

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
Post Conviction Relief

S.C. SUPREME COURT

Honorable Edgar W. Dickson, Circuit Court Judge

App. Case No.: 2022-001121

Kadrin Singleton, 335449,

Petitioner,

vs.

State of South Carolina,

Respondent.

APPENDIX
VOLUME II of IV

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Angie Bunker Elmer
Direct Examination by Mr. Kidd
January 7, 2015

ANGIE BUNKER ELMER,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. KIDD:

Q. For starters, can you tell the jury where you're currently employed?

A. I am currently employed with the City of North Charleston Police Department.

Q. What are your current duties?

A. My current duties are a special victims detective.

Q. So what kind of cases do you work on?

A. I handle any kind of juvenile victim, any kind of elderly victim, and rape cases, sexual assaults.

Q. So back in November of 2012, what were you doing for North Charleston then?

A. I was currently assigned to the forensic unit crime scene. Any kind of violent crimes or anything, I responded to those.

Q. So as part of the crime scene or forensic unit, what typically would you -- what were your duties? What would you -- what does that involve?

A. To pretty much standpoint the crime scene in front of me by photographing, documenting, collecting

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1 evidence and processing that evidence.

2 Q. So when there is a crime scene, if it's a
3 shooting or burglary or whatever, they call you out and
4 you document the crime scene, collect evidence, photograph
5 it; that sort of thing?

6 A. Yes, sir.

7 Q. And that's what you -- do you recall becoming
8 involved in the shooting at 2364 Cambridge?

9 A. Yes, sir.

10 Q. And as a -- you were a crime scene detective at
11 that point?

12 A. Yes, sir.

13 Q. I guess would that be the title? Crime scene
14 detective?

15 A. Crime scene officer. But, yes.

16 Q. Crime scene officer. Okay.. And did you respond
17 to that scene?

18 A. Yes, sir.

19 Q. Do you remember about what time you got there?

20 A. Around 11:00 p.m.

21 Q. Around 11:00 p.m. okay.

22 [Whereupon, State's Exhibit Numbers 20 through
23 37 are marked by the court reporter]

24 I'm going to show you a series of photographs.

25 Okay? State's 20 through 37. Okay?

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1 [Whereupon, an off-the-record bench conference
2 is held]

3 THE COURT: 20 through 36 into evidence without
4 objection.

5 State's 37 not in evidence due to Mr. Cooper's
6 objection. Thank you.

7 [Whereupon, State's Exhibit Numbers 20 through
8 36 are admitted into evidence by the Court]

9 THE COURT: You may publish.

10 MR. KIDD: Thank you, Your Honor.

11 Q. [Mr. Kidd] And just for sort of clarity to the
12 record, if you could take a look at State's 20 through 36,
13 see if you recognize those photographs.

14 [Whereupon, the witness reviews documents]

15 A. Yes, sir. All of these are from the initial
16 crime scene.

17 Q. [Mr. Kidd] Did you take most of those
18 photographs?

19 A. Yes, sir.

20 Q. On some of the ones that you didn't take, were
21 you there when they were taken?

22 A. Yes, sir.

23 Q. Do they all fairly and accurately represent
24 either the crime scene or the evidence that was collected
25 from that crime scene?

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1 A. Yes, sir.

2 MR. KIDD: So at this time, the State would
3 offer 20 through 36 into evidence.

4 THE COURT: 20 through 36 already in evidence.
5 No objection by the defendant.

6 Q. [Mr. Kidd] So first, Ms. Elder, I'm going to
7 show you State's Exhibit 29. What does this photograph
8 depict?

9 A. This is the photograph of the first room, which
10 was considered the living room, when you first entered
11 into the residence of 2364.

12 Q. When you arrived on scene, was the victim still
13 there?

14 A. Yes.

15 Q. He's obviously not there in this photograph.

16 A. Correct.

17 Q. So what -- how was he --

18 A. Once the coroner arrives, we have permission to
19 move the body. And at that point, at the point that this
20 picture was taken, we had already documented the scene
21 with the body there and the victim had been removed by the
22 corner.

23 Q. So I want to talk about some of the evidence
24 that you collected out of this living room. Okay?

25 A. Okay.

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1 Q. Did you collect shell casings from this living
2 room?

3 A. Yes, sir.

4 Q. Can you tell the jury what shell casings you
5 collected out of the living room and where they were
6 located, please?

7 A. Yes, sir.

8 Item number 1, which is marked with a yellow
9 placard, was a .40 Federal shell casing --

10 Q. All right. So let's just go -- let's go one by
11 one.

12 MR. KIDD: That screen in front of you is a
13 touch screen, so like if you circle or anything like
14 that, it will show up on the screen for the jury to
15 see.

16 Q. [Mr. Kidd] So number 1 was what, now?

17 A. Number 1 was a .40 Federal shell casing.

18 Q. So a .40 caliber?

19 A. Yes, sir.

20 Q. So if you could put a circle around where that
21 was located.

22 A. [Witness complies]

23 Q. So you have a .40 caliber shell casing located
24 right there.

25 What about -- any other shell casings?

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1 A. Number 2 was a .9mm Blazer shell casing.

2 Q. Okay. Right there.

3 Any other shell casings?

4 A. Yes, sir.

5 There was a -- there's a number 4 that is not on
6 this because it was actually located under the body, which
7 was in this area right here. And that was another .40
8 Federal shell casing.

9 Q. So you recovered two .40 caliber shell casings
10 and one .9mm shell casing?

11 A. Yes, sir.

12 Q. And I'm going to show you what's been marked as
13 State's Exhibit 35. Is that that shell casing you were
14 referring to there as number 4?

15 A. Yes, sir.

16 Q. So when you first came in before the body was
17 moved, I guess you didn't know that shell casing was
18 there?

19 A. Correct.

20 Q. And so in order to find it, the body had to be
21 sort of rolled over?

22 A. Yes, sir.

23 Q. And this State's Exhibit 34, does that show that
24 same shell casing?

25 A. Yes, sir.

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1 Q. So right now we have three shell casings
2 recovered, two of them one .9mm, one .40 caliber, sort of
3 -- if you're looking at the body, kind of to the right?

4 A. Yes, sir.

5 Q. And then you have one .40 caliber shell casing
6 underneath?

7 A. Correct.

8 Q. And then you collect evidence? Like after you
9 mark them and photograph them, then you collect and
10 document evidence; is that --

11 A. Yes, sir.

12 Q. -- accurate? Okay.

13 State the obvious sometimes, but that's what we
14 do.

15 [Whereupon, State's Exhibit Number 47 is marked
16 by the court reporter]

17 Q. [Mr. Kidd] So I'm going to show you what's been
18 marked as State's Exhibit Number 47 and see if you can
19 tell me what those are.

20 A. Yes, sir.

21 These are the shell casings that were collected
22 from the scene. And they were later sent up to SLED for
23 further investigation.

24 Q. And what is SLED?

25 A. SLED is the law enforcement division. They do a

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1 lot of our back-source of processing of the evidence.

2 Q. So when you collect an item like these shell
3 casings, what do you do? How do you package them? What
4 do you do?

5 A. Each shell casing is packaged separately in a
6 small white box, cardboard box, and is then sealed
7 individually. And then they were all packaged together in
8 that envelope, each individual box, to be sent to SLED.
9 That way, they didn't have a whole bunch of issues with
10 packaging and stuff and have a whole bunch of extra stuff.

11 Q. And then so you take these and you turn them
12 into the evidence room in North Charleston?

13 A. Yes, sir.

14 Q. How does that occur?

15 A. We do what's called chain of custody.
16 Everything is signed over to our evidence room and then
17 our evidence room will take it from there.

18 Q. So each item that you collect, yourself and your
19 department maintains a chain of custody log on that item?

20 A. Yes, sir.

21 Q. So that anyone that touches or deals with this
22 item in any way has to then enter themselves in the chain
23 of custody log?

24 A. Yes, sir.

25 Q. Right?

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1 All right. And that was done on these
2 items?

