5 HALLWAY, AND JEROID PRICE LEFT.

6 HE TOLD YOU WHY HE LEFT. HE TOLD YOU HE WAS SCARED
7 FOR HIMSELF AND HE WAS SCARED FOR HIS FAMILY. HE SHOULDN'T
8 HAVE LEFT. THAT'S THE EVIDENCE, LADIES AND GENTLEMEN.
9 THAT'S ALL THE EVIDENCE ON THE STATE'S THIRD APPROACH TO THIS
10 CASE. THAT EVIDENCE PROVES SELF-DEFENSE. IT DOESN'T PROVE
11 BEYOND A REASONABLE DOUBT THAT IT WASN'T SELF-DEFENSE. IT
12 PROVES SELF-DEFENSE, AND HIS HONOR IS GOING TO TELL YOU YOU
13 HAVE TO BASE YOUR VERDICT ON THE EVIDENCE, NOT CONJECTURE,
14 NOT SUPPOSITION, NOT GUESSES, BUT ON THE EVIDENCE.

15 NOW, I'M SURE MR. PASCOE IS GOING TO RAIL ON THE
16 FACT THAT JEROID PRICE HAD THAT GUN. MR. SORENSON ALREADY
17 MENTIONED IT. AND MAYBE HE SHOULDN'T HAVE HAD THE GUN, BUT
18 HE TOLD YOU WHY HE HAD THE GUN AND HE UNDERSTOOD HE WAS GOING
19 IN THERE TO HELP, BUT THE FACT OF THE MATTER IS THE GUN WAS
20 UNDER HIS SHIRT. HE WASN'T BRANDISHING THAT GUN; HE WASN'T
21 SHOWING IT. AND IT DIDN'T COME OUT UNTIL CARL SMALLS PINNED
22 HIM UP AGAINST THE WALL. AND AT THAT POINT, LADIES AND
23 GENTLEMEN, HE WAS LEGALLY ENTITLED, JEROID PRICE WAS, TO
24 DEFEND HIS BODY AND TO DEFEND HIS LIFE AND IF THAT WAS THE
25 ONLY MEANS HE COULD DO IT, THEN THAT'S THE WAY IT WAS AND

CLOSING ARGUMENT BY MR. LITTLEJOHN

1 THAT'S THE WAY IT HAD TO BE AND LEGALLY HE WAS ENTITLED TO DO
2 IT. THE ONLY EVIDENCE BEFORE YOU IS THAT CARL SMALLS CHARGED
3 JEROID PRICE BEFORE THAT GUN WAS EVER PRODUCED.

4 NOW, MR. PASCOE IS GOING TO SAY, WELL, WHY DIDN'T
5 JEROID PRICE TURN HIMSELF IN? WHY DIDN'T HE CALL THE POLICE?
6 JEROID TOLD YOU HIS REASON FOR DOING IT. HE SAID HE WAS
7 SCARED FOR HIMSELF. HE WAS SCARED FOR HIS FAMILY. HE HAD
8 FIVE KIDS AND HE HAD TO GET THEM SITUATED SOMEHOW BEFORE HE
9 TURNED HIMSELF IN BECAUSE HE -- HE KNEW HE WAS LOOKING AT
10 TROUBLE BECAUSE THE MAN HAD DIED.

11 HE ALSO HAD PICKED UP SOMEWHERE THAT THERE WASN'T A
12 LAW OF SELF-DEFENSE IN SOUTH CAROLINA AND THAT BOTHERED HIM,
13 AND YOU -- JEROID PRICE HASN'T BEEN TO LAW SCHOOL. HE HASN'T
14 BEEN TO COLLEGE; HE HASN'T HAD THE CHANCE TO. BUT HE WAS
15 SCARED. BUT, LADIES AND GENTLEMEN, THE FACT THAT HE DIDN'T
16 TURN HIMSELF IN OR THE FACT THAT HE CALLED LIEUTENANT SMITH,
17 THAT DOESN'T CHANGE WHAT HAPPENED ON DECEMBER 7TH AT THE
18 VODOO LOUNGE. YOU KNOW, IF HE WAS THIS BIG, BAD, TERRIBLE
19 BLOOD THAT THEY DESCRIBED, WHY WOULD HE CALL LIEUTENANT
20 SMITH? WHY WOULD HE ULTIMATELY TURN HIMSELF IN?

21 NOW, NO DOUBT MR. PASCOE IS GOING TO GET UP HERE AND
22 SAY, WELL, JEROID PRICE AND RYAN BROOKS PLANNED THIS. THEY
23 PLOTTED THIS. THEY CONSPIRED TO COMMIT THIS MURDER. LADIES
24 AND GENTLEMEN, LIKE THE STATE WISHES THE BODY TO TURN OVER,
25 THEY CAN'T WISH THIS EVIDENCE. THERE'S NOTHING IN THE RECORD

1 TO SUPPORT THAT. THESE TWO GUYS WENT TO THAT CLUB
2 INDEPENDENTLY. THEY SAW EACH OTHER THERE. WHO KNEW CARL
3 SMALLS WAS GOING TO BE IN THAT HALLWAY? HE'S GOING TO SAY,
4 WELL, THERE WERE TELEPHONE CALLS RIGHT AFTERWARDS. WELL,
5 THAT DOESN'T PROVE ANYTHING ABOUT WHAT HAPPENED AT 2:18 IN
6 THAT HALLWAY. DOESN'T MATTER HOW MANY CALLS THERE WERE AFTER
7 THAT.

8 AND THEY'RE GOING TO SAY, WELL, WHAT ABOUT JOE
9 JONES? I DON'T KNOW HOW JOE JONES REALLY HELPS YOU. HE SAW
10 RYAN BROOKS COMING THROUGH THE CROWD WITH A GUN WHICH RYAN
11 BROOKS ADMITTED TO DOING. HE DIDN'T SEE JEROID PRICE. HE
12 DOESN'T GIVE YOU ANY EVIDENCE OF THEIR ACTING IN CONCERT OR
13 ACTING TOGETHER. I JUST ASK YOU: DON'T LET THE STATE
14 SPECULATE AND IMAGINE EVIDENCE ON THIS POINT FOR YOU.

15 NOW, IN A FEW MINUTES -- IN A FEW MINUTES I'M GOING
16 TO SIT DOWN, BUT IN A FEW MINUTES AFTER THAT HIS HONOR IS
17 GOING TO EXPLAIN TO YOU WHAT THE LAW IS AND WHAT YOU ARE TO
18 APPLY TO THE FACTS AS YOU FIND THEM. AND HE'S GOING TO
19 EXPLAIN TO YOU IN DETAIL WHAT SELF-DEFENSE IS AND WHAT THE
20 STATE'S BURDEN IS, AND I KNOW YOU'LL LISTEN TO THAT VERY
21 CAREFULLY AND YOU'LL APPLY THOSE PRINCIPLES TO THE FACTS AS
22 YOU FIND THEM. YOU KNOW, WHEN YOU DO, I THINK YOU WILL
23 CONCLUDE JEROID PRICE ACTED IN SELF-DEFENSE AS THE EVIDENCE
24 SHOWS.

25 NOW, LADIES AND GENTLEMEN, IN SUMMARY THE STATE HAS

1 THREE APPROACHES IN THIS CASE: JEROID PRICE IS A BLOOD. IN
2 SUMMARY, WHETHER HE IS OR HE ISN'T, THAT DOESN'T PROVE THIS
3 MURDER, THIS MURDER CHARGE. TWO, MARCUS JONES' THEORY. I
4 SUBMIT TO YOU THAT IS COMPLETELY REFUTED BY THE PHYSICAL
5 EVIDENCE WHICH WE PRESENTED AND SOME OF WHICH THEY PRESENTED.
6 AND, THREE, THEY DON'T BELIEVE RYAN BROOKS. I SUBMIT TO YOU
7 THE THIRD TIME THAT RYAN BROOKS' TESTIMONY AND THE OTHER
8 EVIDENCE LEADS TO ONLY ONE CONCLUSION AND THAT WAS THAT IT
9 WAS SELF-DEFENSE.

10 LADIES AND GENTLEMEN, I'M SORRY WE HAVE TO BE HERE
11 ON THIS CHRISTMAS SEASON. NORMALLY THIS IS A TIME OF
12 CELEBRATION, GIVING, FELLOWSHIP, CELEBRATION OF JESUS
13 CHRIST'S BIRTHDAY, BUT TODAY IS THE MOST IMPORTANT DAY IN THE
14 LIFE OF JEROID PRICE. AS YOU COULD SEE FROM YESTERDAY, HE
15 DIDN'T WANT ANYBODY TO DIE THAT NIGHT. HE'S SORRY, EXTREMELY
16 SORRY, AND I CAN'T EVEN TELL YOU HOW SORRY HE IS THAT IT
17 ENDED THAT WAY, AND I'M SORRY THAT THE SMALLS' FAMILY HAS TO
18 GO THROUGH THIS. I'M SORRY JEROID PRICE'S FAMILY HAS TO GO
19 THROUGH THIS, BUT WHEN YOU GO BACK AND WEIGH THE EVIDENCE
20 THERE'S ONLY ONE CONCLUSION AND THAT IS JEROID PRICE, TO SAVE
21 HIS OWN LIFE, HAD TO ACT AS HE DID. UNDER THE LAW HE WAS
22 ALLOWED TO DEFEND HIMSELF AND, THEREFORE, HE'S NOT GUILTY.
23 THANK YOU.

24 THE COURT: THANK YOU, MR. LITTLEJOHN. MR. PASCOE?

25 MR. PASCOE: MAY IT PLEASE THE COURT?

1 THE COURT: YES, SIR.

2 MR. PASCOE: WITH THE COURT'S PERMISSION, IT'S GOING
3 TO TAKE ME ONE MINUTE TO SET UP.

4 THE COURT: YES, SIR.

5 MR. PASCOE: THANK YOU, YOUR HONOR.

6 THE COURT: YES, SIR.

7 MR. PASCOE: MADAM FORELADY, LADIES AND GENTLEMEN OF
8 THE JURY, GOOD MORNING. YOU KNOW, IN THIS TRIAL WE GOT TO
9 WITNESS A NUMBER OF THINGS. WE GOT TO WITNESS HOW YOU CAN'T
10 HIDE FROM THE TRUTH, WHETHER YOU'RE THE DEFENDANT, RYAN
11 BROOKS OR JASON WOOD. BUT IN THIS SAME TRIAL WE ALSO GOT TO
12 WITNESS ACTS OF COURAGE AND ACTS OF COWARDICE, THE ACTS OF
13 COURAGE BEING THE DAMIEN MARTINS, THE MARCUS JONESES, AND THE
14 DERRICK CATTENHEADS.

15 WATCHING THEM TESTIFY, I WAS REMINDED BY SOMETHING
16 DR. KING ONCE SAID WHO IRONICALLY WAS AN ALPHA, THE SAME
17 FRATERNITY THAT THREW THIS PARTY, THAT IF YOU'LL STAND FOR
18 SOMETHING, YOU'LL FALL FOR ANYTHING. WELL, THOSE MEN THAT
19 GOT UP ON THAT WITNESS STAND, THOSE YOUNG MEN, THEY STOOD FOR
20 SOMETHING. THEY HAD THE GUTS TO GET ON THAT WITNESS STAND
21 AND TESTIFY AGAINST THE DEFENDANT EVEN WHEN IT WAS MARCUS WHO
22 TOLD YOU THE DEFENDANT WAS THE GUNMAN. IT WAS MARCUS TELLING
23 YOU THAT HE SAW THE SHOOTING. THEY'RE MEN.

24 BUT WE ALSO SAW ACTS OF COWARDICE AND I'M NOT
25 TALKING ABOUT PEOPLE WHO DON'T HONOR SUBPOENAS OR COME TO

CLOSING ARGUMENT BY MR. PASCOE

1 TESTIFY. I'M TALKING ABOUT THE ACTIONS OF THE DEFENDANTS,
2 RYAN BROOKS AND JEROID PRICE, ARMING THEMSELVES, TWO ON ONE,
3 GUNNING A MAN DOWN. THOSE AREN'T ACTIONS OF MEN. THOSE ARE
4 ACTIONS OF COWARDS, DANGEROUS COWARDS.

5 CARL SMALLS DIDN'T KNOW WHAT HE WAS GETTING INTO
6 WHEN HE GOT IN THAT MAN'S FACE RIGHT THERE AND CALLED HIM A
7 SLOB. HE DIDN'T KNOW WHAT HE WAS GETTING INTO. HE'S NOT
8 SOME COLLEGE-WANNA-BE GANGSTER. HE'S THE REAL THING. HOW IS
9 THERE ANY DOUBT, MUCH LESS A REASONABLE DOUBT, THAT THE
10 DEFENDANT AND HIS FRIEND, RYAN BROOKS, ARMED THEMSELVES WITH
11 GUNS, THEY HUNTED CARL DOWN AND THEY SHOT HIM, AND THEN THE
12 DEFENDANT FINISHED THE JOB, WALKED RIGHT BACK UP TO HIM AND
13 SHOT HIM TWO MORE TIMES WHEN HE WAS ON THE GROUND? HOW IS
14 THERE ANY DOUBT, MUCH LESS A REASONABLE DOUBT? AND IF I'M
15 WRONG, FIND HIM NOT GUILTY. FIND HIM NOT GUILTY. LET HIM
16 GET HIS STUFF BACK. LET HIM GO BACK TO HIS GUNS. HE KNOWS
17 WHERE THEY ARE. FIND HIM NOT GUILTY, BUT I SUBMIT TO DO THAT
18 YOU'D HAVE TO DISREGARD EVERY PIECE OF EVIDENCE IN THIS CASE
19 BECAUSE THE EVIDENCE IN THIS CASE DOESN'T PROVE THE
20 DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT. IT PROVES IT
21 BEYOND ANY DOUBT WHATSOEVER.

22 FACTS ARE STUBBORN THINGS. FACTS ARE STUBBORN
23 THINGS, AND WHAT I'M GOING TO TALK TO YOU ABOUT ARE THOSE
24 STUBBORN FACTS OF GUILT. FIRST, I'M GOING TO PUT SOME THINGS
25 TO REST RIGHT NOW WHICH IS THAT WHILE THE STATE OF SOUTH

1 CAROLINA -- WE HAVE THE SOLE BURDEN OF PROOF. THE DEFENSE
2 DIDN'T HAVE TO SAY ONE WORD. THEY DIDN'T HAVE TO PUT UP ONE
3 WITNESS, BUT ONCE THEY DO START THROWING UP ASSERTIONS,
4 THEY'RE SUBJECT TO SCRUTINY JUST LIKE ANYTHING ELSE. ONCE
5 THEY DO PUT UP WITNESSES, THEY'RE SUBJECT TO SCRUTINY JUST
6 LIKE ANYTHING ELSE.

7 FIRST AND FOREMOST, THINGS WE SAY AS ATTORNEYS ARE
8 NOT EVIDENCE. THEY ARE NOT EVIDENCE. THE ONLY THING YOU
9 CONSIDER FOR YOUR VERDICT IS WHAT YOU FIND TO BE THE CREDIBLE
10 TESTIMONY FROM THAT WITNESS STAND AND WHAT YOU GET TO TAKE
11 BACK WITH YOU IN THAT DELIBERATION ROOM. BUT I SUBMIT THE
12 DEFENSE DOESN'T WANT YOU TO BASE YOUR VERDICT ON THE TRUTH.
13 THEY WANT YOU TO BASE IT ON ASSERTIONS AND SPECULATION.

14 WHEN HE SHOWED YOU THAT PICTURE, IT WAS AN ASSERTION
15 LIKE HOW MARCUS COULDN'T HAVE SEEN THE GUNMAN STANDING OVER
16 SOMEONE FIRING THAT GUN. REMEMBER MARCUS WAS STANDING ON THE
17 STAGE. LOOK AT THE PICTURE THAT WAS TAKEN FROM THE STAGE.
18 YOU CAN ABSOLUTELY SEE THE MAKE-OUT OF A PERSON AND A GUN.
19 THAT WAS MISLEADING.

20 THEN THEY TOLD YOU FROM THE BEGINNING OF THIS TRIAL
21 THAT THE GUNSHOT RESIDUE ON THE VICTIM'S LEFT HAND WOULD BE
22 CONSISTENT WITH FIRING A WEAPON OR HAVING YOUR HAND ON IT
23 WHILE YOU'RE SHOT. WELL, WHAT ELSE DID WE LEARN WITH REGARDS
24 TO THE TRUTH? THE MOST CONSISTENT WAY OF GETTING THAT
25 GUNSHOT RESIDUE ON YOUR -- THE OUTSIDE OF YOUR LEFT HAND,

CLOSING ARGUMENT BY MR. PASCOE

1 ACCORDING TO LIEUTENANT POWELL, IS BEING SHOT FROM A DISTANCE
2 OF UP TO FIVE FEET, ESPECIALLY IF IT'S A HIGH-POWERED WEAPON
3 LIKE A 40 CALIBER PISTOL. AND YOU KNOW WHAT, LADIES AND
4 GENTLEMEN? ESPECIALLY - YOU'LL GET TO TAKE IT BACK WITH YOU
5 - IF THE BULLET HAS GRAZED YOUR LEFT ARM AS WHAT HAPPENED TO
6 CARL SMALLS WHEN HIS LEFT ARM WAS ACROSS HIS BODY, THE
7 DEFENDANT STANDING OVER HIM. HE SHOT HIM, RAISED HIS LEFT
8 HAND, WENT RIGHT THROUGH HIS CHEST, AND AS I'LL TALK ABOUT,
9 WENT RIGHT INTO THE FLOOR.

10 HE GOT UP HERE IN HIS CLOSING AND HE ALSO MENTIONED
11 DURING CROSS-EXAMINATION, WELL, MAYBE THE VICTIM IS ON DRUGS.
12 TALK ABOUT SPECULATION, ASSERTIONS. THERE'S NO EVIDENCE THAT
13 HE WAS ON ANY DRUGS. THE EVIDENCE IS HIS TOXICOLOGY SHOWED
14 HE WAS CLEAN. HE WAS CERTAINLY COHERENT ENOUGH TO CALL 9-1-1
15 AT 2:14 IN THE MORNING.

16 THAT THE DEFENDANT MIGHT NOT BE A BLOOD OR IS NOT A
17 BLOOD... A LOT OF PEOPLE WEAR RED CLOTHING. WELL, LADIES
18 AND GENTLEMEN, A LOT OF PEOPLE DON'T HAVE BULLETPROOF VESTS,
19 FLACK JACKETS, A BLOOD CODE, PHOTOGRAPHS OF HE AND HIS
20 FRIENDS THROWING BLOOD SIGNS, AMMUNITION, AND ALL THIS WAS
21 FOUND AFTER THE DEFENDANT HAD ALREADY GONE ON THE RUN. CAN
22 YOU IMAGINE WHAT COULD HAVE BEEN FOUND PRIOR TO THAT? THAT
23 WAS FOUND AFTER HE WENT ON THE RUN.

24 THERE WAS ACTUALLY AN ASSERTION DURING THE TRIAL
25 WHEN MR. LITTLEJOHN ASKED LIEUTENANT SMITH THE QUESTION ABOUT

1 THE DEFENDANT'S APARTMENT: HOW DO YOU KNOW IT'S THE
2 DEFENDANT'S APARTMENT? WAS HIS NAME ON THE LEASE?
3 LIEUTENANT SMITH TOLD YOU IT WAS HIS APARTMENT, AND THEN WHEN
4 THE DEFENDANT TESTIFIED HE HAD TO ADMIT THAT IT WAS HIS
5 APARTMENT. ALL YOU HAVE TO DO IS LOOK AT THE DEFENDANT'S GUN
6 RECEIPTS THAT ARE IN EVIDENCE AND YOU CAN SEE WHAT ADDRESS HE
7 PUT DOWN AS HIS APARTMENT.

8 AND WHILE I'M TALKING ABOUT THOSE GUN RECEIPTS, I
9 WANT YOU TO REMEMBER THE EVIDENCE. THE ONE THING THAT IS IN
10 THE RECORD -- MR. LITTLEJOHN ASKED LIEUTENANT SMITH, "WELL,
11 WEREN'T THESE GUNS LAWFULLY PURCHASED?" REMEMBER LIEUTENANT
12 SMITH'S ANSWER? "NO." THAT'S IN THE RECORD.

13 THEN THEY ATTACKED CARL'S CHARACTER, THE VICTIM'S
14 CHARACTER. THAT'S OKAY. I TOLD YOU IN MY OPENING STATEMENT
15 -- I DIDN'T LIE. I TOLD YOU HE WAS AFFILIATED WITH THE
16 CRYPTS OR HE AFFILIATED HIMSELF WITH THAT GANG. I TOLD YOU
17 THAT HE HAD GOTTEN INTO ARGUMENTS THAT NIGHT, BUT WHAT I
18 CAN'T UNDERSTAND IS WHY WON'T THE DEFENDANT OR ANYBODY ADMIT
19 THAT HE'S A BLOOD. AS YOU SAW IN THEIR CROSS-EXAMINATION OR
20 IN SOME CASES DIRECT EXAMINATION FROM ME, THEY TOLD THE
21 POLICE THAT, BUT WHEN THEY GET ON THE WITNESS STAND THEY
22 WOULDN'T ADMIT IT. WHY? BECAUSE IT PROVES MOTIVE, BECAUSE
23 THERE'S A CODE.

24 THEY TOLD YOU THAT CARL USED BAD LANGUAGE. HE
25 CALLED BROOKS AND PRICE A PUNK BLANK BLANK, MUCH LESS A SLOB.

1 LADIES AND GENTLEMEN, IF THAT'S ENOUGH FOR LILLIE AND CARL
2 SMALLS, SR., TO LOSE THEIR SON, FIND HIM NOT GUILTY. IF
3 CALLING SOMEBODY A BAD NAME IS ENOUGH TO KILL THEM, GUN THEM
4 DOWN, FIND THE DEFENDANT NOT GUILTY.

5 HE THREW OUT AN ASSERTION THAT CARL WAS WILD AT THE
6 PARTY, BUT THEIR OWN WITNESSES DISPROVED THIS. THEIR OWN
7 WITNESSES DISPROVED IT. YOU HEARD FROM C.J. FRYE, THEIR
8 WITNESS: CARL, YEAH, HE GOT INTO AN ARGUMENT WITH HIS
9 GIRLFRIEND'S OLD BOYFRIEND. HE DIDN'T HIT HIM. HE TOLD YOU
10 HE WASN'T VIOLENT, THAT WHEN C.J. TOLD HIM TO CALM DOWN, HE
11 DID. HE WAS FINE.

12 THEY PUT UP RACHIM MONROE, THEIR WITNESS. CARL
13 DIDN'T THREATEN TO KILL ANYBODY. CARL DIDN'T HIT ANYBODY.
14 THE DEFENDANT, ALL FIVE FOOT NOTHING OF HIM, ACCORDING TO
15 THEIR WITNESS, RACHIM MONROE, GOT IN THE VICTIM'S FACE, JUST
16 LIKE MARCUS JONES TOLD YOU, JUST LIKE DERRICK CATTENHEAD TOLD
17 YOU. HE'S NOT SCARED; HE TOTES A GUN. HE'S GOT BACK-UP LIKE
18 RYAN BROOKS. DO YOU THINK HE'S SCARED? HE'S THE REAL THING.
19 RACHIM TOLD YOU CARL -- THEIR WITNESS, THEIR WITNESS, TOLD
20 YOU CARL'S NO REAL GANGSTER. HE DOESN'T TOTE A GUN. HE'S
21 NOT VIOLENT. THEIR WITNESS TOLD YOU THAT.

22 LADIES AND GENTLEMEN, ALL THESE ASSERTIONS ARE
23 NOTHING MORE THAN ATTEMPTS TO DIVERT YOUR ATTENTION AWAY FROM
24 THE FACTS, THE TRUTH. DON'T LET THEM DO IT. THE FACT OF THE
25 MATTER IS THE DEFENSE'S OWN CASE PROVES HIS GUILT. LOOK WHAT

1 THEY PUT UP. C.J. FRYE AND RACHIM MONROE, AS I'VE ALREADY
2 TALKED ABOUT: THE VICTIM DIDN'T THREATEN ANYONE; THE VICTIM
3 WASN'T ARMED WITH A GUN.

4 THEY DID PUT UP RYAN BROOKS WHO I SUBMIT PROVED THE
5 DEFENDANT'S GUILT WHEN THEY PUT HIM UP BETTER THAN HE DID
6 WHEN I PUT HIM UP. WHAT DID RYAN BROOKS TELL YOU? THAT THE
7 DEFENDANT WAS ARMED WITH A GUN BUT MORE IMPORTANTLY IT IS
8 PHYSICALLY IMPOSSIBLE FOR THE SHOOTING TO OCCUR THE WAY RYAN
9 BROOKS TESTIFIED IT HAPPENED. HE TESTIFIED THAT THE VICTIM
10 HAD PINNED THE DEFENDANT UP AGAINST THE WALL. THERE IS NO
11 WAY THAT RYAN BROOKS STANDING FROM OVER THERE COULD SHOOT HIM
12 THROUGH HIS RIGHT HIP AND THE BULLET LAND OVER THERE. IT IS
13 PHYSICALLY IMPOSSIBLE.

14 AND YOU KNOW WHAT ELSE? IT DOESN'T MAKE SENSE. WHO
15 IS GOING TO FIRE A WEAPON STRAIGHT TOWARDS HIS FRIEND UP
16 AGAINST THE WALL? MAKES NO SENSE WHATSOEVER. THE EVIDENCE
17 IS BALLISTICALLY, AS I'LL POINT OUT AGAIN LATER, CARL SMALLS'
18 BACK WAS TO THAT WALL. HE'S GOT THE DEFENDANT RYAN BROOKS TO
19 HIS RIGHT; HE'S GOT JEROID PRICE TO HIS LEFT.