3 A. Yes, sir.

4 Q. It was? Okay.

5 MR. KIDD: Your Honor, at this time the State
6 would offer State's 47 into evidence.

7 THE COURT: Any objection?

8 MR. COOPER: No, ma'am.

9 THE COURT: State's 47 into evidence without
10 objection.

11 [Whereupon, State's Exhibit Number 47 is
12 admitted into evidence by the Court]

13 Q. [Mr. Kidd] So now I want to point your
14 attention to your evidence collection item number 3. Can
15 you tell the jury what item number 3 that you collected
16 was?

17 A. Item number 3 was a gold teeth cover, commonly
18 known as a grill.

19 Q. Was it a whole piece of a grill?

20 A. I'm not positive.

21 Q. When you saw the victim's body, did you notice
22 where any of the gunshot wounds were?

23 A. Yes, sir.

24 Q. Could you tell the jury?

25 A. The most noticeable one was through his mouth,

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1 which is why the grill was out.

2 And then he had a -- I don't know if it was a
3 through and through, but he had several wounds to his
4 chest area.

5 Q. And if I could point your attention to evidence
6 number 15 that you collected.

7 A. Yes, sir.

8 Q. And what is that?

9 A. That is a partial gold teeth grill.

10 Q. So I'm going to show you what's been marked and
11 entered as State's Exhibit 33. Is that what we're
12 referring to there?

13 A. Yes, sir.

14 Q. So that is I guess a piece of --

15 A. Yes, sir.

16 You could tell where the engravement or the
17 teeth were supposed to fit. It was just one side of it,
18 though. If it actually fit on top of the teeth, it would
19 have just been half of it.

20 Q. And number 15 is not marked in this photograph,
21 but can you tell from State's Exhibit 33 where it would be
22 in State's Exhibit 29?

23 A. It would have been right in this area.

24 Q. And then you said State's Exhibit -- I mean, not
25 State's Exhibit. Then you said that item number 3 that

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1 you collected was also a part of a gold grill?

2 A. Yes.

3 Q. And can you indicate on this picture where that
4 was?

5 A. Right in [indicates] --

6 Q. And sort of -- did you collect a lot of drug
7 evidence throughout the residence?

8 A. Yes, sir.

9 Q. Let's review some of it just as briefly as we
10 can. Tell me the drug evidence that you collected. Item
11 number 17; what was that?

12 A. It was an AWS silver digital scale.

13 Q. I'm going to show you what's been marked and
14 entered as State's Exhibit Number 4. Is that the silver
15 scale you're referring to?

16 A. Yes, sir.

17 Q. Did you collect a lot of sort of sandwich type
18 baggies from the residence? Items 26 and 27?

19 A. Yes, sir.

20 Q. Did you collect some marijuana and cocaine type
21 evidence?

22 A. Yes, sir.

23 Q. Show you what's been marked as State's Exhibit
24 Number 30. Did you collect that?

25 A. Yes, sir.

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1 Q. Do you recall where that was located? I believe
2 it would be your items number 55 and 53.

3 A. Yes, sir. It was collected from the kitchen in
4 upper cabinet.

5 Q. And you collected the marijuana, as well?

6 A. Yes, sir.

7 Q. State's Exhibit Number 7; do you recall that?

8 A. Yes, sir.

9 Q. Do you remember what kind of bag that was?

10 A. I'm not sure how to pronounce it, but G-U-C-C-I.

11 Q. Gucci?

12 A. Gucci.

13 Q. State's Exhibit 32, is that that same bag?

14 A. Yes, sir.

15 Q. And so you collected that marijuana, as well?

16 A. Yes, sir.

17 Q. Did you collect a lot of paperwork?

18 A. We documented a lot of paperwork, and we also
19 collected it.

20 Q. Bills, receipts, that sort of thing?

21 A. Yes, sir.

22 Q. Now, I want to talk about -- before we get to
23 that.

24 Item number 47 that you collected, what was
25 that?

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1 A. A .9mm. Blazer bullet.

2 Q. So is this a -- when we say bullet, is it
3 different than a shell casing?

4 A. Yes. It's an unshot round.

5 Q. And unshot round? Where was it collected from?

6 A. From a bedroom closet in a box.

7 Q. Bedroom closet in a box. Okay. So show you
8 State's Exhibit 22. Is that what you're referring to
9 there?

10 A. Yes, sir.

11 Q. Could you circle the bullet for the jury?

12 A. [Witness complies]

13 Q. And this is in a bedroom, so this is sort of I
14 guess like a back bedroom in the residence?

15 A. Yes, sir. There's two bedrooms to the back of
16 the residence.

17 Q. And I'll give you a little closer-up. State's
18 Exhibit 21, that's that same cartridge?

19 A. Yes, sir.

20 Q. And then one more closer-up, State's Exhibit
21 Number 20. That's that same round?

22 A. Yes, sir.

23 Q. And I do this because on the shell casing that
24 you collected, the .9mm shell casing, what kind of shell
25 casing was that?

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1 A. That was item number 2 and it was also a .9mm
2 Blazer.

3 Q. So it was also a Blazer .9mm shell -- but it was
4 a shell casing as opposed to a cartridge?

5 A. Correct.

6 Q. So the spent .9mm Blazer shell casings in the
7 living room, and an unfired .9mm cartridge was in the back
8 bedroom?

9 A. Correct.

10 Q. I want to talk about any and all of the money
11 that you collected from inside the residence. Okay?

12 A. Okay.

13 Q. First of all, I believe there was some money on
14 the kind of bar area in the -- that separated the kitchen
15 from the living room?

16 A. Yes, sir.

17 Q. How much U.S. currency was collected from that
18 area?

19 A. There was \$90 collected.

20 Q. \$90.

21 I'm going to show you what's marked State's
22 Exhibit Number 6. Do you see that money in that photo?

23 A. Yes, sir.

24 Q. And can you circle it for the jury?

25 A. [Witness complies]

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1 Q. Thank you. So that was \$90?

2 A. Yes, sir.

3 Q. I'm going to show you State's Exhibit 36. Do
4 you recognize that photograph?

5 A. Yes, sir.

6 Q. Whose hands are those?

7 A. Those are mine.

8 Q. Those are your hands. All right.

9 And do you know how much currency he had in his
10 pocket?

11 A. I'm not positive, no, sir.

12 Q. Was it a lot?

13 A. No. Approximately about \$42.

14 Q. \$42.

15 Do you collect that evidence, or does that go
16 somewhere else?

17 A. No, sir.

18 I do not collect anything that's actually on the
19 victim. The coroner's office does.

20 Q. And then there was some other money collected.
21 Can you tell the jury about that?

22 A. Yes, sir.

23 There was money collected from the back bedroom
24 in the closet area. There was \$121 in U.S. currency and
25 then there was \$14.34 in a plastic Ziploc bag of some

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1 small bills, and most of it was coins.

2 Q. So if you add all the money up that was
3 collected from inside the residence, \$225, approximately?

4 A. Approximately.

5 Q. With, what, \$90 on the counter, \$42 in his
6 pockets. That's, what, \$132? One twenty-one from the
7 back bedroom. So that's, what, one fifty-three -- I mean,
8 two fifty-three; excuse me. Another \$14. So maybe two
9 seventy-five, roughly --

10 A. Yes, sir.

11 Q. -- give or take \$10 for soft math.

12 So two seventy-five, roughly, total collected
13 from the residence?

14 A. Yes, sir.

15 Q. That's fair to say?

16 A. Yes, sir.

17 Q. Additionally, there was some drug paraphernalia
18 that was found sort of in the kitchen, specifically
19 State's Exhibit 28, refrigerator. Do you recognize that?

20 A. Yes, sir.

21 Q. Closer up, State's Exhibit 27? And I actually
22 want to show you that.

23 MR. KIDD: All right. I'm going to move on real
24 quickly while she locates that for me.

25 Q. [Mr. Kidd] State's Exhibit 25, do you recognize

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1 those items?