20 BROOKS SHOOTS HIM RIGHT THROUGH THE HIP. THE BULLET
21 LANDS IN THE CORNER. HE GOES DOWN. HE'S HOLDING HIS RIGHT
22 SIDE. HE'S HOLDING HIS RIGHT SIDE ON THE GROUND. THE BULLET
23 STRIKES FROM THE DEFENDANT THE VICTIM ON THE LEFT SIDE, AND
24 AS I'M GOING TO TALK ABOUT, CORROBORATED BY DON GIRNDT, THAT
25 BULLET STAYS IN HIS BODY BECAUSE IT LODGES IN HIS RIGHT SIDE,

1 HIS RIGHT BACK, JUST LIKE DON GIRNDT WOULD TELL YOU IT WOULD
2 DO. THE VICTIM THEN GOES STRAIGHT DOWN ON HIS BACK, PUTS HIS
3 LEFT HAND ACROSS HIS BODY, AND THE DEFENDANT, ACCORDING TO
4 MARCUS JONES, FIRES THE FATAL BLOW RIGHT THROUGH HIS ARM,
5 RIGHT THROUGH HIS CHEST INTO THE GROUND. THAT'S THE
6 EVIDENCE. THAT'S THE UNCONTRADICTED -- THE ONLY EVIDENCE IN
7 THIS CASE, THE ONLY CREDIBLE EVIDENCE.

8 WHAT ELSE DO WE LEARN FROM THE DEFENDANT? HOW DO WE
9 KNOW IT'S A MURDER? ACTUALLY FROM RYAN BROOKS' TESTIMONY.
10 WHY DOES RYAN BROOKS GO TO GET A GUN? WHAT DID HE TELL YOU?
11 BECAUSE HE DIDN'T WANT TO GET ROBBED IN THE PARKING LOT.
12 WHAT SENSE IS THAT? WHAT SENSE DOES THAT MAKE? I DIDN'T
13 WANT TO GET ROBBED IN THE PARKING LOT. WELL, DID HE EVEN
14 TALK TO ANY GIRLS OR ANYBODY IN THE PARKING LOT? NO.
15 ACCORDING TO J.J. JONES, JOE JONES, WHO HAD THE GUTS TO GET
16 ON THAT WITNESS STAND AND ACCORDING TO THE DEFENDANT, HE
17 ADMITTED THAT THEN HE WENT INTO VOODOO'S TO CHECK ON HIS
18 FRIEND, JEROID PRICE, WHO ALSO JUST HAPPENED TO BE ARMED WITH
19 A GUN.

20 AND WHAT DID J.J. JONES TELL YOU HE SAW? WHAT
21 CAUGHT HIS ATTENTION WITH REGARDS TO RYAN BROOKS? HE WAS
22 WALKING THROUGH THE CROWD WITH SOMETHING IRON IN HIS HAND,
23 WEAVING THROUGH THE CROWD. I SAW HIM GO TO THE EXIT DOOR,
24 LIFT HIS ARM UP, STAYING UP, AND I SAW A BLAST AND I HEARD A
25 SHOT. MALICE? THIS HOLDING ON TO YOUR GUN TO MAKE SURE

1 YOU'RE NOT GOING TO GET ROBBED IN THE PARKING LOT? THEY WENT
2 HUNTING FOR CARL SMALLS. THEY FOUND HIM AND THEY TAUGHT HIM
3 A LESSON.

4 THEN WHAT DOES RYAN BROOKS TELL YOU? HE RAN.
5 MISTER WE ACTED IN SELF-DEFENSE. DOES HE STAY AND MAKE SURE
6 HIS FRIEND IS OKAY? NO, HE RAN.

7 THEY PUT UP SHONTE BOYD. WHAT DID SHE TELL YOU?
8 SHE HEARD SHOTS. SHE DIDN'T SEE THE SHOTS. SOMETIME AFTER
9 SHE SAW THE SHOTS - SHE DOESN'T EVEN KNOW HOW LONG - SHE SAW
10 THE VICTIM FALL, ACTUALLY NOT EVEN REALLY FALL. HE WAS MAYBE
11 ALREADY ON THE GROUND ACCORDING TO HER. CORROBORATED DR.
12 BURNS WHO TOLD YOU THAT CARL SMALLS HAD UP TO TWO MINUTES TO
13 MOVE AROUND. SHE ALSO TOLD YOU THAT SHE DIDN'T KNOW HOW CARL
14 FELL, AND I SUBMIT SHE CONTRADICTS THE DEFENDANT'S TESTIMONY.

15 SHE -- ACCORDING TO THE DEFENDANT, HE IS GOING DOWN.
16 HE JUST TAKES THE VICTIM AND THROWS HIM TO THE GROUND. THEN
17 HE HAS TO GET UP AND LEAVE. SHONTE TOLD YOU THERE WAS ONLY
18 ONE PERSON IN THAT AREA WHEN THE VICTIM WAS MOVING,
19 CONTRADICTING THE DEFENDANT, THEIR OWN WITNESS. THERE WAS
20 ONLY ONE PERSON IN THERE WHEN THE VICTIM FELL. SHE ALSO TOLD
21 YOU THAT THIS WAS A COLLEGE PARTY, THAT THE PARTY ENDED AT
22 2:00 IN THE MORNING. NOBODY WAS SUPPOSED TO BE INSIDE BUT
23 THE WORKERS.

24 NOW, WE KNOW WHY CARL WAS INSIDE AS I'LL TALK ABOUT
25 LATER. HE CALLED 9-1-1. HE'S WAITING FOR THE POLICE. BUT

CLOSING ARGUMENT BY MR. PASCOE

1 WHY WAS THE DEFENDANT, JEROID PRICE, AND RYAN BROOKS IN
2 VODOO'S? ONLY ONE REASON. TO KILL CARL SMALLS, TO TEACH
3 HIM A LESSON.

4 THEY PUT UP AGENT DAVID COLLINS. WHAT DID HE TELL
5 YOU? THERE WERE DIFFERENT BULLETS AT THE CRIME SCENE AND,
6 LADIES AND GENTLEMEN, WE CAN ACCOUNT FOR ALL THREE OF THEM.
7 THERE IS A 40 CALIBER IN THE VICTIM'S BODY THAT ENTERED THE
8 LEFT SIDE AND LODGED IN THE RIGHT. THERE IS A 38 THAT WAS IN
9 THE CORNER AFTER BEING SHOT THROUGH THE RIGHT HIP, AND
10 THERE'S ANOTHER BULLET ON THE FLOOR.

11 AND WHAT DID DAVID COLLINS TELL YOU? HE TOLD YOU IT
12 COULD BE A 357. IT COULD BE A 38. IT COULD BE A NINE
13 MILLIMETER. IT COULD BE A 32 WHICH IS ALSO IN EVIDENCE. IT
14 COULD BE 40 CALIBER. IT WOULD BE NICE TO HAVE THAT GUN TO
15 TEST IT TO FIND OUT EXACTLY WHERE THAT BULLET CAME FROM. YOU
16 PICK. BUT THE DEFENDANT HAD ALL THOSE GUNS INCLUDING 40
17 CALIBER.

18 PROOF BEYOND A REASONABLE DOUBT? THEIR OWN CASE
19 PROVED HE'S GUILTY. THEN THEY PUT UP MR. HOLLIFIELD AND ALL
20 HE DOES IN A ROUNDABOUT WAY IS TELL YOU THE EXACT SAME THING
21 LIEUTENANT POWELL TOLD YOU OTHER THAN HOLLIFIELD TOLD YOU HE
22 DIDN'T KNOW THE HISTORY OF WHEN OR WHERE CARL WAS SHOT. HE
23 DIDN'T EVEN KNOW THAT CARL HAD BEEN SHOT IN HIS LEFT ARM.
24 YOU DON'T THINK THAT'S RELEVANT WHEN YOU'RE LOOKING AT
25 GUNSHOT RESIDUE THAT SOMEONE HAD BEEN GRAZED ON THEIR ARM?

1 THAT'S NOT RELEVANT?

2 THEY PUT UP DON GIRNDT. DON GIRNDT SAID, "I'VE SEEN
3 THE FILE. I DON'T THINK THE VICTIM WAS ON HIS BACK." THEN
4 WE SHOW HIM FOUR -- BECAUSE HE'S SEEN THE FILE. WE SHOWED
5 HIM FOUR TO FIVE INCONSISTENT STATEMENTS---

6 MR. LITTLEJOHN: YOUR HONOR, I'M GOING TO OBJECT TO
7 THIS. THIS IS OUT OF THE RECORD.

8 MR. PASCOE: NO, SIR. WE SHOWED HIM STATEMENTS WHEN
9 HE WAS ON THE STAND.

10 THE COURT: Y'ALL APPROACH.

11 MR. PASCOE: I'LL MOVE ON. I'LL MOVE ON.

12 THE COURT: YOU'RE GOING TO MOVE ON? I'LL ASK THE
13 JURY TO DISREGARD THAT ARGUMENT BY COUNSEL.

14 MR. PASCOE: HE WAS SHOWN STATEMENTS. CAN I SAY
15 THAT? HE WAS SHOWN STATEMENTS?

16 THE COURT: YES, SIR.

17 MR. PASCOE: HE WAS SHOWN STATEMENTS AND HE STILL
18 SAID IT WASN'T RELEVANT, NOT EVIDENCE. WHAT DID HE TELL YOU?
19 THE VICTIM DIED ON HIS BACK, NO KIDDING. ON HIS STOMACH, NO
20 KIDDING. OFFICER LUCAS WHO SAW HIM TAKE HIS LAST BREATH SAW
21 HIM DYING ON HIS STOMACH. THAT'S WHY HIS BLADDER RELIEVED --
22 -- RELAXED WHEN HE WAS ON HIS STOMACH. THAT'S WHEN HE DIED;
23 HE TOOK HIS LAST BREATH.

24 WHAT ELSE DID HE TELL YOU THAT HELPED THE STATE'S
25 CASE? THAT OFTENTIMES IF YOU'RE SHOOTING DOWN AT A PERSON, A

1 BULLET THAT MAY NORMALLY COME OUT OF THE BODY LIKE A BIG
2 BULLET, A 40 CALIBER, WILL SOMETIMES LODGE IN THE BACK OF THE
3 BODY JUST LIKE WHEN THE DEFENDANT, ACCORDING TO MARCUS JONES,
4 STOOD OVER THE VICTIM, FIRED ONE OF THOSE SHOTS INTO HIS LEFT
5 GROIN AREA, LODGED INTO HIS RIGHT BACK, DIDN'T COME OUT
6 BECAUSE CARL'S RIGHT BACK SIDE FROM HOLDING HIS WOUND WAS ON
7 THE GROUND.

8 AND DESPITE TRYING TO TELL YOU THAT THE BALLISTICS
9 DON'T MATCH IN THIS CASE, THE DEFENDANT THEN FIRED ANOTHER
10 SHOT RIGHT THROUGH THE LEFT PART OF THE VICTIM'S CHEST,
11 EXITING RIGHT, HERE HIS LEFT BACK, TOTALLY, TOTALLY
12 CONSISTENT WITH GOING RIGHT INTO THE GROUND IF HE WERE ON HIS
13 LEFT SIDE FROM WHERE HE ROLLED OVER, TOTALLY CONSISTENT.

14 AND WHAT ELSE DO WE KNOW OF INTEREST? THE DEFENDANT
15 CLAIMS THAT HE WAS FIRING HIS 40 CALIBER FROM OVER HERE,
16 LADIES AND GENTLEMEN? WHERE ARE THE SHELL CASINGS? WERE THE
17 SHELL CASINGS OVER HERE BY THE WALL? NO, BECAUSE HE DIDN'T
18 FIRE FROM THERE. FOUR AND FIVE. THEY WERE BY HIS FEET WHERE
19 THE DEFENDANT WAS STANDING WHEN HE SHOT CARL SMALLS. BY HIS
20 FEET.

21 THEN IF THERE WAS ANY DOUBT IN YOUR MIND, REASONABLE
22 OR UNREASONABLE, ABOUT THE DEFENDANT'S GUILT IN THIS CASE, I
23 SUBMIT THAT VANISHED WHEN JEROID PRICE TOOK THAT WITNESS
24 STAND. EVEN IF YOU HAD AN UNREASONABLE DOUBT, IT DISAPPEARED
25 YESTERDAY WHEN HE TOOK THAT WITNESS STAND. IN THE WORDS OF

1 THEIR OWN EXPERT, MR. GIRNDT, I SUBMIT THAT MR. PRICE'S
2 TESTIMONY DOESN'T FIT THE EVIDENCE AS I'VE ALREADY TALKED
3 ABOUT.

4 FIRST, IT IS IMPOSSIBLE FOR BROOKS TO HAVE SHOT HIM
5 THE WAY THE DEFENDANT SAID BROOKS HAD SHOT HIM. THE ONLY
6 REASON I SUBMIT THE DEFENDANT HAD TO TESTIFY THAT WAY IS
7 BECAUSE THAT'S THE WAY HIS FRIEND TESTIFIED. THAT'S THE ONLY
8 REASON HE HAD TO TESTIFY THAT WAY. THE DEFENDANT SAYS THAT
9 HE SHOT OR THE VICTIM SHOT HIMSELF UP INTO HIS GROIN AREA,
10 AND SOMEHOW EVEN IF YOU BELIEVE THAT, WHICH IS LUDICROUS, THE
11 BULLET LODGED IN HIS BACK INSTEAD OF COMING OUT? LUDICROUS.

12 HE SAYS THAT HE SHOT UP INTO THE VICTIM'S CHEST. HE
13 SHOT UP INTO THE VICTIM'S CHEST. LADIES AND GENTLEMEN, WHERE
14 IS THE BULLET? IT'S NOT IN THE CEILING. IT'S NOT IN THE
15 WALL. WHERE IS THE BULLET?

16 MR. LITTLEJOHN: YOUR HONOR, I'M GOING TO OBJECT.
17 THAT'S OUTSIDE THE RECORD.

18 MR. PASCOE: NO, IT'S NOT. ANNA ELSEY TESTIFIED,
19 YOUR HONOR, ABOUT ALL THIS.

20 THE COURT: THE JURY CAN RECALL WHERE ALL THE BULLET
21 HOLES AND ALL OF THAT THAT THEY HEARD TESTIMONY REGARDING.
22 THEY'LL BE THE JUDGE OF THE FINAL FACTS.

23 MR. PASCOE: THANK YOU, YOUR HONOR. WHERE IS THE
24 BULLET? IT'S IN THE FLOOR. IT'S IN THE FLOOR BECAUSE THAT'S
25 WHERE HE SHOT HIM. THE DEFENDANT'S OWN TESTIMONY CONTRADICTS

1 DR. BURNS. HE TOLD YOU THAT THAT BULLET THAT WENT THROUGH
2 CARL'S CHEST WENT ON THE SAME PLANE, DIDN'T ANGLE UP, WENT ON
3 THE SAME PLANE CONSISTENT, ACCORDING TO DR. BURNS, THE
4 EXPERT, CONSISTENT WITH CARL LYING ON THE FLOOR.

5 THEN MR. SORENSON ASKED THE DEFENDANT A QUESTION
6 ABOUT BEING A BLOOD. DO YOU REMEMBER THAT? FIRST WE ASKED
7 HIM SPECIFICALLY: WAS RYAN BROOKS A BLOOD? NOW, THINK ABOUT
8 THIS. THE GODFATHER OF HIS CHILD, RYAN BROOKS, YOU THINK
9 HE'D KNOW RYAN PRETTY WELL, DON'T YOU? IS RYAN BROOKS A
10 BLOOD? DO YOU REMEMBER WHAT HIS ANSWER WAS? QUOTE, "NOT
11 THAT I KNOW OF." YOU KNOW WHAT'S INTERESTING ABOUT THAT
12 OTHER THAN YOU SHOULD KNOW WHETHER THE GODFATHER OF YOUR
13 CHILD, YOUR BEST FRIEND, IS ONE? WHAT'S INTERESTING ABOUT
14 THAT? IT'S THE EXACT SAME ANSWER THAT RYAN BROOKS GAVE WHEN
15 I ASKED HIM WHETHER THE DEFENDANT WAS A BLOOD. THEY WON'T
16 RAT EACH OTHER OUT. THEY GOT THEIR CODE, BUT HE'LL GIVE YOU
17 THE EXACT SAME ANSWER AS BROOKS: NOT THAT I KNOW OF.

18 THEN WE ASKED HIM, WELL, WHO DO YOU KNOW? WHAT
19 BLOODS DO YOU KNOW? I KNOW ABOUT FOUR. WHO ARE THEY? CODE.
20 I TAKE THE FIFTH. HUH-UH. IF YOU GET ON THAT WITNESS STAND,
21 YOU'VE GOT TO ANSWER THE QUESTION. WELL, I DON'T WANT TO GET
22 ANYBODY IN TROUBLE. HUH-UH. HE'S ON TRIAL FOR MURDER, BUT I
23 DON'T WANT TO GET ANYBODY IN TROUBLE. HUH-UH? WHO ARE THEY?
24 AND ALL HE COULD DO IS GIVE US A BUNCH OF HALF NAMES. ONE
25 NAME WE DO GET, JEFFREY LEWIS, WE KNOW GAVE A STATEMENT TO

1 THE POLICE LAST DECEMBER. HE'LL RAT HIM OUT. HE DIDN'T WANT
2 TO VIOLATE HIS CODE.

3 AND THEN JUST ONE LIE THAT I'M GOING TO TALK ABOUT
4 THE DEFENDANT GAVE WHEN HE WAS ON THE WITNESS STAND OF THE
5 MANY: HE TOLD YOU THAT ROCK HIRED HIM AS SECURITY, THAT ROCK
6 AND TY WALKED OUT WITH HIM AND HE WAS ASKED, HEY, WATCH OUR
7 BACKS. SO HE TOOK THAT AS GO GET -- GOING AND GETTING HIS
8 GUN TO WATCH THEM COUNT MONEY.

9 NOW, ASK YOURSELF THIS: WHY WOULD THE DEFENDANT LIE
10 AND SAY THAT ROCK ASKED HIM TO DO SECURITY? DO YOU KNOW THE
11 ANSWER? BECAUSE MR. LITTLEJOHN BROUGHT IT OUT ON CROSS-
12 EXAMINATION OF ROCK: DIDN'T YOU TELL MY INVESTIGATOR THAT
13 YOU WOULDN'T SHOW UP FOR COURT? THE DEFENDANT KNEW THAT ROCK
14 WOULDN'T SHOW UP FOR COURT. WELL, UNFORTUNATELY FOR HIM---

15 MR. LITTLEJOHN: YOUR HONOR, I'M GOING TO OBJECT.
16 THERE'S NOTHING IN THE RECORD---

17 THE COURT: THAT'S SPECULATIVE.

18 MR. PASCOE: WELL, NO SPECULATION. LET'S TALK ABOUT
19 IT THIS WAY. HE TOLD THEIR INVESTIGATOR HE WOULDN'T SHOW UP
20 FOR COURT. HE TOLD THEIR INVESTIGATOR HE WOULDN'T SHOW UP
21 FOR COURT, AND THE DEFENDANT LIES ABOUT ROCK. PROOF BEYOND A
22 REASONABLE DOUBT? TOO BAD FOR THE DEFENDANT ROCK DID SHOW UP
23 FOR COURT.

24 LADIES AND GENTLEMEN, JUDGE LLOYD IS GOING TO TELL
25 YOU THERE ARE VERY FEW THINGS IN THIS WORLD WE KNOW WITH

1 ABSOLUTE CERTAINTY, AND THE STATE DOESN'T HAVE TO PROVE THE
2 DEFENDANT'S GUILT BEYOND ANY AND ALL CERTAINTY, BUT IF
3 THERE'S EVER A CASE, EVER A CASE WHERE THAT'S DONE IT'S THIS
4 ONE. MR. LITTLEJOHN GOT UP IN HIS OPENING STATEMENT AND HE
5 TOLD YOU, QUOTE, I DON'T KNOW WHAT HAPPENED ON DECEMBER THE
6 7TH OF LAST YEAR, AND THEN HE TOLD YOU THAT YOU WON'T EVEN
7 KNOW WHAT HAPPENED ON DECEMBER THE 7TH OF LAST YEAR.

8 AND HE'S TRYING TO SAY THAT I HAVE THREE DIFFERENT
9 TYPES OF PROSECUTION IN THIS CASE? THREE THEORIES? HUH-UH.
10 I GOT ONE THEORY: CARL SMALLS WAS MURDERED BY RYAN BROOKS
11 AND JEROID PRICE, AND I'VE TOLD YOU HOW. ONE THEORY. THEY
12 STARTED WITH ALL THESE DIFFERENT THEORIES DURING THE COURSE
13 OF THIS TRIAL. WELL, MAYBE IT'S I.D.; HE DIDN'T DO IT.

14 THEN THEY SWITCH OVER TO SELF-DEFENSE. HOW IS THAT
15 A SEARCH FOR THE TRUTH? NOW, LADIES AND GENTLEMEN, THEY'RE
16 TRYING TO SAY SELF-DEFENSE. WE HAVE PROVEN THAT A MAN LIKE
17 JEROID PRICE NEVER ACTS IN SELF-DEFENSE. HE'S ALWAYS ON THE
18 OFFENSIVE, AND I'M GOING TO VERY BRIEFLY TALK TO YOU VERY
19 BRIEFLY ABOUT THE STATE'S WITNESSES.

20 FIRST WE CALLED RYAN BROOKS. AS JURORS YOU CAN
21 BELIEVE ALL, SOME, OR NONE OF WHAT A WITNESS TELLS YOU AND
22 WITH RYAN BROOKS IT'S DEFINITELY JUST SOME. FIRST, HE'S
23 DEFINITELY A BLOOD. HE DOESN'T WANT TO ADMIT IT BECAUSE IT
24 WOULD PROVE MOTIVE. BUT DO YOU REMEMBER WHEN I SHOWED HIM
25 STATE'S EXHIBIT 52? ALL HE COULD DO IS HOLD IT AND STARE AT

1 IT. HE DIDN'T KNOW I HAD THAT, AND HE FINALLY HAD TO ADMIT
2 THAT THAT'S HIM IN THAT PICTURE, A PICTURE FOUND IN THE
3 DEFENDANT'S APARTMENT. IT PROVES MOTIVE.

4 SECOND, HE'S PROVEN THAT IT WAS NOT SELF-DEFENSE AS
5 I'VE ALREADY EXPLAINED. WHAT ELSE DID WE LEARN FROM HIS
6 TESTIMONY THOUGH? THAT HE AND THE DEFENDANT GOT INTO AN
7 ALTERCATION WITH CARL. THE DEFENDANT WAS IN CARL'S FACE AND
8 THE DEFENDANT WAS WEARING THE SAME THING MARCUS JONES TOLD US
9 HE WAS WEARING. HOW DO WE KNOW IT'S MURDER? BECAUSE AFTER
10 THE PARTY DOES HE LEAVE? NO. HE GETS A GUN OUT OF PATRICK'S
11 CAR AND JUST LIKE J.J. JONES TOLD YOU AND I SHOWED YOU, HE
12 FOLLOWS, I SUBMIT, PRICE BACK INTO VOODOO'S WITH THAT GUN.
13 PROOF BEYOND A REASONABLE DOUBT? RYAN BROOKS' TESTIMONY BY
14 ITSELF CONVICTS THE DEFENDANT.

15 THEN WE PUT UP MARCUS JONES AND, LADIES AND
16 GENTLEMEN, HE TOLD YOU HE HAD THREE OPPORTUNITIES TO OBSERVE
17 THE GUNMAN. EARLIER WITH THE HAT WHEN HE REFERENCED IT TO
18 HIS BROTHER. SECOND WHEN THE VICTIM WAS IN -- WHEN THE
19 DEFENDANT WAS IN THE VICTIM'S FACE AND, THIRD, AT THE TIME OF
20 THE SHOOTING. HE TOLD YOU THAT HE SAW NUMBER ONE IN THE RED
21 PINWHEEL HAT - RED, BLACK, AND WHITE HAT - IN THE VICTIM'S
22 FACE. HE EVEN TOLD HIS BROTHER: MAN, IF I WERE THAT LITTLE
23 DUDE, I WOULDN'T BE IN THAT BIG DUDE'S FACE. HE WASN'T
24 SCARED.

25 HE THEN HEARS A SHOT AND HE SEES THE DEFENDANT

1 STANDING RIGHT OVER CARL AND SHOOT HIM AGAIN. HE TOLD YOU HE
2 COULD SEE THE FIRE FROM THE GUN. TO ACQUIT CARL SMALLS (SIC)
3 NOT ONLY WOULD YOU HAVE TO BELIEVE ALL OF HIS LIES; DISREGARD
4 THE BALLISTICS, BUT YOU WOULD HAVE TO FIND THAT MARCUS JONES
5 IS A BALD-FACE LIAR. HE PROVES THE DEFENDANT'S GUILT NOT
6 BEYOND A REASONABLE DOUBT BUT BEYOND ANY DOUBT WHATSOEVER.

7 BUT WE GOT MORE. WE GOT DAMIEN MARTIN WHO MARCUS
8 CONFIDED IN THAT MORNING THAT HE SAW THE GUNMAN, THE SAME
9 PERSON WEARING THE HAT, THE DEFENDANT. WE GOT DERRICK
10 CATTENHEAD AND HE TELLS YOU THAT A SHORT, DARK-SKINNED BLACK
11 MALE WITH A RED PINWHEEL HAT, BLACK AND WHITE HAT, WAS IN THE
12 VICTIM'S FACE AND I SUBMIT IT'S THE SAME PERSON THAT RACHIM
13 MONROE TOLD YOU WAS IN CARL SMALLS' FACE, THE SAME PERSON
14 MARCUS TOLD YOU WAS IN CARL SMALLS' FACE, THE SAME PERSON
15 BROOKS, HIS FRIEND, TOLD YOU WAS IN CARL SMALLS' FACE. AND
16 DERRICK CATTENHEAD TOLD YOU THAT THAT PERSON, I SUBMIT THE
17 DEFENDANT, TOLD CARL SMALLS, "BEFORE THE NIGHT IS THROUGH,
18 YOU'RE GOING TO FALL LIKE THE MATRIX." MALICE? PROOF BEYOND
19 A REASONABLE DOUBT? YOU'RE GOING TO FALL LIKE THE MATRIX.