2 A. Yes, sir.

3 Q. You collected those, as well?

4 A. Yes, sir.

5 [Whereupon, State's Exhibit Number 48 is marked
6 by the court reporter]

7 Q. [Mr. Kidd] I'm going to show you what's been
8 marked State's Exhibit 48. See if you recognize that
9 item.

10 A. Yes, sir.

11 Q. What is this?

12 A. That is this item right here.

13 Q. So it's the Mason jar with the substance in it?

14 A. Yes, sir.

15 MR. KIDD: Your Honor, at this time the State
16 would offer State's Exhibit 48 into evidence.

17 THE COURT: Any objection?

18 MR. COOPER: No, ma'am.

19 THE COURT: State's 48 into evidence without
20 objection.

21 [Whereupon, State's Exhibit Number 48 is
22 admitted into evidence by the Court]

23 Q. [Mr. Kidd] So this is what we're referring to
24 there?

25 A. Yes, sir.

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1 Q. It looks a little bit different now?

2 A. Yes, sir. It's been processed.

3 Q. Or and just time.

4 Did you take tire castings?

5 A. Yes, sir.

6 Q. What is a tire castings?

7 A. A tire casting is kind of like when you go to
8 the dentist and they do a casting of your teeth.

9 It's the same material. That's in a bag. We
10 shake it up, pop it, the water comes out, and we then
11 insert that onto the ground, or wherever, to take a cast
12 of an object.

13 In this case it was a tire mark that was left in
14 the grass area. It hardens, and then we can use it for
15 examination.

16 Q. Collect a bunch of cigarette butts and things
17 like that?

18 A. Yes, sir.

19 Q. And when you respond to the scene, are you the
20 only crime scene tech there or is there other folks there,
21 too?

22 A. No, sir. Sargent Wyant was also there.

23 Q. And he, at that time, was a crime scene tech as
24 well -- or a crime scene officer?

25 A. Yes.

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1 Q. I apologize.

2 And what is he doing while you're documenting
3 and collecting all this evidence?

4 A. He's going around processing.

5 He processed the door, he processed the jar that
6 you just showed us, with black powder trying to get latent
7 prints. And he's just trying to keep up with the
8 detectives. There's more than two of them.

9 Q. So there are a bunch of detectives in there,
10 also, and so as they're kind of going around and looking
11 at things, y'all are going around and trying to document
12 them before they disturb them or touch anything?

13 A. Yes, sir.

14 Q. Is that kind of the idea?

15 A. Yes, sir.

16 Q. So he's sort of processing parts of the house
17 because at such an early stage there's no real suspect
18 yet, or anything like that? Is that sort of how it works
19 or --

20 A. Yes, sir.

21 Q. -- trying to --

22 A. We're trying to gain a suspect at that time.

23 Q. -- trying to be thorough, because there's no
24 telling at this point?

25 A. Yes, sir.

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1 [Whereupon, State's Exhibit Number 49 is marked
2 by the court reporter]

3 Q. [Mr. Kidd] I'm going to show you what's been
4 marked as State's Exhibit 49, see if you recognize that.

5 A. Yes, sir.

6 Q. And you might also from the back, the label.

7 A. Yes, sir.

8 Q. What is that?

9 A. That is the white substance that was found in
10 the Crown Royal bag in the refrigerator.

11 Q. And so -- and it just took me a minute to find
12 it, but that would be not the bag that he's opening, but I
13 guess this bag here?

14 A. Yes, sir.

15 Q. And then State's Exhibit 23 would be that bag
16 there?

17 A. Yes, sir.

18 MR. KIDD: Your Honor, at this time the State
19 would offer State's Exhibit 49 into evidence.

20 MR. COOPER: No objection.

21 THE COURT: State's 49 into evidence without
22 objection.

23 [Whereupon, State's Exhibit Number 49 is
24 admitted into evidence by the Court]

25 Q. [Mr. Kidd] Now, I do this because I found it

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1 kind of odd. All right? Is that the item you collected?

2 A. Yes, sir.

3 Q. You've been in law enforcement for a while?

4 A. Yes, sir.

5 Q. Does that look like cocaine to you?

6 A. No, sir.

7 Q. That's all I wanted to be clear about. What
8 does it look like to you?

9 A. It looks like fake, like somebody's trying to
10 fake or mix.

11 Q. And you can tell that --

12 A. The consistency and the flakiness of it.

13 Q. It's kind of like almost scaley; is that --

14 A. Yes, sir.

15 Q. -- almost like fish food? Okay.

16 Then after you finished processing the crime
17 scene, did you respond to process the automobiles?

18 A. Yes, sir. At the city warehouse.

19 Q. At the city warehouse.

20 All right. So how do cars get to the city
21 warehouse?

22 A. They're towed.

23 Q. They're towed.

24 Do you remember what cars you processed?

25 A. I assisted Sargent Wyant with a Ford Taurus, a

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1 maroon or burgundy Ford Taurus.

2 Q. Does that look like that Ford Taurus there,
3 State's Exhibit 10?

4 A. Yes, sir.

5 Q. And when you say you assisted Sargent Wyant in
6 processing a Ford Taurus, what does that entail?

7 A. We processed it with black powder for latent
8 details for fingerprints. And then we also swabbed it for
9 DNA, the door handles and items inside the vehicle.

10 Q. So when we swab things for DNA -- and just to be
11 clear -- so it's not like blood or anything like that,
12 it's touch DNA?

13 A. Touch DNA. Yes, sir.

14 Q. So swabbing anywhere that would be commonly
15 touched on the vehicle in hopes that a DNA sample was left
16 behind?

17 A. Yes, sir.

18 Q. And then so you take all those swabs, and
19 whatever fingerprint lifts were able to be lifted, and
20 then what do you do with them?

21 A. Any of the DNA swabs that the detective chooses
22 to send up to SLED. SLED does all of our DNA analysis for
23 us.

24 The latent -- any latent details would actually
25 stay within the unit and one of our latent examiners would

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1 examine those.

2 Q. And so I just want to kind of rehash one bit of
3 our testimony earlier. I'm going to show you State's
4 Exhibit Number 8: All right. And -- well, let me just
5 ask you this, because I just want to be clear about where
6 these three shell casings that you recovered were located
7 in relation to where the body was in this photograph.

8 A. Okay. Get the numbers right. There is one
9 located over in this area, there is one -- the .9mm was
10 located in this area, and there was one actually
11 underneath -- when we rolled him over, it was actually
12 underneath him.

13 Q. I think I might have gotten confused where they
14 are so --

15 A. I think I got confused.

16 Q. -- item number 1 that you collected?

17 A. Was a .40 Federal shell casing.

18 Q. And where was that?

19 A. It's really hard to see on -- it was over in
20 this area over here, like --

21 Q. Item number 2?

22 A. Was actually under -- oh. I'm sorry -- was over
23 in this area on that side of him.

24 Q. Are you sure about that?

25 A. No, sir.

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Angie Bunker Elmer
Direct Examination by Mr. Kidd
January 7, 2015

1 Q. I'm not trying to -- I'm not trying to switch
2 you up. I just -- I feel like that's --

3 A. My placards are how I tell. I'm sorry. It's a
4 two-year-old case.

5 Q. No, I understand.

6 All right. So I'm going to show you State's
7 Exhibit 29 real quick.

8 A. Okay. I apologize.

9 Q. Do you see placard number 2 there?

10 A. Yes, sir.

11 Q. So I know it's a different angle --

12 A. Yes.

13 Q. -- on the photographs.

14 A. One was here, and one was up in this area, and
15 then the one was actually located under his person.

16 Q. All right. That's all of the --

17 A. I apologize.

18 Q. Sorry about that.

19 GSR. What is GSR?

20 A. Gunshot residue.

21 Q. And when you're going to take a gunshot residue
22 sample, how does that work?

23 A. They actually come in kits that we open up. As
24 soon as we open it, there are gloves inside it that we
25 actually place on our hands where we don't contaminate the

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Angie Bunker Elmer
Direct Examination by Mr. Kidd
January 7, 2015

1 scene.

2 We then have -- they're pretty much cut off
3 Q-Tips that we swab the hands with, with some sterile
4 water that comes in the kit, and there's also the little
5 dabber. It almost looks like a bingo topper that you sit
6 there and you do this and it actually collects the
7 particles from the hand.

8 Q. So is there like a different swab for different
9 parts of the hand?

10 A. They're all document [phonetic] -- it's all the
11 same thing. But each one has left palm, right palm, and
12 they're all documented for what you're supposed to use it
13 on.