20 THEN YOU HEARD FROM DEANDRE EILAND AND HE TOLD US A
21 COUPLE OF THINGS. FIRST HE TOLD US ABOUT CARL'S STRENGTH.
22 LADIES AND GENTLEMEN, IF CARL SMALLS HAD TACKLED THE
23 DEFENDANT UP AGAINST THAT WALL, HE'D HAVE PUT HIM THROUGH THE
24 WALL. HE'D HAVE PUT HIM THROUGH THE WALL. HE ALSO TOLD YOU,
25 WHICH WAS IMPORTANT FOR THE INVESTIGATION, HE'S THE PERSON

1 WHO LED THE POLICE TO J-LEW, JEFFREY LEWIS. YOU GOT TO GO
2 TALK TO THAT BOUNCER FROM BENEDICT WITH THE DREADS, THE BIG
3 GUY.

4 THE POLICE INTERVIEWED JEFFREY LEWIS IN THE
5 AFTERNOON OF DECEMBER THE 11TH WHICH WAS A WEDNESDAY. FROM
6 THAT MOMENT ON THE POLICE ARE LOOKING FOR TWO PEOPLE: RYAN
7 BROOKS AND JEROID PRICE. THEY SEARCH THE DEFENDANT'S
8 APARTMENT THE MORNING OF FRIDAY, DECEMBER THE 13TH. WHAT DO
9 THEY FIND? RED BOOK, BLOOD'S CODE, 90 PERCENT OF RED
10 CLOTHING THAT THE DEFENDANT, OF COURSE, DISCLAIMS EVEN THOUGH
11 IT'S IN HIS APARTMENT. THEY FIND PHOTOGRAPHS OF HE AND HIS
12 FRIENDS THROWING GANG SIGNS. THEY FIND AMMUNITION THAT COULD
13 MATCH THAT BULLET IN THE GROUND AT CLUB VODOO'S.

14 THE POLICE THEN FIND JASON WOOD, AND JASON WOOD HAD
15 TO FINALLY ADMIT TO THE POLICE IN HIS SECOND STATEMENT ON
16 DECEMBER THE 10TH THAT AFTER THE MURDER AND AFTER WOODS HAD
17 KNOWLEDGE THAT THE DEFENDANTS MAY BE INVOLVED IN THE MURDER,
18 HE ACTUALLY BOUGHT THE DEFENDANT A CELL PHONE THE TUESDAY
19 AFTER THE MURDER AND PUT IT IN HIS NAME. AND WHAT WAS JASON
20 WOOD'S EXCUSE FOR DOING THAT? I WAS TRYING TO BUILD MY
21 CREDIT. I SUBMIT IT'S BECAUSE THE DEFENDANT WAS GOING ON THE
22 RUN ALREADY.

23 WE HAVE CARL'S WOUNDS CONSISTENT WITH BEING SHOT
24 THROUGH THE HIP ON THE RIGHT SIDE, THE BULLET LANDING IN THE
25 CORNER, TWO MORE TIMES WITH A 40 CALIBER WHILE HE'S ON THE

1 GROUND. WE HAVE THE FACT THAT THE DEFENDANTS ARE ON THE RUN,
2 THIS DEFENDANT, JEROID PRICE, FOR THREE AND A HALF MONTHS.
3 WE HAVE THE VOICE MAILS AND CONVERSATIONS WITH LIEUTENANT
4 SMITH, AND WHAT DOES HE TELL LIEUTENANT SMITH IN DECEMBER? I
5 WANT YOU TO KNOW THE TRUTH. AND WHAT DOES HE TELL LIEUTENANT
6 SMITH THE TRUTH IS? I DIDN'T DO IT; I'VE EVEN GOT AN ALIBI.
7 OF COURSE, THAT'S NOT TRUE. THAT'S ANOTHER LIE BY THE
8 DEFENDANT.

9 THEN IT'S NOT TILL JANUARY THE 10TH AFTER RYAN
10 BROOKS HAS TURNED HIMSELF IN AND GIVEN THAT STATEMENT THAT
11 THE DEFENDANT ALLUDES TO SELF-DEFENSE BY JUST SAYING, WELL,
12 Y'ALL DON'T HAVE GOOD SELF-DEFENSE LAWS. LADIES AND
13 GENTLEMEN, FOR THREE AND A HALF MONTHS HE CLAIMED THAT HE
14 WANTED US TO KNOW THE TRUTH. NOW HE SAYS IT'S SELF-DEFENSE.
15 HOW WAS HE NOT SHOUTING FROM THE MOUNTAIN TOPS FOR THREE AND
16 A HALF MONTHS, "I HAD TO DO IT. MY LIFE WAS IN DANGER. IT
17 WAS SELF-DEFENSE"? HOW IS HE NOT SHOUTING FROM THE MOUNTAIN
18 TOP FOR THREE AND A HALF MONTHS THAT HE HAD TO DO IT?
19 BECAUSE HE WAS SITTING BACK FOR THREE AND A HALF MONTHS, JUST
20 LIKE HE DID IN THIS COURTROOM THIS WEEK, WAITING TO PICK A
21 DEFENSE, WAITING TO PICK A DEFENSE, AND YESTERDAY HE PICKED
22 SELF-DEFENSE.

23 YOU HEARD FROM DERRICK WATSON. CARL CAME IN MY CAR;
24 HE WAS NERVOUS ABOUT SOMETHING. DO YOU HAVE A GUN? NO. HE
25 LEFT. LESS THAN TWO MINUTES LATER I HEARD GUNSHOTS. WE KNOW

1 WHAT HAPPENED. CARL LEFT THAT TRUCK AND HE CALLED 9-1-1. AT
2 2:14 IN THE MORNING ON THE DOT HE CALLED 9-1-1, AND YOU'RE
3 GOING TO HAVE THAT TAPE AND THAT CONVERSATION LASTS
4 APPROXIMATELY 60 OR 62 SECONDS. AND HE TELLS THEM -- AND YOU
5 CAN TELL THAT HE'S PROBABLY CALLING ACTUALLY FROM THE OUTSIDE
6 AFTER GETTING OUT OF DERRICK WATSON'S VEHICLE, THE VEHICLE
7 HE'S IN, AND HE TELLS THEM THEY GOT GUNS. I'VE SEEN THEM
8 WITH GUNS. THEY'RE GOING TO SHOOT THIS PLACE UP. HE HANGS
9 UP THE PHONE AT APPROXIMATELY 2:15. WE KNOW THAT THE CALL
10 FOR SHOTS THAT HAD BEEN FIRED IS AT 2:17.

11 CARL SMALLS, LILLIE SMALLS' SON, HAD 120 SECONDS TO
12 LIVE AFTER HE MADE THAT PHONE CALL. THE LAST TIME SHE HEARS
13 HER SON'S VOICE IS A 9-1-1 CALL FOR HELP. HE HAD LESS THAN
14 120 SECONDS TO LIVE BECAUSE OF THAT MAN, AND HE RUNS LIKE A
15 COWARD.

16 ON DECEMBER THE 7TH OF LAST YEAR THAT MAN RIGHT
17 THERE THOUGHT HE GOT AWAY WITH MURDER. YOU PROVE HIM WRONG.
18 YOU LET HIM KNOW THAT LIFE IS WORTH A WHOLE LOT MORE THAN A
19 COLOR AND A GANG SIGN. YOU LET HIM KNOW THAT HIS DAYS OF
20 GANG BANGING ON THE STREETS OF RICHLAND COUNTY ARE OVER. YOU
21 HAVE THE MOST POWERFUL VOICE IN THIS COURTROOM, A LOT LOUDER
22 THAN MINE, AND WITH ONE WORD YOU CAN LET HIM KNOW THE TRUTH
23 MATTERS. WITH ONE WORD YOU CAN LET HIM KNOW IT'S OVER, AND
24 THAT WORD IS GUILTY. ON BEHALF OF THE STATE OF SOUTH
25 CAROLINA I RESPECTFULLY ASK THAT YOU FIND THE DEFENDANT,

1 JEROID PRICE, GUILTY OF MURDER.

2 THE COURT: THANK YOU, SIR. LADIES AND GENTLEMEN,
3 IT'S PROBABLY A GOOD TIME TO TAKE A BREAK AND LET YOU ALL
4 STRETCH YOUR LEGS BEFORE I CHARGE YOU ON THE LAW. I ASK THAT
5 YOU RETURN TO THE JURY ROOM. DO NOT DISCUSS THE EVIDENCE,
6 TESTIMONY THAT YOU'VE HEARD OR SEEN DURING THE COURSE OF THIS
7 TRIAL, AND I'LL BRING YOU BACK OUT IN ABOUT TEN MINUTES AND
8 I'LL CHARGE YOU ALL ON THE LAW. THANK YOU.

9 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT
10 11:49 A.M.)

11 THE COURT: OKAY. THANK YOU, SIR. WE'RE GOING TO
12 TAKE A TEN-MINUTE BREAK. LADIES AND GENTLEMEN, LET ME TELL
13 YOU I'M NOT -- I DON'T LOCK THE DOORS TO THE COURTROOM, BUT
14 WHEN I CHARGE THE JURY THERE IS NO IN AND OUT. THOSE WHO
15 WANT TO BE IN HERE WHEN I DO CHARGE THE JURY, BE IN HERE
16 BEFORE I COME BACK. THOSE WHO ARE OUTSIDE THE COURTROOM AT
17 THAT TIME WILL NOT BE ALLOWED IN, AND THOSE WHO ARE IN THE
18 COURTROOM AT THAT TIME WILL NOT BE ALLOWED OUT. WE'LL TAKE
19 TEN MINUTES AND WE'LL BE BACK AND I'LL CHARGE THIS JURY.
20 THANK YOU.

21 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

22 THE COURT: THANK YOU. THANK YOU. YOU CAN BE
23 SEATED. THANK YOU. OKAY. IS COUNSEL READY FOR THE JURY?

24 MR. PASCOE: YES, SIR.

25 MR. LITTLEJOHN: YES.

1 MR. SORENSON: YES, SIR.

2 MR. LITTLEJOHN: YES, YOUR HONOR.

3 THE COURT: THANK YOU, SIR. WE'RE READY FOR THEM TO
4 COME OUT.

5 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT
6 12:08 P.M.)

7 THE COURT: THANK YOU, LADIES AND GENTLEMEN. I
8 APPRECIATE YOUR PATIENCE WITH US. LADIES AND GENTLEMEN, AT
9 THE VERY START OF THIS CASE DURING THE JURY SELECTION I DID
10 INQUIRE OF MEMBERS OF THIS JURY WHETHER OR NOT THEY HAD HEARD
11 OR SEEN ANYTHING IN NEWS ACCOUNTS REGARDING THIS TRIAL, AND I
12 AGAIN ASKED DURING THE COURSE OF THIS WEEK WHILE WE'VE BEEN
13 HERE IF ANY MEMBER OF THE JURY HAS BEEN EXPOSED TO ANY NEWS
14 ACCOUNTS, WHETHER THEY BE ON RADIO, T.V., OR IN NEWSPAPERS
15 REGARDING THIS TRIAL. THANK YOU, LADIES AND GENTLEMEN. LET
16 THE RECORD REFLECT THAT NO JUROR HAS INDICATED IN THE
17 AFFIRMATIVE.

18 LADIES AND GENTLEMEN, YOU'VE HEARD ALL THE EVIDENCE
19 AND TESTIMONY THAT HAS BEEN ADMITTED INTO THIS CASE. AT THIS
20 POINT YOU'VE ALSO HEARD CLOSING ARGUMENTS FROM COUNSEL, AND
21 WHAT I INSTRUCT YOU NOW IS THE LAW THAT YOU ARE TO APPLY TO
22 THE FACTS AS YOU FIND THEM AND RENDER YOUR VERDICT IN THIS
23 CASE.

24 I START OFF BY TELLING YOU, LADIES AND GENTLEMEN,
25 THAT THE INDICTMENT CHARGES THE DEFENDANT, JEROID PRICE, WITH

1 MURDER. I REMIND YOU AT THIS POINT THAT THE FACT THAT THE
2 DEFENDANT WAS ARRESTED, CHARGED, AND INDICTED IN THIS CASE IS
3 NOT EVIDENCE IN THIS CASE AND CANNOT BE CONSIDERED BY YOU AS
4 EVIDENCE OF GUILT NOR DOES IT CREATE ANY PRESUMPTION OR
5 INFERENCE OF GUILT. I FURTHER TELL YOU THAT THE DOCUMENT
6 KNOWN AS THE INDICTMENT IS SIMPLY THE FORMAL WRITTEN
7 INSTRUMENT WHICH CONTAINS THE CHARGE MADE AGAINST THE
8 DEFENDANT. IT IS THE FORMAL DOCUMENT AND ONLY THE FORMAL
9 DOCUMENT BY WHICH THIS CASE IS BROUGHT INTO COURT.

10 LADIES AND GENTLEMEN, THE DEFENDANT HAS PLED NOT
11 GUILTY TO THE INDICTMENT, AND THAT PLEA PUTS THE BURDEN ON
12 THE STATE OF SOUTH CAROLINA TO PROVE THE DEFENDANT GUILTY. I
13 TELL YOU THAT A PERSON CHARGED WITH COMMITTING A CRIMINAL
14 OFFENSE IN SOUTH CAROLINA IS NEVER REQUIRED TO PROVE HIMSELF
15 INNOCENT. I CHARGE YOU THAT IT IS AN IMPORTANT RULE OF THE
16 LAW THAT THE DEFENDANT IN A CRIMINAL TRIAL, NO MATTER WHAT
17 THE SERIOUSNESS OF THE CHARGE MAY BE, WILL ALWAYS BE PRESUMED
18 TO BE INNOCENT OF THE CRIME FOR WHICH THE INDICTMENT WAS
19 ISSUED UNLESS AND UNTIL GUILT HAS BEEN PROVEN BY EVIDENCE
20 SATISFYING YOU, THE JURY, OF THAT GUILT BEYOND A REASONABLE
21 DOUBT.

22 THIS PRESUMPTION OF INNOCENCE, LADIES AND GENTLEMEN,
23 DOES NOT END WHEN YOU BEGIN YOUR DELIBERATIONS, BUT IT
24 ACCOMPANIES THE DEFENDANT THROUGHOUT THE TRIAL UNTIL YOU AS
25 THE JURY REACH A VERDICT OF GUILT BASED ON EVIDENCE

1 SATISFYING YOU OF THE DEFENDANT'S GUILT BEYOND A REASONABLE
2 DOUBT. I TELL YOU THAT THE PRESUMPTION OF INNOCENCE, LADIES
3 AND GENTLEMEN, HAS BEEN DESCRIBED AS A ROBE OF RIGHTEOUSNESS
4 PLACED ABOUT THE SHOULDERS OF THE DEFENDANT WHICH REMAINS
5 WITH HIM UNTIL IT HAS BEEN STRIPPED FROM THE DEFENDANT BY
6 EVIDENCE SATISFYING YOU OF THE DEFENDANT'S GUILT BEYOND A
7 REASONABLE DOUBT.

8 I TELL YOU FURTHER THAT THE PRESUMPTION OF INNOCENCE
9 IS NOT JUST A LEGAL THEORY. IT IS NOT JUST A LEGAL PHRASE.
10 IT IS A SUBSTANTIAL RIGHT TO WHICH EVERY DEFENDANT IS
11 ENTITLED UNLESS YOU, THE JURY, ARE SATISFIED FROM THE
12 EVIDENCE OF THE DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT.

13 NOW, WHAT IS A REASONABLE DOUBT IN THE LAW, LADIES
14 AND GENTLEMEN? A REASONABLE DOUBT IS THE KIND OF DOUBT THAT
15 WOULD CAUSE A REASONABLE PERSON TO HESITATE TO ACT. I
16 FURTHER TELL YOU, TO FURTHER EXPLAIN, THAT THE STATE HAS THE
17 BURDEN OF PROVING THE DEFENDANT GUILTY BEYOND A REASONABLE
18 DOUBT. THOSE OF YOU WHO MAY HAVE SERVED AS JURORS IN CIVIL
19 CASES WHERE YOU WERE TOLD THAT IT IS ONLY NECESSARY TO PROVE
20 A FACT IS MORE LIKELY TRUE THAN NOT SUCH AS BY THE GREATER
21 WEIGHT OR PREPONDERANCE OF THE EVIDENCE ARE FAMILIAR WITH
22 CERTAIN STANDARDS THAT ARE APPLIED IN COURT CASES. IN
23 CRIMINAL CASES, HOWEVER, LADIES AND GENTLEMEN, THE STATE'S
24 BURDEN OF PROOF MUST BE MORE POWERFUL THAN THAT. IT MUST BE
25 BEYOND A REASONABLE DOUBT.

1 PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT LEAVES
2 YOU FIRMLY CONVINCED OF THE DEFENDANT'S GUILT. I TELL YOU
3 THAT THERE ARE VERY FEW THINGS IN THIS WORLD THAT WE KNOW
4 WITH ABSOLUTE CERTAINTY, AND IN CRIMINAL CASES THE LAW DOES
5 NOT REQUIRE PROOF THAT OVERCOMES EVERY POSSIBLE DOUBT. IF
6 BASED ON YOUR CONSIDERATION OF THE EVIDENCE YOU ARE FIRMLY
7 CONVINCED THAT THE DEFENDANT IS GUILTY OF THE CRIME CHARGED,
8 YOU MUST FIND THE DEFENDANT GUILTY. IF, ON THE OTHER HAND,
9 YOU THINK THERE IS A REAL POSSIBILITY THAT THE DEFENDANT IS
10 NOT GUILTY, YOU MUST GIVE THE DEFENDANT THE BENEFIT OF THE
11 DOUBT AND FIND HIM NOT GUILTY.

12 NOW, LADIES AND GENTLEMEN, I REMIND YOU ALSO THAT
13 DURING THIS TRIAL YOU AND I HAVE HAD CERTAIN DUTIES TO
14 PERFORM. AS THE TRIAL JUDGE IT IS MY RESPONSIBILITY TO
15 PRESIDE OVER THE TRIAL OF THIS CASE, AND I ALSO HAVE THE DUTY
16 TO RULE ON THE ADMISSIBILITY OF EVIDENCE OFFERED DURING THIS
17 TRIAL. YOU ARE TO CONSIDER ONLY THE COMPETENT EVIDENCE
18 BEFORE YOU. IF THERE WAS ANY TESTIMONY ORDERED STRICKEN FROM
19 THE RECORD IN THIS CASE, YOU MUST DISREGARD THAT TESTIMONY.
20 YOU ARE TO CONSIDER ONLY THE TESTIMONY WHICH HAS BEEN
21 PRESENTED FROM THE WITNESS STAND, ANY EXHIBITS WHICH HAVE
22 BEEN MADE A PART OF THE RECORD IN THIS CASE OR ANY
23 STIPULATIONS OF COUNSEL THAT HAVE BEEN MADE A PART OF THE
24 RECORD IN FRONT OF YOU.

25 I HAVE THE ADDITIONAL DUTY, LADIES AND GENTLEMEN, TO

1 CHARGE YOU THE LAW APPLICABLE TO THIS CASE. AS THE PRESIDING
2 JUDGE, I AM THE SOLE JUDGE OF THE LAW OF THIS CASE AND IT IS
3 YOUR DUTY AS JURORS TO ACCEPT AND APPLY THE LAW AS I NOW
4 STATE IT TO YOU. IF YOU ALREADY HAVE ANY IDEA AS TO WHAT THE
5 LAW IS OR WHAT THE LAW OUGHT TO BE AND IT DOES NOT AGREE WITH
6 WHAT I TELL YOU THAT THE LAW IS, YOU MUST ABANDON YOUR IDEA
7 BECAUSE YOU ARE SWORN UNDER THE OATH THAT YOU TOOK AS JURORS
8 IN THIS CASE TO ACCEPT THE LAW AND APPLY THE LAW EXACTLY AS I
9 STATE IT TO YOU.

10 I TELL YOU THAT IN EVERY CASE TRIED IN THIS COURT
11 BEFORE A JURY, THE JURY BECOMES THE SOLE AND EXCLUSIVE JUDGES
12 OF THE FACTS. A TRIAL JUDGE CANNOT INTIMATE, STATE, COMMENT
13 ON OR MAKE ANY STATEMENT TO A TRIAL JURY ABOUT THE FACTS IN A
14 CASE. SINCE YOU ARE THE JURY -- SINCE YOU AS THE JURY ARE
15 THE SOLE JUDGES OF THE FACTS IN THIS CASE, YOU ARE NOT TO
16 INFER FROM WHAT I HAVE SAID DURING THE PROGRESS OF THIS TRIAL
17 IN RULING ON THE ADMISSIBILITY OF EVIDENCE OR OTHERWISE OR
18 ANYTHING THAT I SAY TO YOU DURING THE COURSE OF THE
19 INSTRUCTIONS THAT I HAVE ANY OPINION ABOUT THE FACTS IN THIS
20 CASE. THE LAW DOES NOT ALLOW ME TO HAVE AN OPINION ABOUT THE
21 FACTS IN THIS CASE. THAT IS A MATTER SOLELY FOR YOU, THE
22 JURY, TO DETERMINE. AS JURORS IT IS YOUR DUTY TO DETERMINE
23 THE EFFECT, VALUE, WEIGHT, AND TRUTH OF THE EVIDENCE
24 PRESENTED DURING THIS TRIAL.

25 LADIES AND GENTLEMEN, THERE ARE TWO TYPES OF

1 EVIDENCE WHICH ARE GENERALLY PRESENTED DURING A TRIAL:
2 DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE. DIRECT EVIDENCE
3 IS THE TESTIMONY OF A PERSON WHO CLAIMS TO HAVE ACTUAL
4 KNOWLEDGE OF A FACT SUCH AS AN EYEWITNESS. IT IS EVIDENCE
5 WHICH IMMEDIATELY ESTABLISHES THE MAIN FACT TO BE PROVED.
6 CIRCUMSTANTIAL EVIDENCE, ON THE OTHER HAND, IS PROOF OF A
7 CHAIN OF FACTS AND CIRCUMSTANCES INDICATING THE EXISTENCE OF
8 A FACT. IT IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES
9 COLLATERAL FACTS FROM WHICH THE MAIN FACT MAY BE INFERRED.
10 CIRCUMSTANTIAL EVIDENCE IS BASED ON INFERENCE AND NOT ON
11 PERSONAL KNOWLEDGE OR OBSERVATION.

12 NOW, THE LAW MAKES ABSOLUTELY NO DISTINCTION BETWEEN
13 THE WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT OR
14 CIRCUMSTANTIAL EVIDENCE NOR IS A GREATER DEGREE OF CERTAINTY
15 REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN OF DIRECT EVIDENCE.
16 YOU SHOULD WEIGH ALL THE EVIDENCE IN THE CASE, AND AFTER
17 WEIGHING ALL THE EVIDENCE IF YOU ARE NOT CONVINCED OF THE
18 GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT, YOU MUST
19 FIND THE DEFENDANT NOT GUILTY.

20 NOW, I FURTHER EXPLAIN TO YOU CIRCUMSTANTIAL
21 EVIDENCE BY TELLING YOU THAT WHEN THE STATE RELIES ON
22 CIRCUMSTANTIAL EVIDENCE YOU MAY NOT CONVICT A DEFENDANT
23 UNLESS EVERY CIRCUMSTANCE RELIED ON BY THE STATE IS PROVEN
24 BEYOND A REASONABLE DOUBT. AND ALL OF THE CIRCUMSTANCES
25 WHICH -- LET ME START THAT OVER. AND ALL OF THE

1 CIRCUMSTANCES SO PROVEN ARE CONSISTENT WITH EACH OTHER AND
2 TAKEN TOGETHER POINT CONCLUSIVELY TO THE GUILT OF THE ACCUSED
3 TO THE EXCLUSION OF EVERY OTHER REASONABLE HYPOTHESIS.

4 IT IS NOT SUFFICIENT THAT THE CIRCUMSTANCES CREATE A
5 PROBABILITY, EVEN IF IT IS A STRONG ONE. IF, ASSUMING THE
6 CIRCUMSTANCES ARE TRUE, THERE IS A REASONABLE HYPOTHESIS
7 WHICH DOES NOT INCLUDE THE GUILT OF THE ACCUSED, THE PROOF
8 HAS FAILED.

9 LADIES AND GENTLEMEN, NECESSARILY YOU MUST DETERMINE
10 THE CREDIBILITY OF WITNESSES WHO HAVE TESTIFIED IN THIS CASE.
11 CREDIBILITY SIMPLY MEANS BELIEVABILITY. IT BECOMES YOUR DUTY
12 AS JURORS TO ANALYZE AND TO EVALUATE THE EVIDENCE AND
13 DETERMINE WHICH EVIDENCE CONVINCES YOU OF ITS TRUTH. IN
14 DETERMINING THE BELIEVABILITY OF WITNESSES WHO HAVE TESTIFIED
15 IN THIS CASE, YOU MAY BELIEVE ONE WITNESS OVER SEVERAL
16 WITNESSES OR SEVERAL WITNESSES OVER ONE WITNESS. YOU MAY
17 BELIEVE A PART OF THE TESTIMONY OF A WITNESS AND REJECT THE
18 REMAINING PART OF THE TESTIMONY OF THAT SAME WITNESS.

19 YOU MAY BELIEVE THE TESTIMONY OF A WITNESS IN ITS
20 ENTIRETY OR REJECT THE TESTIMONY OF A WITNESS IN ITS
21 ENTIRETY. YOU MAY CONSIDER WHETHER ANY WITNESS HAS EXHIBITED
22 TO YOU ANY INTEREST, BIAS, PREJUDICE OR OTHER MOTIVE IN THE
23 CASE. YOU MAY ALSO CONSIDER THE APPEARANCE AND MANNER OF THE
24 WITNESS WHILE ON THE WITNESS STAND.

25 LADIES AND GENTLEMEN, AS TO WITNESSES I FURTHER TELL

1 YOU THAT THE RULES OF EVIDENCE ORDINARILY DO NOT PERMIT
2 WITNESSES TO TESTIFY TO OPINIONS OR CONCLUSIONS. AN
3 EXCEPTION TO THIS RULE EXISTS FOR WITNESSES WE CALL EXPERT
4 WITNESSES. THERE WERE SEVERAL WITNESSES WHO TESTIFIED THAT
5 WERE QUALIFIED BY THIS COURT AS EXPERT WITNESSES. I TELL YOU
6 THAT A WITNESS WHO BY EDUCATION AND EXPERIENCE HAS BECOME
7 EXPERT IN SOME ART, SCIENCE, PROFESSION, OR CALLING MAY STATE
8 AN OPINION AS TO RELEVANT AND MATERIAL MATTER IN WHICH THE
9 WITNESS CLAIMS TO BE AN EXPERT AND MAY ALSO STATE THE REASONS
10 FOR THE OPINION.

11 YOU SHOULD CONSIDER ANY EXPERT OPINION RECEIVED IN
12 EVIDENCE IN THIS CASE AND, LIKE ANY OTHER EVIDENCE, GIVE IT
13 THE WEIGHT YOU THINK IT DESERVES. IF YOU DECIDE THAT THE
14 OPINION OF AN EXPERT WITNESS IS NOT BASED ON SUFFICIENT
15 EDUCATION AND EXPERIENCE OR IF YOU CONCLUDE THAT THE REASONS
16 GIVEN IN SUPPORT OF THE OPINION ARE NOT SOUND OR THAT THE
17 OPINION IS OUTWEIGHED BY OTHER EVIDENCE, YOU MAY DISREGARD
18 THE OPINION ENTIRELY. AN EXPERT WITNESS'S TESTIMONY IS TO BE
19 GIVEN NO GREATER WEIGHT THAN THAT OF OTHER WITNESSES SIMPLY
20 BECAUSE THE WITNESS IS AN EXPERT. FURTHER, YOU ARE NOT
21 REQUIRED TO ACCEPT AN EXPERT'S OPINION EVEN THOUGH IT IS NOT
22 CONTRADICTED.

23 LADIES AND GENTLEMEN, IN THE LAW THERE IS A CONCEPT
24 CALLED THE HAND OF ONE. I TELL YOU THAT IF A CRIME IS
25 COMMITTED BY TWO OR MORE PEOPLE WHO ARE ACTING TOGETHER IN

1 COMMITTING A CRIME, THE ACT OF ONE IS THE ACT OF ALL. A
2 PERSON WHO JOINS WITH ANOTHER TO ACCOMPLISH AN ILLEGAL
3 PURPOSE IS CRIMINALLY RESPONSIBLE FOR EVERYTHING DONE BY THE
4 OTHER PERSON WHICH OCCURS AS A NATURAL CONSEQUENCE OF THE
5 ACTS DONE IN CARRYING OUT THE COMMON PLAN AND PURPOSE.

6 FOR EXAMPLE, TWO PEOPLE CAN BE GUILTY OF KILLING
7 ANOTHER PERSON WHEN ONLY ONE OF THE TWO HAD A GUN AND THERE
8 WAS ONLY ONE BULLET AND ONLY ONE OF THE TWO FIRED THE SHOT
9 THAT CAUSED THE DEATH. IF TWO OR MORE PEOPLE ARE ACTING
10 TOGETHER -- EXCUSE ME. IF TWO OR MORE PEOPLE ARE TOGETHER,
11 ACTING TOGETHER, ASSISTING EACH OTHER IN COMMITTING THE
12 OFFENSE, THE ACT OF ONE IS THE ACT OF ALL OR, AS IT'S
13 SOMETIMES SAID, THE HAND OF ONE IS THE HAND OF ALL.

14 PRIOR KNOWLEDGE THAT A CRIME IS GOING TO BE
15 COMMITTED WITHOUT MORE IS NOT SUFFICIENT TO MAKE A PERSON
16 GUILTY OF THAT CRIME. MERE KNOWLEDGE THAT ANOTHER PERSON IS
17 GOING TO COMMIT A CRIME, EVEN IF THE DEFENDANT IS PRESENT
18 WHEN THE CRIME IS COMMITTED, IS NOT SUFFICIENT TO CONVICT THE
19 DEFENDANT AS A PRINCIPAL. GUILT AS A PRINCIPAL IS SHOWN BY
20 ACTUAL OR CONSTRUCTIVE PRESENCE AT THE SCENE AS A RESULT OF
21 PRIOR ARRANGEMENT. THEREFORE, A FINDING OF A PRIOR ARRANGED
22 PLAN OR COMMON SCHEME IS NECESSARY FOR A FINDING OF GUILT AS
23 A PRINCIPAL.

24 THE STATE MUST PROVE BEYOND A REASONABLE DOUBT BY
25 COMPETENT EVIDENCE THE THEORY OF THE HAND OF ONE IS THE HAND

COURT'S CHARGE ON THE LAW TO THE JURY

1 OF ALL. A PRINCIPAL IN A CRIME IS ONE WHO EITHER ACTUALLY
2 COMMITS THE CRIME OR WHO IS PRESENT AIDING, ABETTING, OR
3 ASSISTING IN COMMITTING THE CRIME. WHEN A PERSON DOES AN ACT
4 IN THE PRESENCE OF AND WITH THE ASSISTANCE OF ANOTHER, THE
5 ACT IS DONE BY BOTH. WHERE TWO OR MORE ACTING WITH A COMMON
6 PLAN OR INTENT ARE PRESENT AT THE COMMISSION OF A CRIME, IT
7 DOES NOT MATTER WHO ACTUALLY COMMITS THE CRIME. ALL ARE
8 GUILTY. THE HAND OF ONE IS THE HAND OF ALL.

9 PRESENT AT THE COMMISSION OF A CRIME MEANS TO BE
10 SUFFICIENTLY NEAR TO AID AND ABET AND ASSIST IN THE
11 COMMISSION OF THE CRIME. HOWEVER, AGAIN, MERE PRESENCE AT
12 THE SCENE OF A CRIME IS NOT SUFFICIENT TO CONVICT ONE AS A
13 PRINCIPAL ON THE THEORY OF AIDING AND ABETTING. INTENT IS
14 ALSO A NECESSARY ELEMENT FOR THERE MUST HAVE BEEN A COMMON
15 DESIGN OR INTENT TO COMMIT THE CRIME AND THE CRIME MUST HAVE
16 BEEN COMMITTED PURSUANT THERETO WITH THE PERSON AIDING AND
17 ABETTING BY SOME OVERT ACT.

18 INTENT MEANS INTENDING THE RESULT WHICH ACTUALLY
19 OCCURS, NOT ACCIDENTALLY OR INVOLUNTARILY. INTENT MAY BE
20 SHOWN BY ACTS AND CONDUCT OF THE DEFENDANT AND OTHER
21 CIRCUMSTANCES FROM WHICH YOU MAY NATURALLY AND REASONABLY
22 INFER INTENT. THE STATE MUST PROVE THESE ELEMENTS BEYOND A
23 REASONABLE DOUBT.

24 LADIES AND GENTLEMEN, IN ORDER TO ESTABLISH CRIMINAL
25 LIABILITY, CRIMINAL INTENT IS REQUIRED. FOR EXAMPLE, THE

1 MENTAL STATE REQUIRED TO BE PROVEN BY THE STATE FOR A
2 PARTICULAR CRIME MIGHT BE PURPOSE, INTENT, KNOWLEDGE,
3 RECKLESSNESS OR CRIMINAL NEGLIGENCE. CRIMINAL INTENT MUST BE
4 PROVEN BY THE STATE AGAIN BEYOND A REASONABLE DOUBT.
5 CRIMINAL INTENT IS ALWAYS A MATTER THAT MUST BE DETERMINED BY
6 THE JURY FROM THE CIRCUMSTANCES SURROUNDING THE SITUATION.
7 THERE IS NO WAY TO PROVE INTENT TO A MATHEMATICAL CERTAINTY.
8 THERE'S NO WAY MEDICAL SCIENCE CAN DISSECT A PERSON'S BRAIN
9 AND DETERMINE WHAT THE PERSON HAD IN MIND, SO THE LAW SAYS
10 THAT CRIMINAL INTENT MAY BE INFERRED FROM THE CIRCUMSTANCES
11 SHOWN TO HAVE EXISTED. THIS IS HOW YOU MAKE A DETERMINATION
12 OF WHETHER OR NOT THE ELEMENT REQUIRING INTENT WAS PRESENT.

13 IT IS NOT NECESSARY TO ESTABLISH INTENT BY DIRECT
14 AND POSITIVE EVIDENCE, BUT INTENT MAY BE ESTABLISHED BY
15 INFERENCE IN THE SAME WAY AS ANY OTHER FACT, BY TAKING INTO
16 CONSIDERATION THE ACTS OF THE PARTIES AND ALL THE FACTS AND
17 CIRCUMSTANCES OF THE CASE. CRIMINAL INTENT IS A MENTAL
18 STATE, A CONSCIOUS WRONGDOING. IT IS UP TO YOU AS THE JURY
19 TO DETERMINE WHAT THE DEFENDANT INTENDED TO DO BASED ON THE
20 CIRCUMSTANCES SHOWN TO HAVE EXISTED. CRIMINAL INTENT CAN
21 ARISE FROM ACTION OR A FAILURE TO ACT. IT MAY ARISE FROM
22 NEGLIGENCE, RECKLESSNESS OR AN INDIFFERENCE, THE DUTY OR THE
23 CONSEQUENCES THAT IS REQUIRED BY THE LAW TO BE THE EQUIVALENT
24 OF CRIMINAL INTENT.

25 LADIES AND GENTLEMEN, THERE'S BEEN EVIDENCE

1 PRESENTED DURING THE COURSE OF THIS TRIAL THAT A WITNESS OR
2 WITNESSES HAVE MADE PRIOR STATEMENTS WHICH ARE NOT CONSISTENT
3 WITH THE WITNESS'S PRESENT TESTIMONY. YOU MAY USE THIS
4 EVIDENCE TO DECIDE WHETHER TO BELIEVE A WITNESS. YOU MAY
5 ALSO USE EVIDENCE OF THE EARLIER CONTRADICTORY STATEMENTS TO
6 DETERMINE THE TRUTH OF THOSE STATEMENTS. IT IS UP TO YOU TO
7 DECIDE WHETHER TO BELIEVE THE EARLIER STATEMENTS OR THE
8 TESTIMONY GIVEN AT TRIAL.

9 IF A WITNESS IS SHOWN TO HAVE KNOWINGLY TESTIFIED
10 UNTRUTHFULLY CONCERNING ANY MATERIAL MATTER, YOU MAY CONSIDER
11 THIS IN DETERMINING WHETHER TO TRUST THE WITNESS'S TESTIMONY
12 AS TO OTHER MATTERS. YOU MAY REJECT ALL TESTIMONY OR THAT --
13 OF THAT WITNESS OR GIVE ALL OR PART OF THE TESTIMONY THE
14 WEIGHT YOU THINK IT DESERVES.

15 LADIES AND GENTLEMEN, EARLIER IN THIS TRIAL YOU
16 HEARD TESTIMONY CONCERNING THE PENALTY A PERSON CAN SERVE FOR
17 THE CRIME OF MURDER AS ALLEGED IN THE INDICTMENT. IN
18 DETERMINING THE GUILT OR INNOCENCE OF THE DEFENDANT, YOU
19 CANNOT CONSIDER ANY POSSIBLE PENALTY FOR ANY PARTICULAR
20 CRIME. PUNISHMENT FOR THE CRIME IS A MATTER FOR ME AS THE
21 COURT TO DETERMINE AND SHOULD NEVER BE CONSIDERED BY YOU IN
22 ANY WAY WHATSOEVER IN ARRIVING AT A FAIR AND IMPARTIAL
23 VERDICT AS TO THE GUILT OR INNOCENCE OF THIS DEFENDANT.

24 LADIES AND GENTLEMEN, AS I'VE TOLD YOU AT THE
25 BEGINNING OF THIS TRIAL AND AT THE BEGINNING OF THIS CHARGE,

1 THE DEFENDANT IS CHARGED BY THE INDICTMENT WITH MURDER. THE
2 STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT
3 KILLED ANOTHER PERSON WITH MALICE AFORETHOUGHT. NOW, MALICE
4 IS HATRED, ILL WILL OR HOSTILITY TOWARDS ANOTHER PERSON. IT
5 IS THE INTENTIONAL DOING OF A WRONGFUL ACT WITHOUT JUST CAUSE
6 OR EXCUSE AND WITH AN INTENT TO INFLICT AN INJURY OR UNDER
7 CIRCUMSTANCES THAT THE LAW WILL INFER AN EVIL INTENT.

8 MALICE AFORETHOUGHT DOES NOT REQUIRE THAT MALICE
9 EXIST FOR ANY PARTICULAR TIME BEFORE THE ACT IS COMMITTED,
10 BUT MALICE MUST EXIST IN THE MIND OF THE DEFENDANT JUST
11 BEFORE AND AT THE TIME THE ACT IS COMMITTED. THEREFORE,
12 THERE MUST BE A COMBINATION OF THE PREVIOUS EVIL INTENT AND
13 THE ACT.

14 MALICE AFORETHOUGHT MAY BE EXPRESS OR INFERRED.
15 THESE TERMS EXPRESS AND INFERRED DO NOT MEAN DIFFERENT KINDS
16 OF MALICE BUT MERELY THE MANNER IN WHICH MALICE MAY BE SHOWN
17 TO EXIST, THAT IS, EITHER BY DIRECT EVIDENCE OR BY INFERENCE
18 FROM THE FACTS AND CIRCUMSTANCES WHICH ARE PROVED. EXPRESS
19 MALICE IS SHOWN WHEN A PERSON SPEAKS WORDS WHICH EXPRESS
20 HATRED OR ILL WILL FOR ANOTHER OR WHEN THE PERSON PREPARED
21 BEFOREHAND TO DO THE ACT WHICH WAS LATER ACCOMPLISHED. FOR
22 EXAMPLE, LYING IN WAIT FOR A PERSON OR ANY OTHER ACTS OF
23 PREPARATION GOING TO SHOW THAT THE DEED WAS WITHIN THE
24 DEFENDANT'S MIND WOULD BE EXPRESS MALICE.

25 MALICE MAY BE INFERRED FROM CONDUCT SHOWING A TOTAL

COURT'S CHARGE ON THE LAW TO THE JURY

1 DISREGARD FOR HUMAN LIFE. INFERRED MALICE MAY ALSO ARISE
2 WHEN THE DEED IS DONE WITH A DEADLY WEAPON. A DEADLY WEAPON
3 IS ANY ARTICLE, INSTRUMENT, OR SUBSTANCE WHICH IS LIKELY TO
4 CAUSE DEATH OR GREAT BODILY HARM. WHETHER AN INSTRUMENT HAS
5 BEEN USED AS A DEADLY WEAPON DEPENDS ON THE FACTS AND
6 CIRCUMSTANCES OF EACH CASE.

7 I TELL YOU THAT EXAMPLES OF INSTRUMENTS WHICH MAY BE
8 DEADLY WEAPONS ARE PISTOLS, SHOTGUNS, RIFLES, DIRKS OR
9 DAGGERS OR KNIVES, SLINGSHOTS, METAL KNUCKLES, RAZORS,
10 GASOLINE OR BOMBS. A GUN MAY EVEN BE A DEADLY WEAPON EVEN IF
11 IT IS NOT OPERATING.

12 LADIES AND GENTLEMEN, FURTHER THE DEFENDANT HAS
13 RAISED THE DEFENSE OF SELF-DEFENSE. I TELL YOU THAT SELF-
14 DEFENSE IS A COMPLETE DEFENSE, AND IF IT IS ESTABLISHED, YOU
15 MUST FIND THE DEFENDANT NOT GUILTY. I'LL FURTHER TELL YOU
16 THAT THE STATE HAS THE BURDEN OF DISPROVING SELF-DEFENSE BY
17 PROOF BEYOND A REASONABLE DOUBT. IF YOU HAVE A REASONABLE
18 DOUBT OF THE DEFENDANT'S GUILT AFTER CONSIDERING ALL THE
19 EVIDENCE, INCLUDING THE EVIDENCE OF SELF-DEFENSE, THEN YOU
20 MUST FIND THE DEFENDANT NOT GUILTY. ON THE OTHER HAND, IF
21 YOU HAVE NO REASONABLE DOUBT OF THE DEFENDANT'S GUILT AFTER
22 CONSIDERING ALL THE EVIDENCE, INCLUDING THE EVIDENCE OF
23 SELF-DEFENSE, THEN YOU MUST FIND THE DEFENDANT GUILTY.

24 I TELL YOU THAT THE FOLLOWING ELEMENTS ARE REQUIRED
25 TO ESTABLISH SELF-DEFENSE. YOU MUST FIND THESE ELEMENTS IN

1 ORDER TO ESTABLISH SELF-DEFENSE. FIRST, THE DEFENDANT MUST
2 BE WITHOUT FAULT IN BRINGING ON THE DIFFICULTY. IF THE
3 DEFENDANT'S CONDUCT WAS THE TYPE WHICH WAS REASONABLY
4 CALCULATED TO AND DID PROVOKE A DEADLY ASSAULT, THE DEFENDANT
5 WOULD BE AT FAULT IN BRINGING ON THE DIFFICULTY AND WOULD NOT
6 BE ENTITLED TO AN ACQUITTAL BASED ON SELF-DEFENSE.

7 SECOND, THE SECOND ELEMENT OF SELF-DEFENSE IS THAT
8 THE DEFENDANT WAS ACTUALLY IN IMMINENT DANGER OF DEATH OR
9 SERIOUS BODILY INJURY OR THAT THE DEFENDANT ACTUALLY BELIEVED
10 THAT HE WAS IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY
11 INJURY. IF THE DEFENDANT WAS ACTUALLY IN IMMINENT DANGER, IT
12 MUST BE SHOWN THAT THE CIRCUMSTANCES WOULD HAVE WARRANTED A
13 PERSON OF ORDINARY FIRMNESS AND COURAGE TO STRIKE THE FATAL
14 BLOW TO PREVENT DEATH OR SERIOUS BODILY INJURY TO HIMSELF.

15 IF THE DEFENDANT BELIEVED HE WAS IN IMMINENT DANGER
16 OF DEATH OR SERIOUS BODILY INJURY, IT MUST BE SHOWN THAT A
17 REASONABLY PRUDENT PERSON OF ORDINARY FIRMNESS AND COURAGE
18 WOULD HAVE HAD THE SAME BELIEF. IN DECIDING WHETHER THE
19 DEFENDANT ACTUALLY WAS OR BELIEVED HE WAS IN IMMINENT DANGER
20 OF DEATH OR SERIOUS BODILY INJURY, YOU SHOULD CONSIDER ALL
21 THE FACTS AND CIRCUMSTANCES SURROUNDING THE CRIME, INCLUDING
22 THE PHYSICAL CONDITION AND CHARACTERISTICS OF THE DEFENDANT
23 AND THE VICTIM.

24 LADIES AND GENTLEMEN, I FURTHER TELL YOU IN
25 EXPLAINING THE DEFENSE OF SELF-DEFENSE THAT THE DEFENDANT

COURT'S CHARGE ON THE LAW TO THE JURY

1 DOES NOT HAVE TO SHOW THAT HE WAS ACTUALLY IN DANGER. IT IS
2 ENOUGH IF THE DEFENDANT BELIEVED HE WAS IN IMMINENT DANGER
3 AND A REASONABLY PRUDENT PERSON OF ORDINARY FIRMNESS AND
4 COURAGE WOULD HAVE HAD THE SAME BELIEF. THE DEFENDANT HAS
5 THE RIGHT TO ACT ON APPEARANCES EVEN THOUGH THE DEFENDANT'S
6 BELIEFS MAY HAVE BEEN MISTAKEN. I REPEAT: AS ONE MAY ACT ON
7 APPEARANCES, HE MAY, IN FACT, BE MISTAKEN. THE LAW DOES NOT
8 HOLD SOMEONE TO A REFINED ASSESSMENT OF THE DANGER PROVIDED,
9 OF COURSE, HE ACTED AS A PERSON OF ORDINARY COOLNESS AND
10 COURAGE WOULD HAVE ACTED OR SHOULD HAVE ACTED IN MEETING THE
11 APPEARANCE OF DANGER.

12 HE DOES NOT HAVE TO WAIT UNTIL HIS ASSAILANT GETS
13 THE DROP ON HIM FOR HE HAS THE RIGHT TO ACT UNDER THE LAW OF
14 SELF-PRESERVATION AND PREVENT HIS ASSAILANT FROM GETTING THE
15 DROP ON HIM. IT IS FOR YOU, THE JURY, TO DECIDE WHETHER THE
16 DEFENDANT'S FEAR OF IMMEDIATE DANGER OF DEATH OR SERIOUS
17 BODILY INJURY WAS REASONABLE AND WOULD HAVE BEEN FELT BY AN
18 ORDINARY PERSON IN THE SAME SITUATION.

19 YOU MAY ALSO CONSIDER, LADIES AND GENTLEMEN, WORDS
20 ACCOMPANIED BY HOSTILE ACTS MAY, DEPENDING ON THE
21 CIRCUMSTANCES, ESTABLISH SELF-DEFENSE. FURTHER, EVIDENCE OF
22 PRIOR DIFFICULTIES BETWEEN THE DEFENDANT AND THE VICTIM MAY
23 BE CONSIDERED IN DECIDING WHETHER A THREAT EXISTED, WHETHER
24 THE DEFENDANT HAD A REASON TO BELIEVE A THREAT EXISTED AND
25 HOW SERIOUS THAT THREAT WAS.

1 YOU MAY CONSIDER, LADIES AND GENTLEMEN, SIZE AND
2 AGE. THE RELATIVE SIZES, AGES, AND WEIGHTS OF THE DEFENDANT
3 AND THE VICTIM MAY BE CONSIDERED IN DECIDING THE APPARENT OR
4 ACTUAL NEED FOR FORCE IN SELF-DEFENSE AND THE AMOUNT OF FORCE
5 NEEDED.

6 FURTHER, PRIOR INSTANCES OF VIOLENCE BY THE VICTIM
7 MAY BE CONSIDERED IN DECIDING WHETHER THE DEFENDANT ACTUALLY
8 BELIEVED HE WAS IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY
9 INJURY OR WAS ACTUALLY IN IMMINENT DANGER. THREATS MADE BY
10 THE VICTIM MAY BE CONSIDERED BY YOU IN DETERMINING WHETHER
11 THE DEFENDANT ACTUALLY WAS OR BELIEVED HE WAS IN IMMINENT
12 DANGER. FURTHER, THE INTOXICATION OF THE VICTIM MAY BE
13 CONSIDERED IN DECIDING WHETHER THE DEFENDANT'S FEAR OF DEATH
14 OR BODILY HARM WAS REASONABLE.

15 FINALLY, LADIES AND GENTLEMEN OF THE JURY, THE FINAL
16 ELEMENT, THE THIRD ELEMENT, FOR SELF-DEFENSE IS THAT THE
17 DEFENDANT HAD NO OTHER PROBABLE WAY TO AVOID THE DANGER OF
18 DEATH OR SERIOUS BODILY INJURY AND HAD TO ACT AS THE
19 DEFENDANT DID IN THIS PARTICULAR INSTANCE. I FURTHER TELL
20 YOU THAT THE DEFENDANT HAD NO DUTY TO RETREAT IF BY DOING SO
21 THE DANGER OF BEING KILLED OR SUFFERING SERIOUS BODILY INJURY
22 WOULD INCREASE.

23 LADIES AND GENTLEMEN, A PERSON CANNOT BE REQUIRED TO
24 MAKE AN EXACT CALCULATION AS TO THE DEGREE OR AMOUNT OF FORCE
25 WHICH MAY BE NEEDED TO AVOID DEATH OR SERIOUS BODILY HARM.

1 THEREFORE, IN SELF-DEFENSE THE DEFENDANT HAS THE RIGHT TO USE
2 THE FORCE NEEDED TO AVOID DEATH OR SERIOUS BODILY HARM. THE
3 FORCE USED IN SELF-DEFENSE DOES NOT HAVE TO BE LIMITED TO THE
4 DEGREE OR AMOUNT OF FORCE USED BY THE VICTIM. THE DEFENDANT
5 HAS THE RIGHT TO USE SO MUCH FORCE AS APPEARED TO BE
6 NECESSARY FOR COMPLETE SELF-PRESERVATION -- PROTECTION AND WHICH
7 A PERSON OF ORDINARY REASON AND FIRMNESS WOULD HAVE BELIEVED
8 TO BE NEEDED TO PREVENT DEATH OR SERIOUS BODILY HARM TO
9 HIMSELF.

10 I FURTHER TELL YOU, LADIES AND GENTLEMEN OF THE
11 JURY, THAT IF THE DEFENDANT IS JUSTIFIED IN DEFENDING HIMSELF
12 AND IN FIRING THE FIRST SHOT, THEN THE DEFENDANT IS ALSO
13 JUSTIFIED IN CONTINUING TO SHOOT UNTIL IT IS APPARENT THAT
14 THE DANGER OF DEATH OR SERIOUS BODILY HARM HAS COMPLETELY
15 ENDED. FINALLY, LADIES AND GENTLEMEN, I TELL YOU THAT A
16 PERSON CAN BE ACTING LAWFULLY EVEN IF -- EXCUSE ME. A PERSON
17 CAN BE ACTING LAWFULLY EVEN IF HE IS IN UNLAWFUL POSSESSION
18 OF A WEAPON, IF HE WAS ENTITLED TO ARM HIMSELF IN
19 SELF-DEFENSE AT THE TIME OF THE SHOOTING.

20 NOW, LADIES AND GENTLEMEN, YOU WILL HAVE A VERDICT
21 FORM BACK THERE. MADAM FORELADY, IT WILL BE YOUR
22 RESPONSIBILITY ACTUALLY TO FILL OUT THE VERDICT FORM. I'LL
23 ASK IF MY LAW CLERK WILL PASS YOU A COPY OF THE VERDICT FORM.
24 I WILL EXPLAIN THE FORM TO YOU. IT IS A SIMPLE FORM.
25 THANK YOU, MA'AM.