14 Q. So like you'll use one swab for the left palm,
15 maybe one swab for the left back, that sort of thing?

16 A. Yes, sir.

17 Q. And did you do gunshot residue swabs on anyone?

18 A. I completed one on the victim.

19 Q. On the victim?

20 A. Yes, sir.

21 [Whereupon, State's Exhibit Number 50 is marked
22 by the court reporter]

23 Q. [Mr. Kidd] And I'm going to show you, it might
24 be hard for you to tell on this, what's been marked
25 State's Exhibit Number 50. I believe it's going to be

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Angie Bunker Elmer
Direct Examination by Mr. Kidd
January 7, 2015

1 that label there. Can you tell if that contains the
2 gunshot residue swab that you --

3 MR. COOPER: Your Honor, may we approach?

4 THE COURT: You may.

5 [Whereupon, an off-the-record bench conference
6 is held]

7 Q. [Mr. Kidd] So does that --

8 MR. KIDD: I forgot the number.

9 THE COURT: 50.

10 MR. KIDD: 50.

11 Q. [Mr. Kidd] Does State's Exhibit 50 contain the
12 gunshot residue kit that you took from the victim?

13 A. According to the bar codes, yes, sir.

14 Q. And so when you collect that kit, I guess you
15 seal it when you're done collecting it?

16 A. Yes, sir.

17 They're actually in their own individual
18 envelopes. And that's kind of like the shell casings.
19 Each individual envelope was placed into there and SLED
20 did the analysis from there.

21 Q. So after you've collected, you then turn it back
22 into your evidence in North Charleston?

23 A. Yes, sir.

24 Q. And then eventually it's sent up to SLED to be
25 analyzed?

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Angie Bunker Elmer
Direct Examination by Mr. Kidd
January 7, 2015

1 A. Yes, sir.

2 Q. And that's what you did on the victim?

3 A. Yes, sir.

4 MR. KIDD: I think I'm done. Court's indulgence
5 for one moment.

6 [Whereupon, Mr. Kidd and Mr. Lietzow confer]

7 MR. KIDD: I have no further questions for
8 Ms. Elder.

9 THE COURT: Ladies and gentlemen, we're going to
10 go ahead and take our midmorning break.

11 Please do not begin your deliberations. Again,
12 you may leave your notepads right where they are or
13 take them with you.

14 We're going to take about ten minutes. Please
15 rise for the jury.

16 [Whereupon, the jury exits the courtroom at
17 10:54 a.m.]

18 THE COURT: Thank you. Be seated.

19 You may step down. Do not discuss your
20 testimony.

21 [Whereupon, Ms. Elder is excused and exits the
22 witness stand]

23 THE COURT: Anything before we break?

24 MR. KIDD: No, ma'am.

25 MR. COOPER: No, ma'am.

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Angie Bunker Elmer
Direct Examination by Mr. Kidd
January 7, 2015

1 THE COURT: Thank you.

2 [Whereupon, a recess is taken from 10:56 a.m. to
3 11:04 a.m.]

4 THE COURT: Thank you. Be seated.

5 MR. COOPER: Your Honor, may we approach about
6 scheduling?

7 THE COURT: You may.

8 [Whereupon, an off-the-record bench conference
9 is held]

10 THE COURT: All right. Let's bring in the jury.

11 [Off the record momentarily]

12 THE COURT: Please rise for the jury.

13 [Whereupon, the jury enters the courtroom at
14 11:05 a.m.]

15 THE COURT: Thank you. Please be seated.

16 Detective, I remind you that you're still under
17 oath.

18 Yes, sir?

19 THE FOREPERSON: The jurors need the witnesses
20 to speak louder, ma'am.

21 THE COURT: All right. Thank you.

22 Your witness.

23 MR. COOPER: Thank you, Your Honor.

24 MR. COOPER: Good morning, Detective Elder.

25 THE WITNESS: Good morning.

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Angie Bunker Elmer
Direct Examination by Mr. Kidd
January 7, 2015

1 THE COURT: How are you?

2 THE WITNESS: Good. Thank you.

3 [Whereupon, Mr. Cooper and Mr. Kidd confer]

4 THE COURT: Are y'all wanting to approach?

5 MR. COOPER: Yes, ma'am. I apologize, Your
6 Honor. May we approach?

7 [Whereupon, an off-the-record bench conference
8 is held]

9 [Whereupon, Defendant's Exhibit Numbers 6
10 through 11 are marked by the court reporter]

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Angie Bunker Elder
Cross-examination by Mr. Cooper
January 7, 2015

CROSS-EXAMINATION

BY MR. COOPER:

Q. Detective, let me start off -- Detective, I'm handing you what's been previously marked for identification purposes as Defendant's Exhibit 11. Do you recognize that item?

A. Yes, sir.

Q. And how do you recognize that item?

A. Because of my labeling on the front of it.

Q. And has it been changed in any way? Is the box sealed?

A. Yes.

Q. Did you seal the box?

A. Yes.

Q. And what is that item?

A. This is a .9mm Blazer bullet that was located in the closet in the box. The unshot.

Q. Is that what is depicted in State's Exhibit 20?

A. Yes, sir.

MR. COOPER: Your Honor, at this time I seek to admit what's been previously marked as Defendant's 11.

MR. KIDD: No objection.

THE COURT: Defendant's 11 into evidence without objection.

MR. COOPER: Thank you.

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Angie Bunker Elder
Cross-examination by Mr. Cooper
January 7, 2015

1 [Whereupon, Defendant's Exhibit Number 11 is
2 admitted into evidence by the Court]

3 Q. [Mr. Cooper] And you testified on direct that
4 the markings on the bullet, the brand on the unspent
5 bullet found in the bedroom, is the same as the spent
6 shell casing found in the living room?

7 A. Yes. They're both Blazers.

8 Q. .9mm Blazers?

9 A. Correct.

10 Q. Now, you found cash throughout the residence;
11 correct?

12 A. Yes, sir.

13 Q. In different locations?

14 A. Yes, sir.

15 Q. I'm going to show you what's been marked as
16 Defendant's 8, 9 and 10. Do you recognize those
17 photographs?

18 [Whereupon, the witness reviews documents]

19 A. Yes, sir.

20 Q. [Mr. Cooper] And do they fairly and accurately
21 represent the scene as you found it?

22 A. Yes, sir.

23 MR. COOPER: Your Honor, at this time I seek to
24 admit Defendant's 8, 9 and 10 into evidence.

25 THE COURT: Any objection?

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Angie Bunker Elder
Cross-examination by Mr. Cooper
January 7, 2015

1 MR. KIDD: No objection.

2 THE COURT: Defendant's 8, 9 and 10 into
3 evidence without objection.

4 [Whereupon, Defendant's Exhibit Numbers 8, 9,
5 and 10 are admitted into evidence by the Court]

6 MR. COOPER: Permission to publish to the jury?

7 MR. COOPER: You may.

8 Q. [Mr. Cooper] Detective, Defendant's 10 is an
9 image of a wad of cash; correct?

10 A. Yes, sir.

11 Q. And that cash is the same as what was on the
12 kitchen counter; correct? It's just a close-up version?

13 A. [No response]

14 Q. I'm going to show you what's been marked as --
15 or that's been admitted as State's Exhibit 4. I'll put it
16 up on the projector. Do you see the counter right there?

17 A. Yes.

18 Q. Do you see the counter underneath the cash?

19 A. Yes.

20 Q. And then --

21 A. It's the same that was on the bar. Yes, sir.

22 Q. In the State's 4, that is -- that's the cash
23 right there from the kitchen counter?

24 A. Yes, sir.

25 Q. And then that's the scale on the kitchen

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Angie Bunker Elder
Cross-examination by Mr. Cooper
January 7, 2015

1 counter?

2 A. [No response]

3 Q. That's a digital scale?

4 A. It's actually a bar area.

5 Q. Right. Right.

6 So in describing it, so that way maybe the
7 jury can have a better picture, if I am in the living room
8 here --

9 A. Uh-huh.

10 Q. -- right? Say that the jury's [sic] separation
11 right here, that's -- what I'm calling the kitchen
12 counter, what's really -- it's like a bar?