1 AS FORELADY OF THIS JURY, ONCE THE JURY HAS REACHED
2 A UNANIMOUS VERDICT, IT WILL BE YOUR RESPONSIBILITY TO FILL
3 OUT THIS VERDICT FORM AND IT SIMPLY SAYS: AS TO THE ABOVE
4 CAPTIONED MATTER, THE STATE OF SOUTH CAROLINA VERSUS JEROID
5 PRICE -- LISTS THE INDICTMENT NUMBER. IT SAYS WE, THE JURY,
6 FIND THE DEFENDANT, JEROID PRICE, AS TO THE CHARGE OF MURDER
7 -- AND THERE'S A PLACE FOR YOU TO CHECK GUILTY OR NOT GUILTY.
8 YOU SHOULD INFER NOTHING FROM THE ORDER IN WHICH THE GUILTY
9 OR NOT GUILTY APPEARS ON THE FORM. IT'S JUST SIMPLY THE FACT
10 THAT ONE HAS TO GO IN FRONT OF THE OTHER.

11 MADAM FORELADY, YOU WILL THEN SIGN THE VERDICT FORM
12 AND DATE IT, KNOCK ON THE DOOR AND LET THE BAILIFF KNOW THAT
13 YOU HAVE REACHED A VERDICT AND WE WILL RETURN TO TAKE YOUR
14 VERDICT.

15 AS I SAID, YOU ALL MUST BE UNANIMOUS IN YOUR VERDICT
16 OF GUILTY OR NOT GUILTY. YOU ALL MUST BE CONVINCED THAT THE
17 STATE HAS PROVEN ITS CASE BEYOND A REASONABLE DOUBT, BOTH
18 COLLECTIVELY AS A JURY AND INDIVIDUALLY AS JURORS. MADAM
19 FORELADY, SHOULD THE JURY HAVE ANY QUESTIONS AT ALL DURING
20 THE COURSE OF YOUR DELIBERATIONS, IT WOULD ALSO BE YOUR
21 RESPONSIBILITY TO WRITE THOSE QUESTIONS DOWN. AGAIN, KNOCK
22 ON THE DOOR, LET THE BAILIFF KNOW, AND WE WILL COME BACK AND
23 DEAL WITH WHATEVER QUESTIONS THIS JURY HAS.

24 LADIES AND GENTLEMEN, AS IS OFTEN THE CASE AS WE GO
25 THROUGH AND I DO THE CHARGE ON THE LAW TO YOU, SOMETIMES I

1 SKIP OVER SOMETHING OR MISS SOMETHING THAT I SHOULD HAVE TOLD
2 YOU OR MISSTATE SOMETHING. IT'S NOT INTENTIONAL, BUT IT DOES
3 HAPPEN. LET ME CHECK WITH THE ATTORNEYS FIRST TO MAKE SURE I
4 HAVE NOT, IN FACT, DONE SO AT WHICH POINT I WILL EITHER RE-
5 INSTRUCT YOU ON SOME PART OF THE LAW OR RETURN YOU TO THE
6 JURY ROOM TO BEGIN YOUR DELIBERATIONS.

7 ONCE YOU ALL DO RETURN TO THE JURY ROOM, THOSE WHO
8 ARE MY TWO ALTERNATES I WILL CALL FOR YOU ALL SHORTLY AND
9 WILL DISMISS YOU SO THAT THE JURY CAN BEGIN THEIR
10 DELIBERATIONS. AS YOU KNOW, ONLY TWELVE CAN DELIBERATE ON
11 THIS CASE. WE'VE MADE IT THUS FAR WITH ALL TWELVE OF OUR
12 JURORS HERE. COUNSEL, ANYTHING -- EXCEPTIONS OR ANYTHING
13 ELSE WE NEED TO GO OVER ON THE CHARGES?

14 MR. LITTLEJOHN: YOUR HONOR, THE ONLY THING WE HAVE
15 IS SOMETHING WE HAVE PREVIOUSLY DISCUSSED WHICH...

16 THE COURT: CERTAINLY AND I'LL -- I WILL TAKE THAT
17 UP ON THE RECORD AFTERWARDS. ANYTHING FROM THE STATE?

18 MR. PASCOE: NO, SIR.

19 THE COURT: THANK YOU, SIR. LADIES AND GENTLEMEN,
20 IF YOU ALL WILL AT THIS POINT RETURN TO THE JURY ROOM. DO
21 NOT BEGIN YOUR DELIBERATIONS YET. DO NOT DISCUSS THE CASE IN
22 ANY WAY YET. WHEN I DO SEND BACK TO YOU THE VERDICT FORM,
23 MADAM FORELADY -- IF YOU'LL JUST LEAVE THAT FORM RIGHT THERE
24 IN FRONT OF YOU. I WILL SEND BACK TO YOU THE INDICTMENT AS
25 WELL AS THE VERDICT FORM AND THE EXHIBITS, AND AT THAT POINT

1 THE BAILIFF WILL INSTRUCT YOU THAT YOU CAN BEGIN YOUR
2 DELIBERATIONS. MY TWO ALTERNATES, I'LL BRING YOU ALL BACK
3 OUT SHORTLY. SO YOU ALL JUST HANG TIGHT AND WE'LL CALL FOR
4 YOU IN VERY SHORT ORDER.

5 LADIES AND GENTLEMEN, IF YOU'LL RETURN TO THE JURY
6 ROOM AT THIS POINT IN TIME, AND WE'LL LET YOU BEGIN SHORTLY.

7 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT
8 12:38 P.M.)

9 THE COURT: YES, SIR. MR. LITTLEJOHN?

10 MR. LITTLEJOHN: YOUR HONOR, THE ONLY EXCEPTION WE
11 HAVE AS WE PREVIOUSLY DISCUSSED, WE OBJECT TO THE COURT
12 CHARGING HAND OF ONE IS THE HAND OF ALL.

13 THE COURT: YES, SIR, AND I THINK YOU HAVE TO
14 ACTUALLY PUT THAT BACK ON THE RECORD TO PRESERVE THAT.

15 MR. LITTLEJOHN: YES, SIR.

16 THE COURT: AND I NOTE YOUR EXCEPTION AND I'M
17 ACTUALLY GOING TO MAKE, AS I STATED PREVIOUSLY, THE STATE'S
18 REQUESTS TO CHARGE AS WELL AS THE DEFENDANT'S REQUESTS TO
19 CHARGE COURT EXHIBITS FOR THE RECORD. AND LET ME ASK COUNSEL
20 -- THERE WERE -- I REMEMBER THE AMMUNITION. I'M CONTENT TO
21 SEND EVERYTHING BACK TO THE JURY EXCEPT THE AMMUNITION AND
22 THE GUNS. IF THEY WISH TO SEE THOSE, I WILL CERTAINLY ALLOW
23 THEM TO GO BACK THERE, BUT I THINK A DEPUTY NEEDS TO GO BACK
24 THERE.

25 THEY NEED TO -- THE LAST TIME WE DID A TRIAL LIKE

1 THIS, WE ACTUALLY -- THEY ACTUALLY COUNTED THE AMMUNITION TO
2 MAKE SURE THEY HAD GOTTEN IT ALL BACK AT THE END. SO I WANT
3 TO MAKE SURE THAT THEY HAVE AN OPPORTUNITY TO SECURE THAT --
4 THAT AMMUNITION. BUT IF EVERYBODY -- IF Y'ALL CAN MAKE SURE
5 THAT YOU HAVE EVERYTHING ELSE THAT IS ADMITTED READY TO GO
6 BACK, WE'LL -- WE'LL LET THE DEPUTY SECURE THAT AMMUNITION
7 AND WEAPONS, AND I'LL ASK THE BAILIFF JUST TO LET THEM KNOW
8 THAT THEY HAVE A RIGHT TO SEE THOSE OTHER ITEMS BUT THEY'LL
9 NEED TO REQUEST THAT. THANK YOU, COUNSEL.

10 MR. LITTLEJOHN: THANK YOU.

11 MR. PASCOE: WE HAVE A TAPE RECORDER---

12 THE COURT: YES, SIR. THAT CAN GO BACK.

13 MR. PASCOE: ---THAT THEY CAN USE, BUT I'M GOING TO
14 TAKE ANNE SPEARS' NAME OFF OF IT.

15 (WHEREUPON, THE ALTERNATES WERE EXCUSED FROM THE
16 JURY, AND THE JURY BEGAN DELIBERATING AT 12:50 P.M. COURT'S
17 EXHIBITS 1 AND 2 WERE MARKED FOR THE COURT'S PURPOSES.)

18 THE COURT: WE NEED TO PUT SOMETHING ELSE ON THE
19 RECORD. MR. LITTLEJOHN?

20 MR. LITTLEJOHN: YOUR HONOR, FOR THE RECORD WE'D
21 LIKE TO RENEW OUR MOTION FOR A DIRECTED VERDICT. GIVEN THE
22 -- ALL THE EVIDENCE AS PRESENTED, WE STILL DON'T THINK THAT
23 THERE'S ENOUGH EVIDENCE TO GO TO THE JURY BASED ON ALL THE
24 EVIDENCE AND WE RENEW OUR MOTION FOR DIRECTED VERDICT BASED
25 ON THE SAME GROUNDS AS PREVIOUSLY STATED.

1 THE COURT: MR. SORENSON, ANYTHING YOU NEED TO ADD,
2 SIR?

3 MR. SORENSON: I DON'T THINK WE NEED TO ADD ANYTHING
4 FROM THE ARGUMENT EARLIER, YOUR HONOR.

5 THE COURT: WE'LL LET THE JURY DELIBERATE. I'M
6 GOING TO TAKE THAT UNDER ADVISEMENT. I'LL GIVE YOU A
7 DECISION ON THAT. I DOUBT IT'S GOING TO CHANGE OR ANYTHING.

8 MR. SORENSON: DO I NEED TO GET MR. PASCOE BACK DOWN
9 HERE? I MEAN, IF YOU'RE... I MEAN...

10 THE COURT: I DON'T THINK SO. BUT I'LL---

11 MR. SORENSON: I MEAN, I'D LIKE TO HAVE HIM TO HAVE
12 AN OPPORTUNITY TO ADDRESS THAT MATTER I GUESS.

13 THE COURT: I'LL LET YOU COME BACK OUT AND DEAL WITH
14 THAT. BUT THAT'S -- THAT'S ON THE RECORD. OKAY.

15 MR. LITTLEJOHN: OKAY.

16 THE COURT: ALL RIGHT.

17 (PAUSE IN PROCEEDINGS WHILE THE JURY DELIBERATES.
18 COURT'S EXHIBIT 3 WAS MARKED FOR THE COURT'S PURPOSES.)

19 THE COURT: THANK YOU. YOU CAN BE SEATED. FOLKS, I
20 UNDERSTAND WE HAVE A VERDICT FROM THE JURY. MR. LITTLEJOHN,
21 I THINK RIGHT BEFORE WE LEFT YOU PUT SOMETHING ON THE RECORD
22 FROM THE -- YOU RE-RAISED THE DIRECTED VERDICT MOTION.

23 MR. LITTLEJOHN: YES, YOUR HONOR.

24 THE COURT: I SAID I WOULD TAKE IT UNDER ADVISEMENT
25 AND I, FOR THE SAME REASONS, WILL DENY THAT MOTION. I DID

VERDICT AND SENTENCING

1 WANT TO PUT ON THE RECORD THAT MY EARLIER FINDINGS WERE AS TO
2 THE ANY EVIDENCE AS TO THE MURDER CHARGE AS WELL AS THE
3 STATE'S BURDEN ON THE SELF-DEFENSE. I DID FIND THAT THERE
4 WAS EVIDENCE TO GO FORWARD TO GO TO THE JURY ON BOTH. SO I
5 WANTED TO PUT THAT ON THE RECORD.

6 MR. LITTLEJOHN: THANK YOU.

7 THE COURT: THANK YOU. COUNSEL IS READY TO RECEIVE
8 THE VERDICT?

9 MR. LITTLEJOHN: DEFENSE IS, YOUR HONOR.

10 MR. PASCOE: YES, SIR.

11 THE COURT: OKAY. LET ME -- LET ME DO TELL
12 EVERYBODY IN THE AUDIENCE: AS YOU CAN SEE, THERE ARE A
13 NUMBER OF DEPUTIES HERE. THERE ARE OTHERS AVAILABLE.
14 REGARDLESS OF WHAT THIS VERDICT IS, IF THERE'S ANY OUTBURST
15 FROM ANYBODY IN THIS COURTROOM, THESE DEPUTIES ARE GOING TO
16 IMMEDIATELY TAKE YOU INTO CUSTODY AND I'M GOING TO SEND YOU
17 TO JAIL. THERE WILL BE NONE. THANK YOU. WE'RE READY FOR
18 THE JURY, SIR.

19 (WHEREUPON, THE JURY RETURNED TO OPEN COURT WITH A
20 VERDICT AT 1:55 P.M.)

21 THE COURT: THANK YOU, LADIES AND GENTLEMEN. I
22 UNDERSTAND, MADAM FORELADY, THE JURY HAS REACHED A VERDICT?

23 FORELADY: YES, YOUR HONOR, WE HAVE.

24 THE COURT: OKAY. IF YOU'LL PASS THE VERDICT FORM
25 TO THE BAILIFF AND TO THE CLERK. ALL RIGHT, SIR. OKAY.

1 COUNSEL, THE VERDICT FORM IS IN PROPER ORDER. IF THE
2 DEFENDANT WILL PLEASE RISE. I'LL LET THE CLERK PUBLISH THE
3 VERDICT.

4 THE CLERK: YES, YOUR HONOR.

5 THE COURT: THANK YOU.

6 THE CLERK: THE STATE OF SOUTH CAROLINA IN THE
7 COUNTY OF RICHLAND IN A COURT OF GENERAL SESSIONS. THE STATE
8 OF SOUTH CAROLINA VERSUS JEROID PRICE, DEFENDANT. INDICTMENT
9 NUMBER 03-GS-40-2295, AN INDICTMENT FOR MURDER. AS TO THE
10 ABOVE-CAPTIONED MATTER, THE STATE OF SOUTH CAROLINA VERSUS
11 JEROID PRICE, WE, THE JURY, FIND THE DEFENDANT, JEROID PRICE,
12 AS TO THE CHARGE OF MURDER: GUILTY. SIGNED FOREPERSON ON
13 THIS 19TH DAY OF DECEMBER, 2003. MADAM FORELADY, IS THIS
14 YOUR VERDICT AND THE VERDICT OF THE ENTIRE JURY?

15 FORELADY: YES, SIR, IT IS.

16 THE CLERK: THANK YOU.

17 THE COURT: THANK YOU. IS THERE ANYTHING, MR.
18 LITTLEJOHN, AS TO THE JURY VERDICT?

19 MR. LITTLEJOHN: YOUR HONOR, WE REQUEST POLLING.

20 THE COURT: OKAY. I'LL ASK THE CLERK IF HE WILL
21 POLL THE JURY.

22 THE CLERK: YES, YOUR HONOR. MADAM FORELADY, LADIES
23 AND GENTLEMEN, I NOW HAVE TWO QUESTIONS TO ASK YOU. THE
24 QUESTIONS WILL BE: WAS THIS YOUR VERDICT AND IS IT STILL
25 YOUR VERDICT? WHEN I POINT TO YOU AND I ASK YOU THOSE

VERDICT AND SENTENCING

1 QUESTIONS, PLEASE ANSWER YES OR NO. I'M GOING TO JUST GO BY
2 NUMBERS. JUROR NUMBER 1, WAS THIS YOUR VERDICT?

3 JUROR: YES, SIR.

4 THE CLERK: IS IT STILL YOUR VERDICT?

5 JUROR: YES, SIR.

6 THE CLERK: JUROR NUMBER 2, WAS THIS YOUR VERDICT?

7 JUROR: YES.

8 THE CLERK: IS IT STILL YOUR VERDICT?

9 JUROR: YES.

10 THE CLERK: JUROR NUMBER 3, WAS THIS YOUR VERDICT?

11 JUROR: YES, SIR.

12 THE CLERK: IS IT STILL YOUR VERDICT?

13 JUROR: YES, SIR.

14 THE CLERK: JUROR NUMBER 4, WAS THIS YOUR VERDICT?

15 JUROR: YES, SIR.

16 THE CLERK: IS IT STILL YOUR VERDICT?

17 JUROR: YES, SIR.

18 THE CLERK: JUROR NUMBER 5, WAS THIS YOUR VERDICT?

19 JUROR: YES, SIR.

20 THE CLERK: IS IT STILL YOUR VERDICT?

21 JUROR: YES, SIR.

22 THE CLERK: JUROR NUMBER 6, WAS THIS YOUR VERDICT?

23 JUROR: YES, SIR.

24 THE CLERK: IS IT STILL YOUR VERDICT?

25 JUROR: YES, SIR.

1 THE CLERK: JUROR NUMBER 7, WAS THIS YOUR VERDICT?
2 JUROR: YES, SIR.
3 THE CLERK: IS IT STILL YOUR VERDICT?
4 JUROR: YES, SIR.
5 THE CLERK: JUROR NUMBER 8, WAS THIS YOUR VERDICT?
6 JUROR: YES, SIR.
7 THE CLERK: IS IT STILL YOUR VERDICT?
8 JUROR: YES, SIR.
9 THE CLERK: JUROR NUMBER 9, WAS THIS YOUR VERDICT?
10 JUROR: YES, SIR.
11 THE CLERK: IS IT STILL YOUR VERDICT?
12 JUROR: YES, SIR.
13 THE CLERK: JUROR NUMBER 10, WAS THIS YOUR VERDICT?
14 JUROR: YES, SIR.
15 THE CLERK: IS THIS STILL YOUR VERDICT?
16 JUROR: YES, SIR.
17 THE CLERK: JUROR NUMBER 11, WAS THIS YOUR VERDICT?
18 JUROR: YES, SIR.
19 THE CLERK: IS THIS STILL YOUR VERDICT?
20 JUROR: YES.
21 THE CLERK: JUROR NUMBER 12, WAS THIS YOUR VERDICT?
22 JUROR: YES, SIR.
23 THE CLERK: IS IT STILL YOUR VERDICT?
24 JUROR: YES, SIR.
25 THE CLERK: THANK YOU. THE JURY HAS BEEN POLLED,

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1 YOUR HONOR.

2 THE COURT: THANK YOU, SIR. ANYTHING FURTHER?

3 MR. LITTLEJOHN: NO, YOUR HONOR.

4 THE COURT: THANK YOU. THANK YOU, LADIES AND
5 GENTLEMEN. I APPRECIATE YOUR SERVICE ON THIS TRIAL IN THIS
6 LONG WEEK. NORMALLY I WOULD DISMISS THIS JURY FROM HERE. I
7 WILL ASK INSTEAD IF YOU ALL WILL RETURN TO THE JURY ROOM AND
8 I'LL BE IN THERE SHORTLY TO THANK YOU PERSONALLY FOR YOUR
9 SERVICE THIS WEEK AND JUST... I KNOW IT'S BEEN A LONG WEEK
10 AND WE'VE HEARD A LOT OF TESTIMONY, AND I APPRECIATE THE
11 ATTENTION THAT YOU ALL HAVE PAID TO BOTH SIDES. IF YOU ALL
12 WILL JUST RETURN TO THE JURY ROOM RIGHT NOW, I'LL BE THERE
13 SHORTLY.

14 BAILIFF: ALTERNATES AS WELL, YOUR HONOR?

15 THE COURT: YES, SIR.

16 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT
17 1:59 P.M.)

18 THE COURT: THANK YOU, SIR. LET ME ASK MR.
19 LITTLEJOHN IF THEY'RE PREPARED TO GO INTO SENTENCING AT THIS
20 POINT.

21 MR. LITTLEJOHN: YOUR HONOR, IF YOU COULD JUST -- IF
22 YOU COULD GIVE ME JUST A FEW MINUTES.

23 THE COURT: YES, SIR. LET ME ASK---

24 MR. LITTLEJOHN: FOR THE RECORD---

25 THE COURT: OH, I'M SORRY. YES, SIR.

1 MR. LITTLEJOHN: FOR THE RECORD, WE'D LIKE TO RENEW
2 OUR MOTION---

3 THE COURT: YES, SIR.

4 MR. LITTLEJOHN: ---FOR A DIRECTED VERDICT AND
5 REQUEST THE COURT GRANT JUDGMENT NOTWITHSTANDING THE VERDICT
6 BASED ON THE GROUNDS PREVIOUSLY STATED.

7 THE COURT: OKAY. I TAKE THAT TO BE A MOTION FOR A
8 NEW TRIAL---

9 MR. LITTLEJOHN: YES, SIR.

10 THE COURT: ---ON THAT? AS TO THE PREVIOUS MOTIONS,
11 THOSE ARE RESPECTFULLY DENIED. AS TO THE MOTION FOR A NEW
12 TRIAL, THE JURY HAD THIS EVIDENCE. THEY HAD A WEEK TO
13 CONSIDER IT AND RENDERED THEIR VERDICT AND I THINK THAT IN MY
14 VIEW THAT THERE'S NOT GROUNDS TO GRANT A NEW TRIAL. BUT LET
15 ME ASK YOU, IN ADDITION TO THAT, IF COUNSEL HAS GIVEN ANY
16 THOUGHT TO, PRIOR TO THE SENTENCING PHASE, WHO, IF ANYBODY,
17 IS GOING TO ADDRESS THE COURT FROM THE DEFENDANT'S FAMILY.

18 MR. LITTLEJOHN: YOUR HONOR, THAT'S WHY I WAS
19 REQUESTING---

20 THE COURT: OKAY.

21 MR. LITTLEJOHN: ---A FEW MINUTES BEFORE WE GO INTO
22 SENTENCING.

23 THE COURT: OKAY. LET ME JUST PUT IT THIS WAY TO
24 BOTH SIDES. I'LL BE GLAD TO ENTERTAIN STATEMENTS FROM FAMILY
25 MEMBERS ON BOTH SIDES. I DON'T THINK IT NEEDS TO BE LENGTHY

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1 AND IT'S NOT GOING TO BE A LOT OF FOLKS. I WILL GIVE Y'ALL A
2 CHANCE TO FIGURE OUT WHO IT IS YOU NEED TO HAVE TO ADDRESS
3 THE COURT.

4 EVERYBODY ELSE -- DEPUTIES, I'M GOING TO ASK AFTER
5 COUNSEL REACHES THEIR DECISIONS ABOUT WHO THEY WISH TO
6 ADDRESS THE COURT REGARDING THE SENTENCING, I WANT MY
7 COURTROOM CLEARED, SIR. THANK YOU. I'LL GIVE Y'ALL A FEW
8 MINUTES---

9 MR. LITTLEJOHN: THANK YOU, YOUR HONOR.

10 THE COURT: ---TO DETERMINE THAT.

11 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

12 THE COURT: THANK YOU. LADIES AND GENTLEMEN. ALL
13 RIGHT. FOLKS, LET ME JUST REITERATE MY PRIOR STATEMENT THAT
14 THERE -- THERE WILL BE NO OUTBURSTS DURING THE COURSE OF THIS
15 SENTENCING PHASE, AND I EXPECT THERE TO BE NO TROUBLE AT ALL
16 IN THIS COURTROOM AND LET ME MAKE IT PERFECTLY CLEAR: THAT
17 APPLIES TO THE GROUNDS OF THIS COURTHOUSE. IF THERE IS ANY
18 TROUBLE INVOLVING ANYBODY RELATED TO THIS CASE, I'M GOING TO
19 ASK THESE DEPUTIES TO BRING YOU BACK UP HERE AND I'LL DEAL
20 WITH YOU. MR. LITTLEJOHN, Y'ALL READY TO CONTINUE?

21 MR. LITTLEJOHN: YES, YOUR HONOR.

22 THE COURT: MR. PASCOE? YES, SIR, MR. PASCOE.

23 MR. PASCOE: THANK YOU, YOUR HONOR. MAY IT PLEASE

24 THE COURT? YOUR HONOR HAS ALREADY HEARD THE FACTS OF THE
25 CASE. THE DEFENDANT'S ONLY CONVICTION IS A DISORDERLY

1 CONDUCT. AS FAR AS RELEVANT EVIDENCE THAT, YOU KNOW, THAT
2 THE STATE BELIEVES THAT HE DID HAVE A PROPENSITY OF
3 VIOLENCE... SOMETHING DID ESCALATE IN 2002. HE DID HAVE A
4 DRUG TRAFFICKING CHARGE PENDING FROM THAT YEAR, ALSO A
5 LYNCHING SECOND DEGREE CHARGE PENDING FROM THAT YEAR.

6 THERE'S ALSO NO DOUBT IN MY MIND FROM ALL THE
7 WITNESSES' STATEMENTS I'VE SEEN AND WITNESSES THAT I'VE
8 INTERVIEWED THAT THE DEFENDANT IS A HIGH MEMBER OF THE
9 BLOODS' ORGANIZATION. IN FACT, I CAN TELL YOU NOW WHERE THE
10 JURY COULDN'T HEAR THAT JEFFREY LEWIS REPEATEDLY -- THE ONE
11 TIME I MET WITH HIM LAST WEEK AND ON THE PHONE HE'S TOLD ME
12 THAT HE'S JUST TOO SCARED TO COME IN HERE AND TESTIFY AGAINST
13 THE DEFENDANT.

14 YOUR HONOR, I WOULD ASK, OF COURSE, THAT YOU DO HEAR
15 FROM THE FAMILY. WITH ME ARE CARL SMALLS, SR., CARL'S
16 FATHER, AND HIS MOTHER, LILLIE BELLE, THE ONLY ONES FROM THE
17 MANY MEMBERS OF THE FAMILY THAT ARE HERE TODAY THAT WILL
18 ADDRESS THE COURT.

19 LET ME SAY THIS FIRST THOUGH: I HAVE NEVER MET -
20 AND I MEAN THIS HONESTLY - IN ALL THE CASES THAT I'VE
21 PROSECUTED TWO BETTER PARENTS THAN CARL AND LILLIE SMALLS.
22 THEY ARE WONDERFUL PEOPLE, WONDERFUL PEOPLE. THEY'VE ALSO
23 BEEN EXTREMELY PATIENT, AND WE HAVE HAD TO COME TO A NUMBER
24 OF HEARINGS WHERE I'VE TOLD THEM THEY CAN'T TALK SUCH AS --
25 WHETHER IT'S BOND SETTINGS OR WHATEVER. WELL, NOW IT'S

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1 FINALLY THEIR MOMENT TO TALK, AND WITH THE COURT'S PERMISSION
2 I'M GOING TO LET THEM ADDRESS THE COURT.

3 THE COURT: YES, SIR, OF COURSE.

4 MR. PASCOE: YOU GO AHEAD.

5 THE COURT: YES, SIR. IF YOU'LL JUST STATE YOUR --
6 STATE YOUR NAME FOR THE RECORD.

7 MR. SMALLS: YES, SIR, CARL SMALLS, THE FIRST.

8 THE COURT: YES, SIR. THE COURT WILL BE GLAD TO
9 HEAR ANYTHING UP YOU HAVE TO SAY, SIR.

10 MR. SMALLS: YES, SIR. FIRST LET ME EXPRESS MY
11 THANKS TO YOU FOR LETTING ME ADDRESS YOUR COURT, SIR.

12 THE COURT: YES, SIR.

13 MR. SMALLS: AND, YOUR HONOR, I'D LIKE YOU TO SEE
14 THIS EIGHT-FOOT-TALL MONSTER THAT WE'VE BEEN TALKING ABOUT.
15 IT'S MY SON, CARL. SIR, I CANNOT EXPLAIN SOME OF THE ACTIONS
16 CARL TOOK ON THE NIGHT OF THE DECEMBER 7TH, 2002. I CAN'T
17 EXPLAIN IT, BUT LET ME TELL YOU A LITTLE BIT ABOUT MY SON.

18 YES, MY SON WAS BIG. FROM THE AGE OF ELEVEN HIS
19 HOBBY WAS LIFTING WEIGHTS AND HE WAS VERY STRONG. AS A
20 MATTER OF FACT, HE CAME TO THE UNIVERSITY OF SOUTH CAROLINA
21 IN 2002 AND, AS ONE OF HIS WITNESSES STATED, HE BENCH-PRESSED
22 225, 26 TIMES. AND IF YOU UNDERSTAND ANYTHING ABOUT FOOTBALL
23 AND HOW THAT GOES, THAT'S N.F.L. LINEMAN STRENGTH COMING OUT
24 OF HIGH SCHOOL, BUT APPARENTLY THE COACHES AT SOUTH CAROLINA
25 THOUGHT THAT HE WASN'T READY.

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1 THE THING THAT I WANT YOU TO KNOW ABOUT HIM, SIR, IS
2 THAT I'M A RETIRED ARMY SERGEANT AND MY WIFE IS IN THE ARMY.
3 SHE DID FOUR YEARS IN THE ARMY. WE MET AT FORT KNOX,
4 KENTUCKY. CARL WAS BROUGHT UP WITH STRUCTURE IN HIS LIFE.
5 CARL LEFT HOME AT AGE 19. HE FAILED A YEAR IN HIGH SCHOOL,
6 JUST BEING LAZY, BUT HE WAS TOLD THAT, "BOY, YOU'RE GOING TO
7 TURN 19 IN THIS HOUSE BECAUSE OF THAT YEAR, BUT WE'RE NOT
8 CHANGING NOTHING FOR YOU."

9 OUR RULES WERE: DURING SCHOOL WEEK WHEN SCHOOL IS
10 IN SESSION, AT 10:00 DURING THE WEEK HE'S IN THE HOUSE. THE
11 WEEKENDS WE GIVE HIM TILL 2. DURING THE SUMMER AT 12:00 HE'S
12 IN THE HOUSE. THAT'S THE TYPE OF BOY HE WAS. HE NEVER BREAK
13 THAT CURFEW. IF HE NEEDED TO BE OUT A LITTLE LATER, WE'D
14 JUST ALWAYS TELL HIM JUST CALL US AND LET US KNOW. THAT'S
15 WHAT HE DID.

16 TO GIVE YOU AN EXAMPLE OF HOW RESPECTFUL HE WAS,
17 THAT TATTOO THAT YOU SAW ON HIS SHOULDER, ON HIS CHEST:
18 FIRST OF ALL, HE KNEW HIS FATHER DID NOT LIKE TATTOOS AND DID
19 NOT LIKE EARRINGS. HE HAD THAT ON HIS CHEST. HE GOT THEM
20 WHEN HE WAS AT SOUTH CAROLINA. AND HE'S IN THE HOUSE ONE
21 NIGHT AND -- AND, YOU KNOW, WE USED TO ALWAYS ASK HIM WHEN
22 YOU COME HOME, YOU KNOW, TAKE YOUR SHIRT OFF AND LET'S SEE
23 HOW BIG YOU ARE. AND HE TOOK THAT SHIRT OFF AND AS HE WAS
24 TAKING IT OFF, I ASKED HIM -- I SAID, "WHAT'S THAT YOU GOT ON
25 YOUR CHEST?" AND HE PULLED THAT SHIRT DOWN AND HIS MAMA

1 ASKED HIM, "DAD SAID PULL YOUR SHIRT UP," YOU KNOW, JUST
2 PLAYING WITH HIM BECAUSE SHE DIDN'T CARE. I HAD THE PROBLEM
3 WITH IT. BUT NOT UNTIL THAT BOY REALIZED THAT I WAS COOL
4 WITH THAT DID HE TAKE THAT SHIRT OFF. THAT'S HOW HE WAS.

5 ONCE AGAIN, LIKE I SAID, I CAN'T EXPLAIN HIS
6 ACTIONS, AND TO BE HONEST WITH YOU, SIR, IF I WERE TO SEE HIM
7 AGAIN, I DON'T KNOW IF THE FIRST THING I WOULD DO IS HUG HIM,
8 KISS HIM OR CHOKE HIM. ALL I CAN TELL YOU: WHAT MY SON HAS
9 MANAGED TO DO IS TO GIVE PEOPLE THE PAINT, THE BRUSH, THE
10 EASEL, THE MURAL, TO PAINT A PICTURE OF HIM FOR SOMETHING
11 THAT HE WASN'T.

12 SIR, I'M 47 YEARS OLD. I DON'T KNOW WHAT GOES ON IN
13 THESE STREETS, AND WHAT HE WAS DOING I WOULDN'T CONDONE THAT;
14 NONE OF US WOULD. BUT WE GOT PEOPLE IN THIS COURTROOM TO
15 INCLUDE THIS HIGH SCHOOL COACH THAT I KNOW YOU'VE SEEN WITH
16 ME ALL WEEK. HE KNOW WHAT CARL WAS, WHO CARL WAS, AND, JUDGE
17 LLOYD, I CAN TELL YOU CARL WAS NOTHING LIKE HE WAS PAINTED
18 OUT TO BE. TRY AS THEY MAY, THEY CANNOT PAINT CARL TO BE
19 THAT EIGHT-FOOT MONSTER. AND I'LL TELL YOU SOMETHING ELSE,
20 JUDGE. IN MY -- IN MY HEART I BELIEVE HAD CARL GOT THAT GUN
21 FROM THAT KID, HE DIDN'T HAVE THE HEART TO SHOOT HIM. I
22 BELIEVE THAT. THAT'S NOT IN HIM. HE GOT HIMSELF INTO
23 SOMETHING THAT HE JUST COULDN'T GET OUT OF.

24 AND, SIR, I WOULD SAY ONE LAST THING TO YOU.
25 THERE'S A MAN AND A STAFF WRITER FOR THE "WASHINGTON POST"

1 NAMED MR. WILLIAM RASPBERRY WHO I RESPECT TREMENDOUSLY.
2 LISTENING TO ONE OF THE MORNING TALK SHOWS, I HEARD HIM SAY
3 -- JUST TALKING ABOUT SOCIAL PROBLEMS, SOCIAL ISSUES. HE
4 SAID, "YOU KNOW, SOMETIMES I WONDER IF IT'S BETTER TO BUILD A
5 FENCE AT THE EDGE OF THE CLIFF OR TO PUT AN AMBULANCE IN THE
6 VALLEY." AND, JUDGE, I SAY TO YOU - AND YOU KNOW BETTER THAN
7 I DO - THE VALLEY IS FULL OF BODIES. IT'S FULL OF BODIES AND
8 THE PEOPLE THAT CAN PUT -- BUILD THAT FENCE, THAT WALL AT THE
9 EDGE OF THE CLIFF, THAT WALL BEING DETERRENCE FROM DOING THIS
10 TYPE OF THING, THEY'RE NOT GOING TO DO IT AND THEY RESIDE
11 RIGHT DOWN AT THE END OF THE STREET, DOWN AT THE END OF MAIN
12 STREET. THEY'RE NOT GOING TO DO IT.

13 BUT I SAY TO YOU, SIR, IT HAS TO BE DONE RIGHT HERE
14 IN THIS COURTROOM, BUT YOU KNOW WHAT, SIR? IT'S TOO LATE
15 THEN. THE BODY IS ALREADY IN THE VALLEY. SO WE GOT TO FIX
16 THIS THING AT THE BACK END BECAUSE PEOPLE THAT ARE CHARGED
17 WITH FIXING IT AT THE FRONT END, THEY'RE NOT GOING TO DO IT.

18 YOU KNOW, SIR, THEY SAY THAT IN ORDER TO SEE THE
19 RAINBOW YOU FIRST HAVE TO ENDURE THE RAIN. AND, JUDGE,
20 IRREGARDLESS OF CARL'S ACTIONS ON DECEMBER 7TH, HE WAS A
21 RAINBOW IN OUR LIVES AND A RAINBOW IN THE LIVES OF THE PEOPLE
22 YOU SEE HERE AND YOU WOULD HAVE SEEN A LOT MORE OF BECAUSE WE
23 HAVE A FAMILY REUNION CRUISE THIS WEEK THAT JUST HAPPENED TO
24 -- JUST BAD TIMING. BUT, JUDGE, ALL WE GOT IS THE RAIN RIGHT
25 NOW, THE RAIN, BECAUSE THAT RAINBOW, WE'LL NEVER SEE HIM

1 AGAIN HERE.

2 BUT, JUDGE, I SAY TO YOU AND I SAY TO ANYBODY
3 LISTENING, ANYBODY THAT WANTS TO WRITE ANYTHING THEY WANT:
4 MY SON WAS NO GANG MEMBER. MY SON WAS PLAYING SOME KIND OF
5 CRAZY GAME THAT'S GOING ON AROUND HERE, AND I CAN'T
6 UNDERSTAND IT AND CAN'T EXPLAIN IT. BUT THIS IS A GOOD KID,
7 A GOOD MAN, A POTENTIAL GOOD MEMBER OF SOCIETY THAT WE LOST
8 FOR ABSOLUTELY NOTHING, FOR NOTHING OVER NOTHING.

9 SIR, I JUST ASK YOU TO PLEASE, PLEASE, SIR, BE THAT
10 FENCE, THAT FENCE OF DETERRENCE, SO WE CAN STOP PILING THESE
11 BODIES DOWN IN THE VALLEY, SIR. THANK YOU, SIR.

12 THE COURT: THANK YOU, MR. SMALLS. YES, MA'AM.

13 MRS. SMALLS: I'M LILLIE SMALLS. I'M CARL SMALLS'
14 MOTHER AND I'D JUST LIKE TO SAY THAT FIRST I'D LIKE TO
15 THANK YOU FOR LETTING ME ADDRESS THE COURT.

16 THE COURT: YES, MA'AM.

17 MRS. SMALLS: AND I'D JUST LIKE TO LET YOU KNOW THIS
18 HAS BEEN VERY HARD ON US AND WE LOVED OUR SON. IF YOU HAVE
19 ANY KIDS, YOU KNOW YOU LOVE YOUR KIDS MORE THAN YOU LOVE
20 YOURSELF. THERE'S NOTHING YOU WOULDN'T DO FOR YOUR KIDS.
21 AND AS FAR AS THAT GOES, TO GO OUT AND PICK OUT A CASKET FOR
22 YOUR CHILD, THAT'S THE MOST HARDEST THING YOU CAN EVER DO,
23 EVER IMAGINE IN YOUR LIFE. IT'S SO HARD BECAUSE RIGHT NOW
24 WHEN I GO VISIT MY SON, I VISIT MY SON IN THE CEMETERY.
25 EVERY TIME I GO VISIT HIM, THAT'S WHERE HE IS.

1 EVERY MORNING I GET UP, HIS BEDROOM IS RIGHT THERE
2 AT THE STEPS. I GOT TO GO DOWN THE STEPS AND GO PAST AN
3 EMPTY ROOM, UPSTAIRS PAST AN EMPTY ROOM EVERY MORNING. THIS
4 IS THE KIND OF FEELING THAT I'VE HAD EVERY MORNING SINCE MY
5 SON WAS MURDERED. I GO IN HIS ROOM AND I OPEN UP HIS BLINDS
6 JUST TO HAVE SOME TYPE OF ACTIVITY IN THAT ROOM. NO ONE
7 UNDERSTANDS HOW HARD THIS IS.

8 THIS IS -- YEAH, THIS IS HARD ON MY HUSBAND. IT'S
9 HARD ON MY DAUGHTER. BUT THAT WAS MY FIRST BORN. I JUST
10 CANNOT EXPLAIN WHAT I HAVE GONE THROUGH, WHAT I'VE BEEN
11 THROUGH THIS YEAR FROM THE DAY THAT I WAS CALLED DECEMBER 7
12 AT 6:15 AND THE HARDEST THING ABOUT THIS IS MY SON CALLED ME
13 ON DECEMBER 6. WE TALKED; HE CALLED ME UP. HE SAID, "MAMA,
14 I JUST CALLED YOU. I HAVEN'T TALKED TO YOU IN A FEW DAYS,"
15 AND WE TALKED ABOUT 18 MINUTES. GOD, IF I ONLY KNEW THAT WAS
16 THE LAST TIME I WAS GOING TO HEAR HIS VOICE I WOULD NEVER
17 HAVE LET HIM OFF THAT PHONE.

18 SO, YOUR HONOR, I JUST HAVE TO EXPRESS MY FEELINGS,
19 LET THE COURT KNOW WHAT WE'VE GONE THROUGH, WHAT WE WILL
20 CONTINUE TO GO THROUGH EVERY DAY. WE CAN ONLY GO THROUGH
21 THIS -- WE WILL NEVER EVER GET OVER IT. WE'VE JUST GOT TO GO
22 THROUGH IT. WE'VE GOT TO CONTINUE TO GO ON. IF IT WASN'T
23 FOR MY DAUGHTER, THIS THING WOULD CONSUME ME; I WOULDN'T BE
24 HERE TODAY. BUT I KNOW I HAVE TO FIGHT AND GO THROUGH THIS
25 FOR HER, BUT OTHER THAN THAT, I WOULDN'T EVEN BE THROUGH -- I

1 COULDN'T EVEN GO THROUGH IT.

2 MY HEART GO OUT TO MY DAUGHTER. THAT'S HER -- WE
3 ONLY HAD TWO CHILDREN. THAT'S HER BROTHER; SHE LOOKED UP TO
4 HIM. THEY WERE THREE YEARS APART. EVERYTHING SHE DOES NOW
5 IS DEDICATED TO HIM. SHE PLAYS BASKETBALL. WHEN SHE GOES ON
6 THAT FREE THROW LINE, SHE DOES SOME LITTLE THING. SHE KISS
7 UP TO THE SKY AND IT'S FOR HIM. EVERYTHING SHE DO,
8 EVERYTHING THAT SHE HAVE, EVERYTHING THAT SHE WEAR HAS GOT
9 HIS NUMBER ON IT, AND HIS NUMBER WAS 93. 93 ON IT.
10 EVERYTHING. HER E-MAIL INCLUDES LOVE FOR DASH, 93,
11 EVERYTHING SHE DOES, AND NOW IT'S ALL TAKEN AWAY FROM HER,
12 LIKE MY HUSBAND SAID, FOR NOTHING, NOTHING. I THANK YOU.

13 THE COURT: THANK YOU, MA'AM.

14 MR. PASCOE: THANK YOU, YOUR HONOR.

15 THE COURT: THANK YOU. MR. LITTLEJOHN?

16 MR. LITTLEJOHN: YOUR HONOR, NEEDLESS TO SAY, THIS
17 IS A TRAGEDY FOR NOT ONLY THE SMALLS FAMILY BUT ALSO FOR
18 JEROID PRICE'S FAMILY. YOUR HONOR, I THINK WHEN WE WENT INTO
19 THIS CASE WE REALIZED THAT THE FACT THAT JEROID HAD THAT GUN
20 WAS GOING TO BE A PROBLEM AND I THINK THE JURY COULD HAVE
21 EASILY GONE BACK THERE AND SAID, WELL, HE HAD A GUN, SO HE
22 BROUGHT ON THE DIFFICULTY AND, THEREFORE, HE CAN'T AVAIL
23 HIMSELF OF SELF-DEFENSE.

24 YOUR HONOR, I DON'T THINK THE EVIDENCE SUPPORTS THE
25 THEORY THAT JEROID HERE SHOT THE MAN WHILE HE WAS DOWN. THEY

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1 GOT INTO A FIGHT. HE HAD A GUN. MAYBE HE SHOULDN'T HAVE HAD
2 THE GUN. I THINK THE JURY COULD HAVE INFERRED THAT AND SAID
3 WE'RE NOT GOING TO GIVE HIM SELF-DEFENSE. YOUR HONOR, I
4 THINK THAT'S HOW IT HAPPENED. THAT'S HOW JEROID HAS ALWAYS
5 TOLD ME IT HAPPENED. HE'S ALWAYS BEEN CONSISTENT WITH THAT.

6 YOUR HONOR, THIS IS A NICE YOUNG MAN. FROM MY
7 DEALINGS WITH HIM, HE'S ALWAYS BEEN EXTREMELY PLEASANT. HE
8 SMILES. HE JUST SEEMS TO BE A GOOD KID. YOUR HONOR, I DON'T
9 WANT THE -- I DON'T WANT THE COURT TO THINK THAT HE WENT OUT
10 AND PLOTTED THIS THING. HE WAS AT THIS PARTY. APPARENTLY
11 THINGS ESCALATED, THINGS HAPPENED, BUT I DON'T THINK THERE'S
12 ANY SCINTILLA OF EVIDENCE THAT HE OR ANYBODY ELSE PLOTTED
13 THIS THING FOR ANY PERIOD OF TIME. IT JUST HAPPENED AND,
14 LIKE I SAY, IT IS A TRAGEDY.

15 YOUR HONOR, WITH HIM ARE A NUMBER OF FAMILY MEMBERS.
16 HIS MOTHER IS RIGHT OVER HERE AND HIS -- HE HAS TWO AUNTS WHO
17 WOULD LIKE TO SPEAK TO THE COURT. MS. THOMAS, CAN I CALL ON
18 YOU FIRST?

19 MS. THOMAS: YES.

20 THE COURT: YES, MA'AM. IF YOU'LL JUST STATE YOUR
21 NAME FOR THE RECORD, MA'AM. I'LL BE GLAD TO HEAR ANYTHING
22 YOU HAVE TO SAY.

23 MS. THOMAS: MY NAME IS ELIZABETH THOMAS.

24 THE COURT: YES, MA'AM.

25 MS. THOMAS: ONE THING I WANT TO SAY IS THAT I'M THE

1 AUNTIE OF THREE OF JEROID'S KIDS AND JEROID -- GOD, JEROID IS
2 JUST A GENUINELY KINDHEARTED, SWEET YOUNG MAN. I'VE NEVER
3 KNOWN HIM -- SINCE I'VE KNOWN HIM, I'VE NEVER KNOWN HIM TO BE
4 A TROUBLESOME PERSON. I DON'T KNOW EVERYTHING HE DO, YOU
5 KNOW, WHENEVER HE'S OUT.

6 TO ME IT'S A TRAGEDY WHAT HAPPENED BECAUSE BOTH OF
7 THOSE -- BOTH OF THEM ARE YOUNG MEN. ONE OF THEM HAD TO LOSE
8 THEIR LIFE, AND HIS LIFE IS GOING TO BE STOPPED, TOO, IF HE
9 DOES JAIL TIME AND YOU KNOW HE'S NOT GOING TO BE ALLOWED TO
10 SEE HIS CHILDREN AND -- THE WAY HE WANTS TO SEE THEM,
11 WHENEVER HE WANTS TO SEE THEM. HE'S REAL GOOD, VERY, VERY
12 GOOD ABOUT SUPPORTING HIS CHILDREN. THE THREE GREAT NIECES
13 THAT I KNOW THAT'S KIN TO ME, HE'S VERY GOOD ABOUT SUPPORTING
14 THEM.

15 SO, YOUR HONOR, HE'S SO YOUNG AND TO HAVE TO JUST DO
16 JAIL TIME, YOU KNOW... I DO -- I DO GIVE MY CONDOLENCES TO
17 THE SMALLS FAMILY. THERE'S NOT MUCH I CAN SAY. I'M NOT
18 GOING TO TRY TO, YOU KNOW, JUST KEEP GOING ON AND ON. HE'S
19 JUST -- I JUST DON'T KNOW A BETTER PERSON. I JUST DON'T KNOW
20 A BETTER PERSON THAN JEROID.

21 MR. LITTLEJOHN: YOUR HONOR, HIS OTHER AUNT, MS.
22 MILLER, WOULD LIKE TO SPEAK TO THE COURT.

23 THE COURT: YES, MA'AM.

24 MS. MILLER: YOUR HONOR, MY NAME IS LORETTA MILLER.
25 JEROID IS MY NEPHEW. I'VE KNOWN JEROID ALL HIS LIFE. I'M

1 ONE OF HIS FAVORITE AUNTIE. WE WAS IN HIS HOME LAST SUMMER
2 AND I HAVE FOUR KIDS AND HE ONLY HAVE -- MY COUSIN, THEY HAD
3 A ONE BEDROOM APARTMENT, AND JEROID SAID, "AUNTIE, YOU KNOW,
4 I'LL GO SLEEP OUT IN THE CAR SO YOU AND THE FAMILY CAN BE
5 COMFORTABLE AND BE HAPPY." THAT'S THE TYPE OF CHARACTER THAT
6 HE'S ALWAYS BEEN. HIS FAMILY IS FIRST. EVERYTHING ELSE IS
7 SECOND.

8 I'VE KNOWN HIM TO BE A FATHER FOR HIS SISTERS
9 BECAUSE HE DIDN'T COME UP IN A HOME WHERE THERE WAS A MOTHER
10 AND A FATHER AND A FATHER FIGURE. HE HAD TO GET A FATHER
11 FIGURE EITHER FROM GOING TO CHURCH, A TEACHER, AN ADULT, A
12 MAN IN HIS LIFE. SO ALL HIS STRUCTURE CAME FROM BITS AND
13 PIECES TO TRY TO BECOME A FATHER, AND THERE WAS NO BOOK FOR
14 JEROID TO WRITE OF HOW TO BE A FATHER. AND WHEN I SEE HIM
15 AND I SEE HIM INTERACT WITH HIS CHILDREN, IT'S NOT ABOUT THE
16 MONEY. HE SPANKS THEM; HE DISCIPLINES THEM. HE LOVES THEM.
17 HE CARES ABOUT THEM JUST LIKE THEY FEEL ABOUT THEIR CHILDREN.

18 ALL I CAN SAY FOR JEROID IS THAT HIS LIFE -- HE'S 22
19 AND HE HAS HAD A HARD LIFE ALL HIS LIFE BECAUSE HE HAD TO BE
20 A MAN ALL HIS LIFE. HE WENT FROM BEING 10 TO BEING 18 TO
21 BEING WHATEVER HE IS NOW, THE AGE, ON HIS OWN. I'M TRYING
22 NOT TO CRY BECAUSE I DON'T WANT TO CRY, SO THAT'S WHY I'M
23 TAKING MY TIME TO TALK.

24 I'M A SCHOOL TEACHER AND I'VE SEEN A LOT OF STUDENTS
25 GET IN TROUBLE. I SEE A LOT OF STUDENTS BE BULLIED AND I SEE

1 A LOT OF STUDENTS ARE COWARDS. THEY WILL SAY THEY'RE
2 COWARDS. I SEE A LOT OF HURT AND PAIN TO CHILDREN IN THE
3 SCHOOL SYSTEM. I SEE A LOT OF COUNSELING, A LOT OF SOCIAL
4 WORKERS TALKING TO CHILDREN SUCH AS THIS YOUNG MAN RIGHT
5 HERE, TRY TO GIVE THEM SOME GUIDANCE, TRY TO GIVE THEM SOME
6 STRUCTURE, TRY TO HELP THEM OUT, TRY TO HELP A PARENT OUT
7 LIKE HER WHICH IS MY SISTER.

8 JEROID HAS BEEN IN A LOT OF PLACES, COUNSELING AND
9 HOSPITALS AND PROGRAMS ALL HIS LIFE AND THERE'S BEEN TROUBLE,
10 NOT ON HIS BEHALF, BUT BECAUSE OF THE LIFE THAT HE HAD TO
11 LIVE AND I DON'T THINK THAT HE WANTS HIS SONS OR HIS
12 DAUGHTERS TO HAVE TO WALK INTO HIS SAME FOOTSTEPS. WE'RE ALL
13 GOING TO HAVE TRIALS AND TRIBULATIONS AND WE'RE ALL GOING TO
14 GO THROUGH SOMETHING, BUT I BELIEVE JEROID DOESN'T WANT HIS
15 SON TO COME BEFORE A COURT OR A JUDGE OR WHATEVER OR HIS
16 CHILDREN OR HIS GIRLS.