13 A. Yes, sir.

14 Q. It sort of divides me from the living room, and
15 then they would be in the kitchen?

16 A. Correct, sir.

17 Q. And so that scale and the cash is up on this bar
18 on the divider between the living room and the kitchen?

19 A. Yes, sir.

20 Q. As well as keys and a cell phone; correct?

21 A. Yes, sir.

22 Q. And then there are these two plastic cups, as
23 well. And were fingerprint evidence obtained from those
24 cups?

25 A. I believe so, yes, sir. But that would have

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Angie Bunker Elder
Cross-examination by Mr. Cooper
January 7, 2015

1. been under Sargent Wyant.

2. Q. Right.

3. You don't -- like you testified before, you
4. didn't process for prints yourself?

5. A. I assisted, but most of that fell under Sargent
6. Wyant.

7. Q. Okay. And then I'm going to show you State's --
8. excuse me -- Defendant's 8 and 9. That's the image of the
9. bag of cash that you recovered, with the change in it as
10. well?

11. A. Yes, sir.

12. Q. And then this is an image of more cash on a
13. chair?

14. A. Yes, sir.

15. Q. And then you can sort of see the separation
16. between that piling and the hardwood in the image; right?

17. A. Yes, sir.

18. The chair was located underneath that bar area
19. we were just speaking of --

20. Q. So in the --

21. A. -- in the livingroom area.

22. Q. -- livingroom area?

23. So the tiling would be in the kitchen, and
24. that's like the edge of the bar, and then the chair is in
25. the living room and the couch is on the chair [phonetic]?

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Cross-examination by Mr. Cooper
January 7, 2015

1. A. Correct.

2 Q. Detective, I'm going to show you what's been
3 previously marked as Defendant's 6 and 7, as well. Do you
4 recognize those photos?

5 A. Yes, sir.

6 Q. And do they fairly and accurately represent the
7 scene as you found it?

8 A. Yes, sir.

9 MR. COOPER: Your Honor, at this time the
10 defense seeks to admit Defendant's 6 and 7 into
11 evidence.

12 MR. KIDD: No objection.

13 THE COURT: Defendant's 6 and 7 into evidence
14 without objection.

15 [Whereupon, Defendant's Exhibit Numbers 6 and 7
16 are admitted into evidence by the Court]

17 Q. [Mr. Cooper] Detective Elmer, you found two
18 shotgun shell casings in this case; correct?

19 A. In the attic area. Yes, sir.

20 Q. Right.

21 And so this is an image of those shotgun shell
22 casings that were found in the attic. And they are at the
23 point right here?

24 A. Yes, sir.

25 Q. And that was up in the attic of the house?

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Angie Bunker Elder
Cross-examination by Mr. Cooper
January 7, 2015

1 A. Yes, sir.

2 Q. And then you also recovered a pair of bloody
3 shorts from the scene?

4 A. Yes, sir.

5 Q. And those are the bloody shorts?

6 A. Yes, sir.

7 Q. And there's sort of a rip right here in the leg
8 of the shorts. Can you tell from the image? Do you
9 recall?

10 A. I don't recall.

11 Q. Can you tell from the image what that is?

12 A. No, sir.

13 Q. Then also in that image there's the box in which
14 you found the .9mm?

15 A. Yes, sir.

16 Q. So it's safe to say that you found drugs
17 throughout the house?

18 A. Yes, sir.

19 Q. And cash throughout the house?

20 A. Yes, sir.

21 Q. In several different locations?

22 A. Yes, sir.

23 Q. Including in plain view in the living room?

24 A. Yes, sir.

25 Q. In the livingroom bar-top counter area?

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Angie Bunker Elder
Cross-examination by Mr. Cooper
January 7, 2015

1 A. Yes, sir.

2 Q. Now, you also found four-inch razor blades?
3 Replacement razor blades?

4 A. [No response]

5 Q. If I showed you your search warrant return,
6 would it refresh your recollection?

7 A. The search warrant from the residence?

8 Q. Yes.

9 A. Possibly.

10 Q. Here.

11 [Whereupon, the witness reviews documents]

12 Q. [Mr. Cooper] That's your name; right?

13 A. Yes.

14 [Whereupon, the witness reviews documents]

15 A. Yes, sir. That's my number 33.

16 Q. [Mr. Cooper] And that's -- the razor blades
17 were found on the bar top?

18 A. Yes, sir.

19 Q. And those razor blades are typical with -- they
20 can be drug paraphernalia?

21 A. They can be, yes.

22 Q. Because you -- somebody who traffics drugs would
23 use the razor blade to cut crack cocaine?

24 A. Correct.

25 Q. Into like smaller portions that they could then

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Angie Bunker Elder
Cross-examination by Mr. Cooper
January 7, 2015

1 sell?

2 A. Yes, sir.

3 Q. And you also found Great Value sandwich bags
4 that were open?

5 A. Yes, sir.

6 Q. And that's commonly found when people are
7 trafficking drugs?

8 A. Yes, sir.

9 Q. Now, you also found a black nylon holster?

10 A. Yes, sir.

11 Q. And that was found in the closet?

12 A. Yes, sir.

13 Q. And there was not a gun in that holster when you
14 found it?

15 A. No, sir.

16 Q. Now, when we walk into the house, okay, as we
17 said before, say I'm in the living room, okay --

18 A. Uh-huh.

19 Q. -- and the jury is in the kitchen and that's
20 that same bar we were discussing before.

21 A. Yes, sir.

22 Q. If I walk off to the left, that's where the back
23 bathroom is -- the bathroom is?

24 A. Yes, sir.

25 Q. And then the bedrooms are back there?

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Angie Bunker Elder
Cross-examination by Mr. Cooper
January 7, 2015

1 A. Yes, sir.

2 Q. So back to that back area near the bathrooms is
3 where the bedroom is?

4 A. Yes, sir.

5 Q. And that's where you found the empty gun
6 holster?

7 A. Yes, sir.

8 Q. Now, you don't automatically send off the things
9 that you find to SLED?

10 A. The detective that is the case agent, which in
11 this case would have been Sargent Hughes, he would have
12 directed a forensic unit on what he wanted to be sent
13 because they will only accept so many items.

14 Q. So Detective Hughes is the one that determines
15 what does and does not get sent to SLED for analysis?

16 A. On a common basis, yes, sir.

17 Q. That's not your call. You're just collecting
18 what you find?

19 A. At the time, yes.

20 Q. Because you don't know, when you're at the
21 scene, what necessarily is the evidentiary value of each
22 item?

23 A. Correct.

24 Q. You're just trying to look at the scene and
25 document what you find?

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Angie Bunker Elder
Cross-examination by Mr. Cooper
January 7, 2015

1 A. Yes, sir.

2 Q. Because something that may not seem to have
3 evidentiary value at one point could turn up later and
4 have great evidentiary value?

5 A. Correct.

6 Q. You just don't know at the time?

7 A. Correct.

8 Q. Now, do you know how -- when you arrived on
9 scene, you weren't the first person into the residence?

10 A. No. I was the first forensic unit.

11 Q. There were several people in the residence
12 before you arrived?

13 A. Correct.

14 Q. Including multiple law enforcement officials?

15 A. Upon my arrival, the only people that were in
16 were -- actually in the residence were two patrol
17 officers.

18 Q. Do you know -- you don't know, then, how many
19 people had been in the residence before you got there?

20 A. The only thing I can do is follow what they've
21 started on a crime scene log.

22 Q. And it's sort of important to preserve the crime
23 scene because things can be moved; correct?

24 A. Correct.

25 Q. Like, you know, if you bump something -- you

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Angie Bunker Elder
Cross-examination by Mr. Cooper
January 7, 2015

1 know, like for instance the cash on the chair, you know,
2 if you -- somebody wasn't paying attention, they bumped
3 it, the cash would fall off and then it's not on the
4 chair, you don't know where it started?

5 A. Correct.

6 Q. So, for instance, the shell casings: when --
7 you find the shell casing because you assume it comes from
8 a semiautomatic weapon?

9 A. Correct.

10 Q. Which ejects the casing?

11 A. Correct.

12 Q. As opposed to say it's a revolver; right? A
13 revolver, or what some people call a wheel gun, doesn't
14 eject the casing?