17 I BELIEVE HE WANTED TO HAVE SOME TYPE OF INFLUENCE
18 IN HIS LIFE TO SAY: THIS IS WHAT HAPPENED TO ME. DON'T
19 FOLLOW THOSE FOOTSTEPS OR I'LL BE THE FATHER THAT YOU NEED ME
20 TO BE BECAUSE I DIDN'T HAVE ONE. THERE'S NOTHING BUT HARD
21 LOVE IN THAT BOY'S LIFE. EVERYBODY TRIES TO PLAY TOUGH,
22 ESPECIALLY BOYS; I SEE IT ALL THE TIME. HE PLAYED A TOUGH
23 LIFE, BUT THERE'S NOTHING BUT A LITTLE HEART ABOUT THIS
24 LITTLE AND HE'LL GIVE WHAT HE HAVE TO ANYBODY, NO MATTER
25 WHAT. THAT'S JUST HIM.

1 AND IF -- I CONDOLE THE FAMILY. I'M SORRY FOR YOUR
2 LOSSES, BUT AS WELL AS YOUR SON BEING IN THE GRAVE, I FEEL MY
3 NEPHEW IS BEING IN THE GRAVE RIGHT NOW BECAUSE THAT'S NOT THE
4 LIFE THAT WAS CHOSE FOR HIM. I THANK YOU FOR LETTING ME
5 SPEAK.

6 THE COURT: YES, MA'AM.

7 MR. LITTLEJOHN: MS. PRICE, WOULD YOU LIKE TO SPEAK?
8 THIS IS JEROID'S MOTHER, YOUR HONOR.

9 THE COURT: YES, MA'AM. THANK YOU, SIR.

10 MRS. PRICE: FIRST OF ALL, I WANT TO GIVE MY
11 CONDOLENCES TO THE SMALLS FAMILY. I'M SORRY ABOUT YOUR LOSS.
12 I'M SORRY ABOUT WHAT HAPPENED. IF I COULD ERASE ANYTHING, I
13 WOULD. MY SON -- NOBODY KNOWS MY SON BETTER THAN I DO.
14 NOBODY DON'T KNOW ABOUT WHAT ME AND MY SON HAVE BEEN THROUGH
15 BESIDES ME AND HIM. NOBODY DON'T KNOW THAT MY SON RAISED MY
16 KIDS BECAUSE I WAS A CRACK ADDICT BESIDES HIM. NOBODY DON'T
17 KNOW THAT MY SON TOOK CARE OF MY TWO LITTLE GIRLS WHILE I WAS
18 OUT THERE DRUGGING, GETTING HIGH, NOT COMING HOME, DOING THE
19 THINGS I WAS DOING. MY SON RAISED MY TWO DAUGHTERS BY
20 HISSELF.

21 HE DIDN'T HAVE A FATHER BECAUSE I DIDN'T KNOW WHO
22 HIS FATHER WAS. I'VE BEEN IN THE WORLD. I AIN'T DONE
23 EVERYTHING, BUT MY SON NEVER TOLD -- MY SON NEVER LET NOBODY
24 BAD-TALK ABOUT HIS MAMA BECAUSE HE LOVED HIS MOTHER. I'M NOT
25 TRYING TO -- I'M TRYING TO TELL YOU ABOUT MY SON THAT I KNOW,

1 THE SON THAT I RAISED UP WITH ME. NOT ONLY HAS HE BEEN A SON
2 TO ME, BUT HE'S BEEN MY FRIEND.

3 HE KEEPS MY DAUGHTERS THAT HE RAISED. I DIDN'T
4 RAISE THEM. HE RAISED MY KIDS SINCE HE WAS 10 YEARS OLD
5 BECAUSE I WAS OUT THERE DRUGGING. THAT'S MY MISTAKE IN LIFE.
6 THAT'S THE LIFE THAT I CHOOSE AT THAT TIME BECAUSE I WASN'T
7 SEEKING THE HIGH AND MIGHTY GOD IN MY LIFE. I WAS BEING
8 DISOBEDIENT TO THE WORD.

9 HE COMES FROM A GOOD FAMILY. MY FATHER IS A PASTOR.
10 MY FATHER IS A PASTOR. WE HAVE A LOT OF PASTORS IN OUR
11 FAMILY, AND HE USED TO COME TO CHURCH ON FRIDAY. WE HAVE A
12 CHURCH ON FARROW ROAD, BUT HE NEVER DID STAY THAT LONG, BUT
13 HE USED TO COME ON FRIDAY NIGHT JUST TO STAY FOR ABOUT AN
14 HOUR OR TWO. AND EVERY TIME HE'D LEAVE CHURCH, I'D SAY,,
15 "JEROID, YOU BE CAREFUL OUT THERE. THERE'S A LOT OF PROBLEMS
16 OUT THERE. YOU BE CAREFUL."

17 WE WERE RAISED UP IN HARLEM. THAT'S NO EXCUSE
18 EITHER. I HAD A PROBLEM. I HAD A PROBLEM IN MY LIFE. IT
19 GOES BACK, WAY BACK, AND INSTEAD OF DEALING WITH MY PROBLEM,
20 I CHOOSE THE LIFE THAT I CHOOSE TO ESCAPE IT BY DRUGS AND --
21 AND THAT CAUSED A PROBLEM WITH MY SON BECAUSE I WASN'T THERE
22 TO BE A MOTHER.

23 WE WENT IN AND OUT OF SHELTERS, IN AND OUT OF
24 SHELTERS. I MOVED FROM PLACE TO PLACE RUNNING AWAY FROM THE
25 PROBLEMS IN MY LIFE. I ASKED GOD IF I COULD ERASE AND TURN

VERDICT AND SENTENCING

1 BACK, WHAT WOULD HE HAVE ME TO DO. HE SAID HE WENT --
2 SOMETIMES WE'VE GOT TO GO THROUGH THINGS TO KNOW THAT HE'S
3 NOT PLAYING WITH US NOW. THERE'S SO MANY THINGS THAT'S GOING
4 ON IN THIS WORLD. THAT COULD HAVE BEEN MY SON, BUT THERE'S
5 SOME KIDS THAT HAVE TO LEARN ON THEIR OWN.

6 I MIGHT NOT BE MAKING SENSE BECAUSE I REALLY DON'T
7 WANT TO GET TOO EMOTIONAL IN THE SUBJECT, BUT ALL I'M ASKING,
8 YOUR HONOR, IS TO HAVE MERCY ON MY SON AND MY TWO LITTLE
9 DAUGHTERS. THAT'S THE ONLY FATHER THEY KNOW IS MY SON.
10 THANK YOU.

11 THE COURT: THANK YOU, MA'AM. COUNSEL?

12 MS. RUSHING: YOUR HONOR, IF I COULD JUST ADD THE
13 LAST THING AND I'LL DEFINITELY BE BRIEF. I ALSO WANT TO
14 EXPRESS MY DEEPEST SYMPATHY TO THE SMALLS FAMILY. THEY'RE
15 OBVIOUSLY A VERY NICE FAMILY, AS MR. PASCOE SAID. THAT'S
16 VERY CLEAR AND THEY LOST THEIR SON. WE ALSO HAVE JEROID'S
17 FAMILY THAT -- AND THEY'RE NOT GOING TO SEE HIM FOR A LONG,
18 LONG TIME AND IT'S A HARD SITUATION, YOUR HONOR, AS YOU KNOW,
19 AND YOU SEE SO MANY PEOPLE BEFORE YOU.

20 I'VE BEEN WITH JEROID SINCE THE VERY BEGINNING AND I
21 ENLISTED THE HELP OF MR. LITTLEJOHN WHO IS A LITTLE BIT MORE
22 EXPERIENCED THAN I AM, ESPECIALLY WITH THIS TYPE OF CHARGE.
23 BUT I WAS ABSOLUTELY AMAZED WHEN I MET HIM THAT HE HAD THIS
24 CHARGE. ALL THE PEOPLE THAT I'VE REPRESENTED AND I'VE
25 PROSECUTED AND I KNOW THAT YOU'VE SEEN BEFORE YOU, THERE'S SO

1 MANY OF THEM THAT DON'T HAVE ANYTHING TO OFFER AT ALL TO
2 SOCIETY AND IT MAKES SENSE OF WHY THEY'RE STANDING THERE.

3 IT'S DIFFICULT WITH HIM. I WAS TALKING TO HIM
4 YESTERDAY AND I HAD A HARD TIME BELIEVING HE DIDN'T GO TO
5 COLLEGE. IT SHOCKED ME. HE'S VERY BRIGHT AND I THINK HE
6 COULD HAVE HAD A VERY BRIGHT FUTURE AND I THINK HE HAD SO
7 MUCH TO OFFER AND THAT'S -- THAT'S EXTREMELY DIFFICULT AND I
8 HOPE WHATEVER HAPPENS HERE THAT HE'LL REMEMBER THAT HE IS A
9 VERY SMART MAN AND THERE'S STILL A WHOLE LOT THAT HE CAN
10 CONTRIBUTE. THAT'S ALL, YOUR HONOR. I JUST -- I HOPE YOU'LL
11 HAVE SOME MERCY ON HIM AND KNOW THAT HE DOES HAVE SOMETHING
12 TO CONTRIBUTE.

13 THE COURT: THANK YOU, MS. RUSHING. MR. LITTLEJOHN?

14 MR. LITTLEJOHN: JUDGE, JUST IN CLOSING I'D JUST
15 LIKE TO POINT OUT AND THE COURT IS CERTAINLY AWARE: THIS IS
16 -- THIS IS NOT LIKE THE KILLINGS THAT COME BEFORE THE COURT
17 WHERE SOMEBODY IS COMMITTING AN ARMED ROBBERY OR BURGLARIZING
18 SOMEBODY'S HOUSE. THIS IS JUST SOMETHING THAT HAPPENED, AND
19 IT'S A TRAGEDY. AND IT'S -- AS MS. RUSHING SAID, MY DEEPEST
20 CONDOLENCES TO THE SMALLS PEOPLE FAMILY, BUT IT'S NOT IN
21 THOSE CLASS OF CASES I WOULD SUGGEST TO THE COURT AND I WOULD
22 ASK THE COURT TO BE AS LENIENT AS POSSIBLE. THE MINIMUM
23 SENTENCE IN THIS CASE IS A HORRIBLE SENTENCE AND IT'S MORE
24 THAN ADEQUATE IN THIS -- IN THE CIRCUMSTANCE. YOUR HONOR, I
25 BELIEVE JEROID WOULD LIKE TO SPEAK TO THE COURT.

VERDICT AND SENTENCING

1 THE COURT: YES, SIR.

2 MR. PRICE: I WANT TO SAY I GIVE MY CONDOLENCES OUT
3 TO THE SMALLS FAMILY. I WISH I COULD TAKE IT BACK FOR WHAT
4 TOOK PLACE THAT NIGHT, BUT I CAN'T. I REALLY WAS FIGHTING
5 FOR MY LIFE. I WOULDN'T WISH THAT FOR NOBODY. I GOT KIDS OF
6 MY OWN, SO I WOULDN'T WANT NOTHING TO HAPPEN TO MY OWN KIDS
7 SO I KNOW NOBODY ELSE WOULD WANT SOMETHING TO HAPPEN TO THEIR
8 KIDS.

9 WHEN I RAN OUT THAT DOOR THAT NIGHT, I GOT IN MY
10 CAR. MY FIRST WORDS WAS, "GOD, PLEASE DON'T LET THAT MAN BE
11 DEAD," AND I REPENTED FOR WHAT TOOK PLACE. HAD HE NOT BEEN
12 DEAD, I WOULDN'T BE HERE RIGHT NOW. HE WOULD HAVE BEEN ABLE
13 TO EXPLAIN WHAT WAS ON HIS MIND AND WHAT TOOK PLACE THAT
14 NIGHT, BUT I'M HERE AND THAT'S IT.

15 MR. LITTLEJOHN: THANK YOU, YOUR HONOR.

16 THE COURT: THANK YOU, MR. LITTLEJOHN. ANYTHING
17 FURTHER, MR. PASCOE?

18 MR. PASCOE: NO, SIR. THANK YOU VERY MUCH.

19 THE COURT: COUNSEL, I HATE TO DO THIS TO YOU AND
20 I'LL ASK IF THE FAMILY MEMBERS CAN JUST HAVE A SEAT. I'M
21 GOING TO TAKE A MINUTE, AND IF SOMEBODY NEEDS TO GO ANYWHERE
22 I'M JUST GOING TO TAKE A MINUTE AND I'LL BE RIGHT BACK.
23 THANK YOU.

24 MR. PASCOE: THANK YOU, YOUR HONOR.

25 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

1 THE COURT: THANK YOU. YOU CAN BE SEATED. COUNSEL,
2 LET ME JUST -- MR. LITTLEJOHN, I THINK YOU SAID IT BEST. IT
3 IS A TRAGEDY ALL THE WAY AROUND. AND I'LL BE QUITE HONEST
4 WITH YOU, SIR: I REALLY DON'T CARE IF ANYBODY THINKS THIS IS
5 AN INAPPROPRIATE COMMENT OR NOT, BUT AT SOME POINT YOU GET
6 TIRED OF SEEING FROM UP HERE YOUNG BLACK MEN, IN THIS CASE
7 ONE IN COLLEGE AND BASED UPON WHAT I HEARD FROM YOU, MR.
8 PRICE, SOMEBODY WHO IS OBVIOUSLY VERY ARTICULATE AND VERY
9 BRIGHT, ONE DEAD AND ONE GOING TO PRISON.

10 I'LL ALSO BE HONEST WITH YOU, SIR: SOMETHING
11 BOTHERS ME BASED ON THE TESTIMONY IN THIS TRIAL AND IT'S
12 BOTHERED ME ALL WEEK AND THAT IS THE ACTIONS OF A LOT OF
13 YOUNG PEOPLE THERE THAT NIGHT, MANY OF WHOM WERE IN COLLEGE,
14 MANY OF WHOM PLAY SPORTS, BECAUSE THIS ESCALATED TO A POINT
15 THAT BRINGS US ALL HERE TODAY.

16 TO BE HONEST WITH YOU, MR. PRICE, I -- THERE'S A
17 PART OF ME THAT IS EXTREMELY ANGRY RIGHT NOW AND THERE'S A
18 PART OF ME THAT JUST WANTS TO CRY AND THIS IS -- THIS JUST
19 GETS RIDICULOUS AFTER A PERIOD OF TIME SEEING YOUNG PEOPLE
20 KILLING EACH OTHER AND GETTING INTO ARGUMENTS LIKE THIS OVER
21 NOTHING. WHETHER I BELIEVE THE STATE'S SIDE OR YOUR SIDE,
22 SIR, IT'S JUST -- THIS SHOULDN'T HAVE HAPPENED. THERE'S NO
23 REASON THIS SHOULD HAVE HAPPENED.

24 MR. PRICE, THE SENTENCE I GIVE YOU, SIR, IS A
25 NO-PAROLE OFFENSE. TAKING INTO CONSIDERATION THE TESTIMONY

1 AND EVIDENCE THAT WAS PRESENTED DURING THIS TRIAL, SIR, THE
 2 EFFECT OF THIS SENTENCE: I'M GOING TO SENTENCE YOU ON THIS
 3 INDICTMENT, SIR, 03-2295, TO 35 YEARS IN THE SOUTH CAROLINA
 4 DEPARTMENT OF CORRECTIONS.

5 I WISH THE SMALLS FAMILY BEST WISHES AT DEALING WITH
 6 WHAT IS A TRAGIC LOSS, AND I WISH, MR. PRICE, YOUR FAMILY
 7 BEST LUCK AT DEALING WITH WHAT IS A LOSS, SIR. THAT IS MY
 8 SENTENCE. GOOD LUCK.

9 MR. PASCOE: THANK YOU, YOUR HONOR.

10 MR. LITTLEJOHN: THANK YOU, YOUR HONOR.

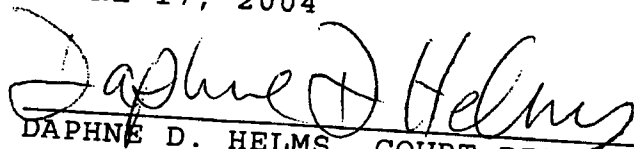
11 MR. PASCOE: THANK YOU.

12 (WHEREUPON, THE PROCEEDINGS WERE CONCLUDED.)
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511
I, THE UNDERSIGNED DAPHNE D. HELMS, OFFICIAL COURT
REPORTER FOR THE ELEVENTH JUDICIAL CIRCUIT OF THE STATE
OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING
IS A TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD
OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN
THE TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN
THE CIRCUIT COURT FOR RICHLAND COUNTY, SOUTH CAROLINA,
ON THE 17TH THROUGH 19TH DAYS OF DECEMBER, 2003.

I DO FURTHER CERTIFY THAT I AM NEITHER OF
KIN, COUNSEL, NOR INTEREST TO ANY PARTY HERETO.

JUNE 17, 2004


DAPHNE D. HELMS, COURT REPORTER

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County

Reginald I. Lloyd, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JERIOD JOHN PRICE,

APPELLANT

FINAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

The trial judge erred by allowing a State's witness, a gang investigator with the Sheriff's Department who purported to be an expert in gang activity, to testify that informants had told him "several times during interviews" that Price was "known as a Supreme, which is a higher elevation... like an officer within the [Bloods]." This "evidence" was inadmissible according to the rule against hearsay (Evidence Rule 802), and its introduction violated Price's right to confront the witnesses against him provided by the Sixth Amendment to the United States Constitution and Article 1, Section 14, of the South Carolina Constitution.

STATEMENT OF FACTS

On May 21, 2003, a Richland County grand jury indicted Jeriod John Price for murder. The deceased was Carl Smalls, who was shot to death inside a black nightclub, Club Voodoo, December 7, 2002. The State advanced the motive that the killing was gang-related. Smalls (a former football player at the University of South Carolina) was a Crip; the State contended that Price was a Blood. Price denied belonging to a gang and stated that he shot Smalls in self-defense only after the much larger man had violently attacked him without provocation.

Judge Reginald I. Lloyd presided at Price's jury trial December 15 through 19, 2003. He instructed the jury on murder and self-defense. The jury found Price guilty of murder, and the judge sentenced him to imprisonment for thirty-five years.

ARGUMENT

The trial judge erred by allowing a State's witness, a gang investigator with the Sheriff's Department who purported to be an expert in gang activity, to testify that informants had told him "several times during interviews" that Price was "known as a Supreme, which is a higher elevation... like an officer within the [Bloods]." This "evidence" was inadmissible according to the rule against hearsay (Evidence Rule 802), and its introduction violated Price's right to confront the witnesses against him provided by the Sixth Amendment to the United States Constitution and Article 1, Section 14, of the South Carolina Constitution.

The State's theory of this case, the purported motive, was that the shooting resulted from a confrontation in a nightclub between the Crips, of which the State conceded Carl Smalls was a member, and the Bloods, to which the State contended Jeriod Price belonged. ROA p. 183, lines 17–19. Smalls was a large man. ROA p. 140, lines 7–10. He was "real strong." ROA p. 127, lines 7–11. (Smalls had previously played defense for the Gamecocks. ROA p. 119, lines 11–24.) Price was much smaller. ROA p. 169, lines 2–7. Several witnesses testified that Smalls had been aggressive and confrontational all night. ROA p. 130, lines 7–14; ROA p. 156, line 11 – p. 157, line 13; ROA p. 241, line 24 – p. 242, line 17. Former teammate Derrick Watson testified that Smalls asked him for a gun at one point. ROA p. 332, lines 3–22. (Watson related that he had responded, "Hell, no!" ROA p. 333, lines 2–5.) A bouncer had even warned Smalls to "calm down or else he'd have to leave." ROA p. 427, lines 14–18.

Price denied that he belonged to the Bloods. ROA, p. 491, lines 7–11. He testified that, without provocation, Smalls had threatened, "I'll kill you." ROA p. 508, lines 3–14.

He tried to avoid Smalls, but “it was almost like he was looking for me. It was like wherever I walked I see him coming towards that direction.” ROA p. 509, lines 3–11. Price then went to his car and armed himself. ROA p. 510, line 20 – p. 511, line 11. As soon as Price returned to the bar, he testified, “he [Smalls] rushed me; he just picked me up and rammed me into the wall.” ROA p. 513, line 7 – p. 514, line 23. He and Smalls struggled over the gun. ROA p. 515, line 12 – p. 516, line 5. Price shot Smalls in self-defense. ROA p. 528, lines 10–18. Retreat had never been an option. ROA p. 529, lines 2–8.

The gang connection was important to the State’s case because, on its surface, the case looked like self-defense: Price, the smaller man, shot Smalls, the larger man, after he was physically attacked without provocation. (Given recent revelations in the news media, the thuggish criminality of various Carolina football players is regrettably no longer surprising.) To shore up its professed motive, the State called as a witness a purported expert in gang activity employed by the Sheriff’s Department. The following exchange occurred during direct examination of this witness:

Assistant Solicitor: As part of your duties and your training, ... a part of what you try to do is kind of keep tabs on gang members here in Columbia?

A. Yes, sir.

Q. Now, through your training, have you become familiar with the defendant, Jeriod Price?

A. I became familiar with his name on the street, yes, sir.

Q. Are you aware of whether he’s affiliated with a gang?

A. Yes, sir.

Defense Counsel: Your Honor, I’m going to object to this. This is beyond the purview of what he’s been qualified to do,

and we're going into hearsay.

ROA p. 201, lines 5–19. The judge overruled the objection after a bench conference. ROA

p. 201, lines 20–23. Direct examination resumed:

Q. Once again, I believe you indicated that you are familiar with the defendant, Jeriod Price?

A. Yes, sir. His name has been mentioned several times during interviews.

Q. Are you aware of whether he's affiliated with a gang?

A. I am, sir.

Q. What gang is that?

A. The GKB or Gangsta Killer Bloods.

Q. Are you aware of what his position is within that gang?

A. A word that we received is that he is known as a Supreme, which is a higher elevation. He's like an officer within the gang.

ROA p. 201, line 25 – p. 202, line 13. On cross-examination, the witness readily admitted that this "evidence" was pure hearsay:

Defense Counsel: You don't know Jeriod Price, do you?

A. No, sir, I do not.

Q. You never met him?

A. No, sir.

Q. In some of the things you told us about Jeriod Price today, that's based on stuff you've heard from informants –

A. Yes, sir.

Q. – from people who come in and trade information to the Sheriff's Department?

A. No, sir. These people were not paid informants. They were just people on the street who, upon making contact with them, started giving up names.

Q. And it's all hearsay, isn't it?

A. Pretty much, yes, sir.

Q. Because you don't know that of your own personal knowledge?

A. No, sir.

Q. You're just basing it on what somebody told you?

A. Yes, sir.

ROA p. 213, lines 3–23. Defense counsel reiterated his objection once the witness had finished testifying:

I object to his description as to Jeriod Price as being high up in the Bloods gang, based on the fact that that was obviously hearsay and things he's heard on the street. And our position would be that would be inadmissible.

ROA p. 220, lines 8–12. The judge observed, "I treated your objection as timely and continuing as to that." ROA p. 220, lines 13–19.

South Carolina Evidence Rule 801(c) defines "hearsay" as "a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Hearsay is not admissible unless it fits within an exception to the rule against hearsay. Evidence Rule 802.

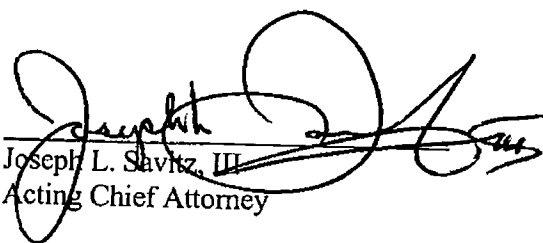
The Sixth Amendment's Confrontation Clause provides, "In all criminal prosecutions, the accused shall enjoy the right... to be confronted with the witnesses against

him.” Article 1, Section 14, of the South Carolina Constitution contains an identical guarantee. The primary interest secured by the right of confrontation is the right of cross-examination. Douglas v. Alabama, 380 U.S. 415 (1965); State v. Shuler, 344 S.C. 604, 545 S.E.2d 805 (2001). In Crawford v. Washington, 541 U.S. 36 (2004), the United States Supreme Court held that the Confrontation Clause bars a testimonial out-of-court statement by a witness, unless the witness is unavailable and the defendant has had a prior opportunity to cross-examine the witness, regardless of the reliability of the statement. Crawford clearly applies to the hearsay evidence introduced by the State’s expert at Price’s trial. Compare State v. Staten, S.C. Ct. App. Opinion No. 3955, filed March 7, 2005.

The erroneous introduction of this hearsay evidence at Price’s trial could not have been harmless, given that it bore upon the central issue in the case: Was the shooting gang-related or self-defense? It also had the side-effect of placing Price’s character in issue. See Mitchell v. State, 298 S.C. 186, 379 S.E.2d 123 (1989).

For this reason, the Court should reverse Jeriod John Price’s conviction for murder and remand for a new trial.

Respectfully submitted,



Joseph L. Savitz, III
Acting Chief Attorney

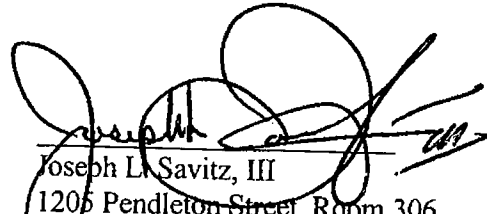
ATTORNEY FOR APPELLANT.

This 4th day of October, 2005.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief complies with Rule 211(b), SCACR.

October 4, 2005



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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County

Reginald I. Lloyd, Circuit Court Judge

THE STATE,

RESPONDENT,

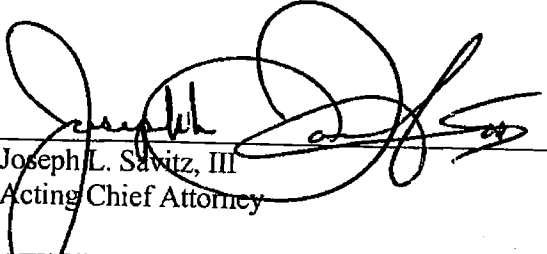
V.

JERIOD JOHN PRICE,

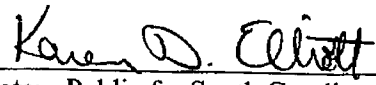
APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon Jeffrey Jacobs, Esquire, this 4th day of October, 2005.


Joseph L. Savitz, III
Acting Chief Attorney
ATTORNEY FOR APPELLANT.

SUBSCRIBED AND SWORN TO before me
this 4th day of October, 2005.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: March 13, 2007.

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
Reginald I. Lloyd, Circuit Court Judge

Case No. 03-GS-40-2295

THE STATE,

Respondent,

v.

JEROID J. PRICE

Appellant.

FINAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUE ON APPEAL**A. Appellant's Statement of Issues on Appeal**

The trial judge erred by allowing a State's witness, a gang investigator with the Sheriff's Department who purported to be an expert in gang activity, to testify that informants had told him "several times during interviews" that Price was a known as a Supreme, which is a higher elevation . . . like an officer within the [Bloods]." This "evidence" was inadmissible according to the rule against hearsay (Evidence Rule 802) , and its introduction violated Price's right to confront the witnesses against him provided by the Sixth Amendment to the United States Constitution and Article I, Section 14, of the South Carolina Constitution.

B. Respondent's Statement of Issue on Appeal

Did the trial court err in allowing Investigator Richardson to testify that Price was a gang member, when there was ample other evidence linking Price to the Bloods and when that evidence was not vital to the State's case?

STATEMENT OF THE CASE

Appellant Jeroid Price was indicted by the Richland County grand jury at the May 2003 term for the murder of Carl Smalls. He was tried before the Honorable Reginald I. Lloyd and a jury from December 15 through December 19, 2003. The jury convicted Price and Judge Lloyd sentenced him to thirty-five years in prison. Price filed and served his notice of appeal on December 23, 2003.

STATEMENT OF FACTS

The Club Voodoo in lower Richland County hosted a fraternity party on the evening of December 6, 2002. (R. 143, Tr. I at 250, l. 3-11; R. 163, 272, l. 22-25.) Carl Smalls, a 280-pound college football player, attended the party. Jeroid Price murdered Smalls there in the early morning hours of December 7.

Smalls was a member of the gang known as the Crips. (R. 120, Tr. I at 227, l. 8-12.) The state introduced much evidence that Price was a member of a rival gang, the Bloods. Price's apartment was replete with Blood paraphernalia. Among the evidence seized from the apartment and admitted at trial were photographs depicting young men "throwing up" Blood hand signs and wearing Blood colors (R. 203, Tr. I at 315, l. 21 through R. 204, 316, l. 19; Ex. 52); a book of "different codes that [Bloods] would use like a dictionary" (R. 206, Tr. I at 318, l. 20 through R. 207, 319, l. 13; Ex. 62); an inordinate amount of red clothing and hats of the type known to be worn by Bloods (R. 207, Tr. I at 319, l. 17 through R. 208, 320, l. 25); and bullet-proof vests, worn by high-ranking gang members (R. 209, Tr. I at 321, l. 1-19). Police also seized a document containing a "pledge of allegiance" to the United Blood Nation. (R. 209, Tr. I at 321, l. 20 through R. 210, 322, l. 18; Ex. 67.) The pledge contained references to "Crip Killing

Thugs.” Additionally, Price’s partner in the murder, Ryan Brooks, told police that Price was a Blood. (R. 33, Tr. I at 104, l. 8-22.)

Smalls and Price confronted each other during the party, during a “gang-related” altercation on the dance floor involving Bloods and Crips. (R. 90, Tr. I at 173, l. 22 through R. 91, 174, l. 1; R. 106, 201, l. 11-19; R. 122, 229, l. 4-18; R. 167, 276, l. 25 through R. 168, 277, l. 7.) The gang members were “throwing” gang signs at each other and “flashing” their colors. (R. 78, Tr. I at 150, l. 19 through R. 79, 151, l. 4; R. 106, 201, l. 25 through R. 107, 202, l. 3.) Price, a much smaller man, was “doing all the talking” for the Bloods. (R. 168, Tr. I at 277, l. 17 through R. 169, 278, l. 20; R. 177, 286, l. 25 through R. 178, 287, l. 17.) After Smalls did the “Crip walk” and drew a line on the floor with his foot, Price “got in [Smalls’s] face” and told Smalls, “You’re going to fall like ‘The Matrix,’” which, according to one witness, meant “I’m going to kill you.” (R. 165, Tr. I at 274, l. 21 through R. 166, 275, l. 4; R. 170, 279, l. 10-15; R. 180, 289, l. 9-14; R. 446, Tr. II at 188, l. 23 through R. 447, 189, l. 6.) Price was making hand motions like gunshots. (R. 171, Tr. I at 280, l. 4-6.) Brooks told police that Smalls called him a “slob,” a derogatory term used by Crips to “disrespect” Bloods. (R. 45, Tr. I at 116, l. 3-16; R. 198, 310, l. 1-7.)

After the confrontation, Smalls did not seem mad and did not act violent. (R. 123, Tr. I at 230, l. 22-25; R. 171, 280, l. 13-16.) He “was cool. He was—he wasn’t, you know, excited or nothing.” (R. 447, Tr. II at 189, l. 9-10.) “He didn’t say anything. I mean, he didn’t say anything. He did, you know, what I presume to be the Crip [walk], drew the line, and stepped back. That was it. He never uttered a word.” (R. 180, Tr. I at 289, l. 17-20.)

In the wee hours of the morning of December 7, as the partygoers were leaving the club and congregating in the parking lot, Joe Jones saw Ryan Brooks purposefully heading from the parking lot back into the club carrying “steel” in his hand. (R. 109, Tr. I at 204, l. 6 through R. 111, 206, l. 2.) Brooks, who is about 6’1” tall and weighs 200 pounds, wore his hair in braids and was not wearing a hat. (R. 18, Tr. I at 89, l. 18 through 90, l. 7; R. 71, 143, l. 5-17.) Brooks admits that he retrieved a pistol from a car, a chrome .380-caliber semi-automatic. (R. 14, Tr. I at 85, l. 1-8; R. 23, 94, l. 7-10; R. 228, 341, l. 8-12.) Price also admits leaving the club to retrieve his .40-caliber pistol from a car; he had purchased a .40-caliber pistol six months before the murder. (R. 368, Tr. II at 78, l. 4-10; R. 510, 314, l. 20 through R. 511, 315, l. 10.)

The two gunmen returned to the club. Brooks shot Smalls once. (R. 13, Tr. I at 84, l. 19-25; R. 110, 205, l. 15-24; R. 112, 207, l. 1-10.) Marcus Jones heard the first gunshot and looked up. There was a pause of a few seconds (R. 125, Tr. I at 232, l. 3-8), and then he saw a second gunman, much smaller than Brooks, wearing a “red, black, and white pinwheel hat” fire two more shots. (R. 68, Tr. I at 140, l. 9-20; R. 70, 142, l. 7-18; R. 76, 148, l. 1-20.) Jones testified that the gunman fired “straight down.” (R. 76, Tr. I at 148, l. 1-8.) Marcus Jones later picked Price out of a photo lineup as the second gunman, the smaller one with the pinwheel hat. (R. 85, Tr. I at 157, l. 4-25; R. 113, 208, l. 1-19; R. 383, R. 383, Tr. II at 93, l. 11 through R. 384, 94, l. 2.)

Carl Smalls died on the floor of the club, after calling 911 on his cell phone. (R. 100, Tr. I at 186, l. 1-11; R. 397, Tr. II at 107, l. 19 through R. 399, 109, l. 22.) Evidence collected at the crime scene, including bullet fragments recovered from an indentation in the floor, was consistent with Smalls having been shot while lying on the floor. (R. 271,

Tr. I at 384, l. 6 through R. 272, 385, l. 5.) Marcus Jones testified that the victim did not have a weapon and that the gunman's life was not in danger when he killed Smalls. (R. 76, Tr. I at 148, l. 16-20.) Although he could not rule out other possibilities (i.e., that Smalls fired a weapon), Lieutenant Joseph Powell testified that the result of a gunshot residue test on Smalls's left hand were "most consistent" with his being in a defensive posture and within five feet of a weapon that he did not fire. (R. 282, Tr. I at 412, l. 9-20.) Later testimony showed that Smalls was right handed. (R. 397, Tr. II at 107, l. 11-12.) Dr. Ronald Burns, the pathologist who performed the autopsy on Smalls's body, likewise could not opine conclusively that Smalls had been lying down when Price shot him, but testified that his wounds were consistent with that scenario. (R. 324, Tr. II at 22, l. 1-7.) Spent .40-caliber and .380-caliber cartridges were recovered near Smalls's body. (R. 263, Tr. I at 376, l. 15 through 377, l. 21.)

Three days after the murder, at Price's request, Jason Woods bought a cell phone in his own name and gave it to Price. (R. 233, Tr. I at 346, l. 21 through R. 234, 347, l. 3; R. 235, 348, l. 2-10.) Price evaded capture until finally turning himself in to the Richland County Sheriff's Department on March 19, 2003. (R. 393, Tr. II at 103, l. 14-15.)

Jason Wood told police that Price had admitted to him that Price shot Smalls. (R. 236, Tr. I at 349, l. 20 through R. 238, 351, l. 18; Ex. 68; Ex. 69.) Price testified at trial and admitted to the shooting, and then to fleeing the club. (R. 515, Tr. II at 319, l. 12 through R. 516, 320, l. 5.) The only issue was whether he did so in self-defense.

ARGUMENT

I. The Trial Court Properly Admitted Investigator Richardson's Testimony Under Rules 702 and 703 of the South Carolina Rules of Evidence.

Price argues that the trial court's admission of Investigator Richardson's testimony concerning Price's gang membership was erroneous because that testimony was improper hearsay and violated his rights under the Confrontation Clause of the Sixth Amendment to the United States Constitution and *Crawford v. Washington*, 541 U.S. 36 (2004).¹ Price's argument fails because Investigator Richardson was qualified as an expert witness and was offering his expert opinion based upon information reasonably relied upon by experts in his field.

The trial court qualified Investigator Richardson as an expert.² (R. 189, Tr. I at 301, l. 25 through R. 190, 302, l. 4.) He testified concerning the history of the Bloods and Crips, about gang activities in Columbia, and about the means of identifying gang members by their clothing and hand signs. (R. 190, Tr. I at 302, l. 12 through R. 201, 313, l. 4.) His testimony served to explain the significance of many of the items of evidence seized from Price's apartment³

¹ This second ground is unpreserved for review. Although Price objected to the admission of Investigator Richardson's testimony, he did so only on ordinary hearsay grounds, not on Confrontation Clause grounds. (Tr. I at 313, l. 16-19; 332, l. 1-12.) Further, there is no controlling law that leads to the conclusion that statements made to the police by an informant, not in response to police interrogation, are testimonial and thus violate the Confrontation Clause absent an opportunity to cross-examine the declarant. *See State v. Staten*, 364 S.C. 7, ___, 610 S.E.2d 823, 836 (Ct. App. 2005) (stating that statements are not testimonial when they are not "(1) *ex parte* in-court testimony or its functional equivalent; (2) extrajudicial statements contained in formalized testimonial materials, such as affidavits, depositions, prior testimony transcripts, or confessions; or (3) taken by police officers in the course of an interrogation.").

² Price does not argue here that the trial court erred in so qualifying Richardson.

³ Price's counsel generally objected to Investigator Richardson's testifying as a gang expert on the grounds that the testimony would be irrelevant and more prejudicial than probative. (R. 182, Tr. I at 292, l. 1 through 292, l. 3.) The trial court overruled that objection, and that issue is not before this Court.

Investigator Richardson also testified that Price is a Blood. Price's attorney objected to that specific testimony, contending that it was beyond Investigator Richardson's expertise and was based on hearsay. (R. 201, Tr. I at 313, l. 16-19.) On cross-examination, Investigator Richardson testified that his knowledge of that fact was based on hearsay information provided by unpaid police informants. Investigator Richardson obtained that information in the course of his police duties. (R. 213, Tr. I at 325, l. 2-23.)

Rule 703 of the South Carolina Rules of Evidence provides:

The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence.

S.C.R. Evid. 703.

"The admission or exclusion of expert testimony is a matter within the sound discretion of the trial court." *Collins Entertainment Corp. v. Coats & Coats Rental Amusement*, 355 S.C. 125, 136, 584 S.E.2d 120, 126 (Ct. App. 2004). An expert may rely upon hearsay in offering his expert opinion, and an expert opinion is not rendered inadmissible merely because it relies on hearsay. *See State v. Franklin*, 318 S.C. 47, 58, 456 S.E.2d 357, 363 (1995) (holding that an expert may base opinion on hearsay, and the basis of expert testimony bears on weight, not admissibility).

Considering Investigator Richardson's testimony in context and in its totality, it is clear that he did not rely solely on hearsay information from informants in drawing his conclusion that Price is a Blood. Rather, he also relied on the gang paraphernalia seized from Price's apartment and the evidence of Price's actions at the Club Voodoo.

Nonetheless, an expert's reliance upon hearsay is proper. As the United States Court of Appeals for Seventh Circuit, construing Federal Rule of Evidence 703, has held:

Lundy argues, however, that even if some of Milla's testimony is based on his expertise, his conclusion that it was arson is actually based on hearsay testimony about Lundy's motives, plan and opportunities. Lundy is correct to suggest that "expert" testimony based solely on hearsay and third-party observations that are adequately comprehensible to lay people would be improper to admit under Rule 702. An arson expert cannot testify that he heard from an informant that the defendant torched the building and that thus in his expert opinion the defendant probably set the fire. However, hearsay and third-party observations that are of a type normally relied upon by an expert in the field are properly utilized by such an expert in developing an expert opinion. Milla presented uncontroverted evidence that interviews with many witnesses to a fire are a standard investigatory technique in cause and origin inquiries. In addition, Milla's opinion was also based heavily on his own investigation, which ruled out most accidental causes and suggested that an accelerant had been used. . . . In this case the district court did not abuse its discretion in admitting Milla's testimony regarding the cause and origin of the fire as expert testimony.

United States v. Lundy, 809 F.2d 392, 395-96 (7th Cir. 1987); accord *Sphere Drake Ins. v. Trisko*, 226 F.3d 951, 955 (8th Cir. 2000) (holding that trial court properly admitted informants' hearsay statements through expert, because they were not admitted for their truth and because the expert "regularly relied on the statements of informants as an investigating officer. He likewise was permitted to do so in forming the basis of his expert opinion.").

More specifically, reliance upon informants in identifying a defendant as a gang member is proper. In *United States v. Hankey*, 203 F.3d 1160 (9th Cir. 2000), the United States Court of Appeals for the Ninth Circuit considered precisely this issue under Federal Rule of Evidence 703. In that case, a police officer testified, as a gang expert, that the defendant was a member of the Bloods. The expert based his opinion in large part on "street intelligence." The court held:

Certainly the officer relied on “street intelligence” for his opinions about gang membership and tenets. How else can one obtain this encyclopedic knowledge of identifiable gangs? Gangs such as involved here do not have by-laws, organizational minutes, or any other normal means of identification—although as [the expert] testified, some wear colors, give signs, bear tattoos, etc. [The expert] was repeatedly asked the basis for his opinions and fully articulated the basis, demonstrating that the information upon which he relied is of the type normally obtained in his day-to-day police activity.

Id. at 1169-70; see also *Connecticut v. Henry*, 805 A.2d 823, 837 (Conn. App. Ct. 2002) (holding a gang expert’s opinion, based on information received from gang members, admissible because “[p]olice officers must rely on communications with gang members to gather intelligence and form opinions about gang activity because most gangs do not have bylaws, organizational minutes or any other normal means of identification.”).

Finally, Investigator Richardson did not identify Price as the perpetrator of the crime. Rather, he identified him only as a member of the Bloods. The difference is significant. See *Lundy*, 809 F.2d at 396 (“Milla never testified that Lundy or anyone in particular caused the fire. He only testified that in his opinion the fire was not accidental. District courts must ensure that expert opinion testimony is in fact expert opinion, not merely opinion given by an expert.”).

Because Investigator Richardson was testifying as an expert, his identification of Price as a Blood was permissible. The trial court did not err in admitting that testimony, and this Court should affirm the trial court’s judgment.

II. The Trial Court’s Admission of Investigator Richardson’s Testimony Concerning Price’s Membership in the Bloods, Even if Erroneous, Was Harmless.

Even if the trial court improperly admitted Investigator Richardson’s testimony that Price is a Blood, that evidence was merely cumulative to other evidence that Price

was a member of the Bloods, and it was irrelevant to the issue of self-defense. It was, therefore, harmless.

“Whether an error is harmless depends on the particular circumstances of the case. No definite rule of law governs this finding; rather the materiality and prejudicial character of the error must be determined from its relationship to the entire case. Error is harmless when it could not reasonably have affected the result of the trial.” *State v. Reeves*, 301 S.C. 191, 193-94, 391 S.E.2d 241, 242-43 (1990). “To warrant reversal based on the admission or exclusion of evidence, the appellant must prove both the error of the ruling and the resulting prejudice, *i.e.*, there is a reasonable probability the jury's verdict was influenced by the wrongly admitted or excluded evidence.” *Conners v. City of Forest Acres*, 363 S.C. 460, ___, 611 S.E.2d 905, 908 (2005). When the trial court improperly admits evidence that is merely cumulative of other evidence, the error is harmless. *See, e.g., Fields v. Regional Med. Ctr. of Orangeburg*, 363 S.C. 19, 30, 609 S.E.2d 506, 512 (2005).

Investigator Richardson's testimony that Price was a Blood was merely cumulative. There was ample evidence of this fact before the jury: the police seized a significant amount of gang paraphernalia from Price's apartment, including photographs of young men “throwing up” Blood hand signs and wearing Blood colors, a book of Blood “codes,” an inordinate amount of clothing known to be worn by Bloods, bullet-proof vests, and a “pledge of allegiance” to the United Blood Nation. There was also evidence that Ryan Brooks told police that Price was a Blood. Several witnesses testified

to the fact that Smalls was a Crip, and that Price and Smalls squared off on the dance floor as part of a gang-related confrontation.⁴

Even so, given Price's own subsequent testimony that he shot Smalls, the fact that Price was a gang member was irrelevant to the only issue in the case, that of self-defense. Aside from the gang evidence, there was evidence that Price and Brooks were accomplices in the murder, and that Price actually left the club to retrieve a pistol from a vehicle and then returned to the club in search of Smalls; that Price threatened Smalls verbally and by making shooting motions; and that Smalls did not threaten and otherwise did not appear violent or angry after his verbal confrontation with Price.

There was ample evidence of Price's guilt even without the evidence that Price contends was improperly admitted. Further, the allegedly improper evidence was cumulative of much other evidence of Price's gang membership. Accordingly, any error in admitting Investigator Richardson's testimony concerning Price's membership in the Bloods was harmless, and this Court should affirm the judgment of the trial court.

CONCLUSION

Price's arguments fail. Even if the trial court improperly admitted Investigator Richardson's testimony concerning Price's gang affiliation, that error was harmless. This Court should affirm the judgment of the trial court.

HENRY DARGAN McMASTER
Attorney General

⁴ The evidence seized from Price's apartment was introduced by Investigator Richardson. Price's attorney objected to Investigator Richardson's testimony on general relevance grounds; that objection is not at issue before this Court. Brooks's statement and the testimony of other witnesses that the confrontation was gang related were introduced without objection. (R. 33, Tr. I at 104, l. 8-22; R. 90, 173, l. 22 through R. 91, 174, l. 1; R. 106, 201, l. 11-19; R. 122, 229, l. 4-18; R. 167, 276, l. 25 through R. 168, 277, l. 7.)

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Chief Deputy Attorney General

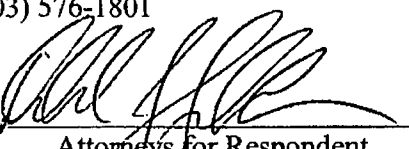
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By 
Attorneys for Respondent

September 21, 2005

**STATE OF SOUTH CAROLINA
IN THE SUPREME COURT**

**Appeal from Richland County
Reginald I. Lloyd, Circuit Court Judge**

THE STATE,

Respondent,

v.

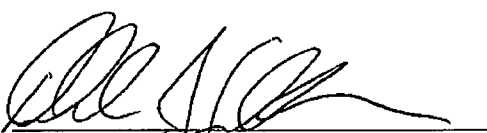
JEROID J. PRICE,

Appellant.

CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that this Final Brief of Respondent complies with SCACR
211(b).

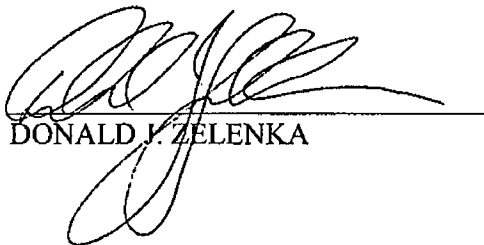
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This ~~16th~~ day of September, 2005.



DONALD J. ZELENKA
Assistant Deputy Attorney General
ATTORNEY FOR RESPONDENT

CERTIFICATE OF SERVICE

I, **Donald J. Zelenka**, hereby certify that I have served the *Final Brief of Respondent* in the foregoing action by depositing copies via interagency mail to Joseph L. Savitz, III, Acting Chief Attorney, South Carolina Office of Appellate Defense, 1205 Pendleton Street, Room 306, Columbia, South Carolina 29201 this ^{21st}~~16th~~ day of September, 2005.



DONALD J. ZELENKA

THE STATE OF SOUTH CAROLINA
In The Supreme Court

The State,

Respondent,

v.

Jeroid John Price,

Appellant.

Appeal From Richland County
Reginald I. Lloyd, Circuit Court Judge

Opinion No. 26139
Heard March 22, 2006 – Filed April 17, 2006

AFFIRMED

Chief Attorney Joseph L. Savitz, III, of South Carolina Office of Appellant Defense; and Amye L. Rushing, of Hammonds & Rushing, PA, both of Columbia, for Appellant.

Attorney General Henry Dargan McMaster,
Chief Deputy Attorney General John W. McIntosh,
Assistant Deputy Attorney General Donald J. Zelenka,
Assistant Attorney General Jeffrey A. Jacobs, all of Columbia; and
Solicitor Warren Blair Giese, of Columbia, for Respondent.

JUSTICE BURNETT: Jeroid John Price (Appellant) was convicted of the murder of Carl Smalls and was sentenced to thirty-five years

THE STATE OF SOUTH CAROLINA
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& Rushing, PA, both of Columbia, for Appellant.

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Chief Deputy Attorney General John W. McIntosh,
Assistant Deputy Attorney General Donald J. Zelenka,
Assistant Attorney General Jeffrey A. Jacobs, all of Columbia; and
Solicitor Warren Blair Giese, of Columbia, for Respondent.

JUSTICE BURNETT: Jeroid John Price (Appellant) was
convicted of the murder of Carl Smalls and was sentenced to thirty-five years

imprisonment. Appellant appeals and this Court certified the case for review from the Court of Appeals, pursuant to Rule 204(b), SCACR. We affirm.

FACTUAL/PROCEDURAL BACKGROUND

On December 6, 2002, Alpha Phi Alpha fraternity hosted a party at Club Voodoo in Columbia, South Carolina. During the party, a confrontation between rival gangs, the Bloods and the Crips, occurred. Appellant, who conceded he was affiliated with the Bloods, and Smalls, a member of the Crips, confronted each other.

Around 2:00 a.m. on December 7, the party ended. Ryan Brooks retrieved a semi-automatic pistol from his car to protect himself and Appellant retrieved a pistol from his car for protection while his friends counted the money collected at the door that night. Derrick Watson testified around 2:00 a.m. Smalls asked him for a gun, but Watson did not have one.

Brooks saw Appellant and Smalls talking in the club. He testified Appellant reached towards his own waist and Smalls rushed Appellant; the two men struggled over Appellant's pistol. During the struggle, the pistol was pointed towards Brooks, who fired his own gun and shot Smalls. After firing his weapon, Brooks ran out of the club and heard more gunshots.¹

Marcus Jones heard the first gunshot and saw the victim on the ground. He then saw two more shots and described the gunfire as "coming straight down." Jones testified the victim did not appear to have a gun and the gunman did not appear to be in danger. He later identified Appellant as the gunman.

Investigator James Richardson was qualified as an expert in gangs and gang activity. Richardson testified about the history of the Bloods and the Crips, gang activities in Columbia, gang clothing, and gang hand signals. During direct examination, Richardson testified Appellant was a member of the Bloods and was a supreme or officer within the gang.

¹ Brooks was also charged with the murder of Smalls.

The trial judge overruled defense counsel's objection to the hearsay testimony that Appellant was an officer in the Bloods. On cross-examination, Richardson conceded he did not know Appellant and that his testimony regarding Appellant was based on information from informants and not on his own personal knowledge.

The State presented the following evidence seized from Appellant's apartment as part of its theory that Appellant was a member of the Bloods: photographs of men, including Appellant, making Blood hand signals and wearing Blood colors; a gang code book; red clothing and hats; bullet-proof vests; and a document containing a pledge of allegiance to the United Blood Nation.

Appellant admitted shooting Smalls but asserted he acted in self-defense. Appellant testified he was not a Blood, but he was affiliated with that gang. He further testified Smalls was physically larger than him and, on the night of the shooting, Smalls attacked him without provocation. He testified they struggled over his gun and during this struggle the gun discharged, wounding Smalls.

The trial judge instructed the jury on murder and self-defense. Appellant was found guilty of murder, and this appeal follows.

ISSUE

Did the trial judge err in admitting testimony from an expert witness in the areas of gangs and gang activity that Appellant was an officer in a gang when the expert based his testimony on statements from informants?

STANDARD OF REVIEW

The decision to admit or exclude testimony from an expert witness rests within the trial court's sound discretion. Mizell v. Glover, 351 S.C. 392, 570 S.E.2d 176 (2002); State v. Caldwell, 283 S.C. 350, 322 S.E.2d 662 (1984). The trial court's decision to admit expert testimony will not be