15 A. Correct.

16 Q. And when the gun ejects the casing, it's moving?

17 A. Yes.

18 Q. And then when it hits the ground, it doesn't
19 just stop; right?

20 A. It can, but not necessarily.

21 Q. Not necessarily.

22 Because there's no like glue on the casing;
23 right? It's just a piece of metal and it's round; right?

24 A. Yes, sir.

25 Q. So the shell casings can roll? They're easily

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Angie Bunker Elder
Cross-examination by Mr. Cooper
January 7, 2015

1 moveable?

2 A. Yes, sir.

3 Q. And they can bounce? They don't necessarily
4 have to, but they can bounce?

5 A. Yes, sir.

6 Q. Right?

7 A. Yes, sir.

8 Q. So because you find a shell casing in one part
9 of the room doesn't mean that that's where the gun was
10 fired --

11 A. Normally --

12 Q. -- necessarily?

13 A. Normally, it's within that area.

14 Q. Within that area. But it doesn't have to be?

15 A. Correct.

16 Q. Because you don't know?

17 A. Correct.

18 Q. Now, you sent the gunshot residue to SLED?

19 A. They were sent.

20 Q. They were sent -- they were sent for analysis?

21 A. Yes.

22 Q. And that would be something that would be sort
23 of standard to send to SLED for analysis?

24 A. That's the only place that we use for GSR kits,
25 yes.

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Angie Bunker Elder
Cross-examination by Mr. Cooper
January 7, 2015

1 Q. Well, what I'm getting at maybe is that y'all
2 collect DNA swabs from all sorts of different places?

3 A. Yes, sir.

4 Q. And you don't send all of those DNA swabs to
5 SLED for analysis?

6 A. Correct.

7 Q. But gunshot residue test is something that if
8 you do the test, it will typically be sent for analysis?

9 A. Not always.

10 Q. Not always?

11 A. As you were describing earlier, that we collect
12 everything because we can't necessarily go back to that
13 time frame --

14 Q. Right.

15 A. -- so we have to get everything that we can
16 during that time frame, to include GSR kits. They are on
17 a time limit to retrieve them. And --

18 Q. And when you say a limit to retrieve them, why
19 is that? That's because gunshot residue -- and I know
20 you're not an expert in this, necessarily. But to your
21 knowledge, gunshot residue is a molten particle?

22 A. You can wash your hands, you can take showers,
23 any kind of wiping your hands off on your jacket, anything
24 like that, can move the particles to a different location.

25 Q. All right. Gunshot residue, it's fairly

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Angie Bunker Elder
Cross-examination by Mr. Cooper
January 7, 2015

1 fragile?

2 A. Correct.

3 Q. Right? That's a good way to describe it?

4 A. Yes, sir.

5 Q. It has basically the consistency of flour?

6 A. A little thicker. Glitter.

7 Q. A little thicker?

8 But it's -- it may be -- in terms of how fragile
9 it is, that would be a decent explanation?

10 A. Yes, sir.

11 Q. Because it can go up in the air and then you can
12 sort of like pat it off of you and it can go away pretty
13 quickly?

14 A. It can be removed, yes.

15 Q. And there's this pretty tight time frame for
16 when you want to collect gunshot residue?

17 A. The GSR kits have a mandated time frame of three
18 to four hours.

19 Q. So you want to collect gunshot residue within
20 three to four hours?

21 A. Right.

22 Q. Because if you don't, then you might not find
23 any because it's fragile?

24 A. Correct.

25 So as the case evolves, if we found that this

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Angie Bunker Elder
Cross-examination by Mr. Cooper
January 7, 2015

1 person had a reason that they're no longer included into
2 this investigation, we --

3 Q. You might not send it off?

4 A. -- may not send that. So not all GSR kits are
5 sent.

6 Q. Right. That's fair. So if somebody -- right.
7 That makes sense.

8 And then you are familiar with collecting DNA
9 evidence?

10 A. Yes, sir.

11 Q. And you don't -- I guess you don't call -- you
12 don't necessarily call it touch DNA. But when we touch
13 things, right, our hands leave cells, and DNA evidence is
14 when you collect those cells?

15 A. You can leave cells, yes.

16 Q. You can leave cells.

17 A. You don't have --

18 Q. You don't necessarily have to?

19 A. Right.

20 Q. But you can leave behind DNA evidence on things
21 that you touch?

22 A. Correct.

23 Q. And that's why you swab, to see who's handled
24 certain items?

25 A. Correct.

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Angie Bunker Elder
Cross-examination by Mr. Cooper
January 7, 2015

1 Q. And it's sort of like fingerprint evidence but
2 more exact?

3 A. Yes, sir.

4 Q. Now, when you collect -- going back to gunshot
5 residue real quick again. Gunshot residue -- and I don't
6 know if you explained this -- is when you fire a gun, the
7 gun expels the bullet and then the gunpowder goes into the
8 air?

9 MR. KIDD: Your Honor, at this time I would
10 object. I just don't think this is a proper witness
11 for this line of questioning.

12 THE COURT: She hasn't been qualified as an
13 expert. I'm going to sustain the objection. Thank
14 you.

15 MR. COOPER: Yes, ma'am.

16 Q. [Mr. Cooper] You can collect gunshot residue
17 from someone's hands; correct?

18 A. Yes, sir.

19 Q. But you can also collect gunshot residue from
20 clothing?

21 A. Yes, sir.

22 Q. And I don't know if you know this or not. But
23 would it be more fragile on your hands or on your
24 clothing?

25 MR. KIDD: Same objection, Your Honor.

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Angie Bunker Elder
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1 THE COURT: If she knows, I'll let her answer
2 that question.

3 A. I'm not positive.

4 Q. [Mr. Cooper] Okay. That's fair.

5 MR. COOPER: Court's indulgence, Your Honor.

6 [Whereupon, Mr. Cooper and Ms. Ehrlich confer]

7 MR. COOPER: Thank you.

8 MR. KIDD: One question.

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Angie Bunker Elmer
Redirect Examination by Mr. Kidd
January 7, 2015

REDIRECT EXAMINATION

BY MR. KIDD:

Q. Defense 7: found it where?

A. In the closet.

Q. Back bedroom closet?

A. Back bedroom closet.

Q. Fresh or dried blood?

A. Dried.

Q. Happened that night?

A. I cannot be positive of that.

Q. But it was dry?

A. It was completely dry.

MR. KIDD: Okay. Thank you. No further
questions.

THE COURT: Mr. Cooper?

MR. COOPER: No, ma'am.

THE COURT: You may step down.

[Whereupon, Ms. Elder is excused and exits the
witness stand]THE COURT: Ladies and gentlemen, I told you we
were going to break at around noon, and this is an
appropriate time for us to break at this time. Please
be back in your jury room to begin at 1:45. Please
remember all of my admonitions over your lunch hour.

Please rise for the jury.

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1 [Whereupon, the jury exits the courtroom at
2 11:41 a.m.]

3 THE COURT: Thank you. Be seated.

4 I know you wanted to get that witness on,
5 Mr. Kidd, but it just really didn't make any sense,
6 so --

7 MR. KIDD: I understand. It's not your fault.

8 THE COURT: I've got a plea, so you'll be back
9 at 1:30 to test -- do the run-through for the Skype?

10 MR. KIDD: Yes, ma'am.

11 THE COURT: All right. We're at ease until
12 1:30.

13 MR. COOPER: Thank you, Your Honor.

14 [Whereupon, a recess is taken from 11:32 a.m. to
15 1:47 p.m.]

16 THE COURT: Anything before we bring in the
17 jury? Mr. Kidd?

18 MR. KIDD: No, ma'am, Your Honor. But would you
19 mind if I leave this connected for now? He can
20 probably hear you. This is Joe Sierra from T-Mobile.

21 THE COURT: Yes. We do not want to disconnect,
22 so just leave --

23 MR. KIDD: That's what I was hoping. We can
24 just leave him on the screen now as the jury comes in,
25 and then I can go right into my questioning at that

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1 point.

2 THE COURT: Perfect.

3 Anything before we bring in the jury?

4 Mr. Cooper?

5 [Whereupon, Mr. Cooper and Mr. Kidd confer]

6 MR. COOPER: May we approach, Your Honor,
7 briefly?

8 THE COURT: You may.

9 [Whereupon, an off-the-record bench conference
10 is held]

11 THE COURT: Do any further matters need to be
12 address by the Court? Mr. Kidd?

13 MR. KIDD: No, ma'am.

14 THE COURT: Mr. Cooper?

15 MR. COOPER: None from the defense.

16 THE COURT: Thank you. Please rise for the
17 jury.

18 [Whereupon, the jury enters the courtroom at
19 1:49 p.m.]

20 THE COURT: Thank you. Please be seated.

21 Did every member of the jury panel comply with
22 my admonitions over the lunch hour? If you did not
23 comply with my instructions, please stand.

24 Thank you. All fourteen jurors have complied
25 with the Court's instructions.

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1 Mr. Kidd, if you would please announce your
2 witness via Skype.

3 MR. KIDD: Yes, Your Honor.

4 At this time, the State calls Joseph Sierra.

5 THE CLERK OF COURT: How are you doing, sir?
6 I'm here with the clerk's office. I'm here to
7 administer the oath. If you'll please raise your
8 right hand to be sworn.

9 [Whereupon, Mr. Sierra is duly sworn by the
10 clerk of court as follows: do you swear or affirm the
11 testimony you give the Court will be the truth, the
12 whole truth, and nothing but the truth, so help you
13 God]

14 THE WITNESS: I do.

15 THE CLERK OF COURT: Thank you, sir.

16 If you could please state your first and last
17 name and spell your last loudly and clearly for the
18 record.

19 THE WITNESS: Joseph Sierra. S-I-E-R-R-A.

20 MR. KIDD: Good afternoon, Mr. Sierra.

21 - - -

22 - - -

23 - - -

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JOSEPH SIERRA,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

[VIA SKYPE]

DIRECT EXAMINATION

BY MR. KIDD:

Q. Could you please tell the jury where you're employed?

A. Yes. I work for T-Mobile USA, Incorporated.

Q. And what's your job with T-Mobile?

A. I'm a compliance officer, as well as custodian of records.

Q. So what does that entail on sort of a daily basis for you?

A. As a custodian of record, I basically respond to subpoenas, search warrants -- excuse me -- as a compliance officer, I respond to subpoenas, search warrants, and court orders.

THE WITNESS: I apologize. Can you give me one second? I forgot to plug in my charger.

MR. KIDD: Yeah. No problem. Take your time.

THE WITNESS: I apologize.

MR. KIDD: That's all right.

[Off the record momentarily].

MR. KIDD: Your Honor, I apologize. It might

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Joseph Sierra
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1 just take one minute. It sounds like his laptop went
2 dead and he had to plug it in. He'll probably have to
3 start it back up and then reconnect the Skype, so --

4 THE COURT: I'm inclined to just let the jury
5 remain where they are instead of taking you back and
6 forth, unless y'all need another break.

7 MR. KIDD: Thank you, Your Honor. My apologies.

8 [Off the record momentarily]

9 THE COURT: Mr. Kidd, would it be a viable
10 option for you to call your next witness and we'll do
11 this at a later time?

12 MR. KIDD: No, Your Honor. I'm on the phone
13 now. It's going to be a matter of seconds.

14 THE COURT: All right. Thank you.

15 [Off the record momentarily]

16 MR. KIDD: Your Honor, we're going to have to
17 move on and try to get this at another time.

18 THE COURT: All right.

19 MR. KIDD: The State calls Dr. Reimer.

20 Actually, hold on.

21 THE COURT: You have him now?

22 MR. KIDD: We have him now.

23 Good afternoon, Mr. Sierra. Can you hear me?

24 THE WITNESS: Good afternoon.

25 MR. KIDD: All right. So we're good now; right?

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1 THE WITNESS: I believe so.

2 MR. KIDD: All right. I hope so.

3 So I think where we got cut off was you were
4 placed under oath. You're still under oath. Okay?

5 THE WITNESS: Say that again.

6 MR. KIDD: I said you were placed under oath a
7 minute ago. You're still under oath. Okay?

8 THE WITNESS: Yes, I do.

9 Q. [Mr. Kidd] And as you explained a moment ago,
10 you work for T-Mobile and you're a compliance officer; is
11 that right?

12 A. Yes.

13 Q. And as part of that, I think you said that you
14 comply with search warrants and subpoenas for records for
15 cell phones?

16 A. That's correct.

17 Q. And you also -- in addition to being a
18 compliance officer, you're also a custodian of record?

19 A. That's correct.

20 Q. And what does a custodian of records at T-Mobile
21 entail?

22 A. As a custodian of record, I travel across the
23 United States to enter records in as evidence in trials.

24 Q. So pretty much what we're doing here today;
25 right?

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1 A. Correct.

2 Q. Did T-Mobile receive search warrants for a cell
3 phone number of ?

4 A. Yes, we did.

5 Q. And did T-Mobile comply with that search warrant
6 and provide the cell phone records for that phone number?

7 A. Yes, we did.

8 Q. And can you please tell the jury the dates in
9 which the records you complied with cover?

10 A. Actually, the--- since my computer isn't
11 working, I'm unable to look at the documents at this
12 point.

13 Q. Okay. But T-Mobile did comply with a subpoena
14 for that phone number?

15 A. Yes, we did.

16 Q. And you did provide those records?

17 A. Yes, we did.

18 Q. And how are those records maintained by
19 T-Mobile?

20 A. They're maintained electronically.

21 Q. They're maintained electronically?

22 A. Correct.

23 MR. KIDD: Okay. We lost picture. There we go.

24 Q. [Mr. Kidd] And so I'm going to ask you about a
25 few of the identifying informations on top of the columns

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1 of your records, and hopefully you can explain that to the
2 jury. Okay?

3 A. Okay.

4 Q. So the first column is MSISDN. Maybe you can --
5 you probably can't see it. But the MSISDN column, what
6 does that column represent?

7 A. The MSISDN is the mobile subscriber identifier.
8 This is basically the technical term for saying the phone
9 number or, in this case, the target phone number.

10 Q. So when -- in that column, when it's that
11 number, that would be the number that would be
12 pursuant to the search warrant?

13 A. That is correct.

14 Q. The next column says direction. What is that
15 column?

16 A. This direction allows us to know whether it's an
17 incoming or outgoing transaction.

18 Q. And the next column is T seizure date.

19 A. Yes. The T seizure date is the cell tower
20 seizure date. This is the time that is actually captured
21 at the time of a cell phone action. So it's the beginning
22 of the transaction.

23 Q. So that's the beginning, the first time the
24 signal hits off the tower on the front end --

25 A. That's correct.

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1 Q. In the other column, first cell ID.

2 A. Yes. First cell ID is the first cell tower
3 identifier. This is the items that is used to identify
4 the tower. It's used in conjunction with the first LAC,
5 the first location area code. Now, the first location
6 area code, combined with the cell ID, will provide the
7 location of the tower.

8 Q. And so that will be the tower -- whatever tower
9 that cell phone is using at that time --

10 A. Yes. So --

11 Q. -- or the first tower that it goes off on?

12 A. That is correct.

13 Q. So like if I'm on a phone call and I'm
14 traveling, that would indicate that that first --

15 MR. COOPER: Objection. He's not established as
16 an expert. He's a custodian of record. He maintains
17 the custodial records. He can't -- he's not qualified
18 to testify about how the cell towers work or anything.

19 THE COURT: Lay the foundation, Mr. Kidd.

20 Q. [Mr. Kidd] Based on your employment at
21 T-Mobile, do you understand how cell phones work
22 generically, as far as when they go through towers and
23 switch from tower to tower?

24 A. Yes.

25 Basically, as part of the custodian of record,

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1 it's part of our training to know the technology, the
2 network interaction, as well as how to read and interpret
3 the records. So understanding what the cell ID, LAC
4 identifiers, etc, is part of actually knowing and
5 providing the records. So it's all fact information.

6 Q. Okay. Thank you.

7 So it's not your opinion that you're offering,
8 it's just pure fact?

9 A. That is correct.

10 Q. So to get back to that: the first cell ID, what
11 does that indicate?

12 A. This is the identifier for the tower. So if you
13 think of the cell ID as kind of like the street address
14 and the first LAC, location area code, is the city and
15 state. These two numbers allow us to know where the tower
16 is located. Not the cell phone, just the tower itself.

17 So you would actually use these numbers and
18 compare it to our national cell tower list. Once you hit
19 control find to search the document, you would just type
20 in the numbers and it will provide you the longitude and
21 latitude, as well as the permit address for the tower.

22 Q. And that kind of brings me to my next two
23 columns, which are first tower latitude and first tower
24 longitude. Is that the same -- is that what you would
25 find from that sort of cheat sheet? the longitude and

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1 latitude of the tower that it's ping off of?

2 A. Yes.

3 As I stated, there are two addresses that are
4 provided. The longitude and latitude is the actual
5 geographical location of the tower. We provide two
6 addresses because one we have to file -- every time we
7 build a tower, we have to file a permit for local and
8 state and federal ordinances. So that address is the
9 billing I guess -- excuse me -- the address, the actual
10 building address.

11 But the geographical location is where the tower
12 is located. One example is if it's in a desert, it may
13 say mile marker 15 but it's actually probably 300 feet
14 back from that mile marker.

15 Q. So the longitude and latitude might be a little
16 bit different than the physical address?

17 A. That is correct.

18 Q. Because I guess it's more precise?

19 A. That is correct.

20 Q. And then we get to the column of last cell ID.

21 A. Pretty much the same information as the first
22 LAC and first cell ID. That information is just the
23 information captured at the end of the transaction. So we
24 capture only the beginning -- so when the phone either
25 accepts the call or hits send to make a call -- and then

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1 at the termination of the call, we capture the target
2 number's towers, not the in-between towers.

3 Q. So whatever tower it's hitting off of at the
4 beginning of the call and then whatever tower it's hitting
5 off of at the end of the call?

6 A. That is correct.

7 Q. MSC name: what is that column for?

8 A. The MSC name is the actual switch.

9 So within cell phone towers, you have your cell
10 phone that connects wirelessly to a telephone cell tower,
11 and then the cell tower actually connects to a switch.
12 That switch records all the information and is then
13 forwarded to our billing system.

14 So the switch allows me to know where and what
15 time zone that phone is located. So in this situation, it
16 has a CA, which means it's the Carolina switch. So it's
17 going to be eastern time.

18 Q. And then you have a market column, which is just
19 kind of an extenuation of that?

20 A. Yes, that's correct. So the Carolina market.

21 Q. And then you have the calling number column.
22 What does the calling number column indicate?

23 A. The call number, as well as the subsequent
24 column, the called number, allows us to further know the
25 direction, that direction of the transaction.

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Direct Examination by Mr. Kidd
January 7, 2015

1 So the calling number is the number that's
2 making the phone call, the called number is the number
3 receiving the call.

4 Q. So like on these records, for instance, while
5 these are all the records for, you know,
6 sometimes that number will come up in the calling number
7 column because that's the digit that -- or that's the
8 number that placed the call? Is that a fair statement?

9 A. I'm sorry. Say that one more time.

10 Q. So, for example, in the first column you have
11 the number of the phone that the records are for; right?

12 A. Correct.

13 Q. MSI is in the in column?

14 A. Correct.

15 Q. So sometimes that number will appear in the
16 calling-number column because when it does, that means
17 that's the number that placed the call?

18 A. That is correct.

19 Q. And then you have the called number column. And
20 I'm assuming that that is the column for the number that
21 received the call?

22 A. That is correct.

23 Q. And then you have the first LAC and last LAC
24 columns?

25 A. Yes.

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Joseph Sierra
Direct Examination by Mr. Kidd
January 7, 2015

1 Those columns, as I previously explained, are
2 the location area code columns. This is allowing me to
3 know what city and state the tower is located.

4 Q. And then we have an IMEI column. Can you
5 explain what that is?

6 A. Yes.

7 It's the international mobile equipment
8 identifier. This is the serial number for the cell phone.

9 Q. So does every cell phone have it's own sort of
10 IMEI number?

11 A. That is correct.

12 Q. And they would be specific to that phone?

13 A. That is correct.

14 Q. And the final two columns, which I believe carry
15 over on my sheets, is an IMSI column?

16 A. Yes.

17 So the IMSI is the international mobile
18 subscriber identifier. Because T-Mobile is a GSN phone,
19 we can switch multiple items within their account. They
20 can change the type of account they have, post-pay or
21 prepay, they can change the cell phone, they can change
22 their SIM card, they can change their specific phone
23 number.

24 So we need one number to identify that these are
25 on the network, regardless of any of those changes,

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Joseph Sierra
Direct Examination by Mr. Kidd
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1 because the customer can initiate those changes at any
2 time. The IMSI is that number. It's like their social
3 security number for T-Mobile. It allows the tower to
4 always identify, and bill properly, that user.

5 Q. And then the final column is duration.

6 A. That is the length of the transaction.

7 Q. So the length of the phone call?

8 A. Correct.

9 Q. Now, what would that say on a text message?

10 A. For a text message, it would say zero.

11 Q. And then I also have a set of records on phone
12 number Did your office receive a subpoena

13 in order to comply with those -- to provide --

14 A. Yes, we did.

15 Q. -- those phone records for the date of November
16 20th, 2012?

17 A. That is correct.

18 Q. And you provided those records to law
19 enforcement?

20 A. Yes, sir.

21 Q. And for the most part, those columns are the
22 same although the language is a little bit different?

23 A. Yes.

24 Q. Can you explain that?

25 A. Yes.

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1 So for the previous number, the this
2 allowed us to know more detailed information because of
3 the fact the file was pulled in terms of formatting. This
4 is actually on the previous number, the was only a
5 cell tower voice detail transaction. The other number,
6 which is the includes both voice and text message
7 information. So its format is set up a little bit
8 different.

9 Q. Are these records true and accurate copies that
10 your office provided to us?

11 A. Yes.

12 Q. Stay with me for one moment, please.

13 A. Not a problem.

14 [Whereupon, State's Exhibit Numbers 52 and 53
15 are marked by the court reporter]

16 MR. KIDD: And just for clarity of the record,
17 Your Honor, the records pertaining to will be
18 State's Exhibit 52 and the records pertaining to -
19 will be State's Exhibit 53. And I would offer
20 both of those exhibits into evidence --

21 THE COURT: Any objection?

22 MR. KIDD: I would ask to enter those exhibits
23 at this time.

24 THE COURT: Any objection?

25 MR. COOPER: Your Honor, we renew our pretrial

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objection to State's 52.

THE COURT: State's 52?

MR. COOPER: That's the number ending in 4791.

THE COURT: But not to 53?

MR. COOPER: No, ma'am.

THE COURT: State's 52 and 53 into evidence,
noting your objection.

[Whereupon, State's Exhibit Numbers 52 and 53
are admitted into evidence by the Court]

THE COURT: Mr. Kidd?

MR. KIDD: Thank you, Your Honor.

I appreciate your help, Mr. Sierra. I hope you
have a great day.

THE WITNESS: Thank you so much --

MR. KIDD: Don't hang up. You've got cross.
Hold on one second. Please answer any questions that
Mr. Cooper may have for you.

THE WITNESS: No problem.

MR. COOPER: Mr. Sierra, good afternoon.

THE WITNESS: Good afternoon, sir.

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Joseph Sierra
Cross-Examination by Mr. Cooper
January 7, 2015

CROSS-EXAMINATION

1
2 BY MR. COOPER:

3 Q. The information in -- the tower information that
4 you provided is what's commonly referred to as historical
5 cell site information?

6 A. That is correct.

7 Q. Basically, it captures like what tower -- you're
8 showing what tower the phone call is captured at a
9 specific moment?

10 A. That is correct.

11 Q. It's not GPS or global positioning information?

12 A. No, it is not.

13 Q. And you don't have that for these records in
14 this case?

15 A. No.

16 T-Mobile actually retains triangulation records
17 only live. We can't produce the information historically.

18 Q. And so -- right,

19 So triangulation is a different type of record;
20 correct?

21 A. That is correct.

22 Q. And in triangulation, you're looking at -- they
23 call it triangulation because you're using three different
24 towers to narrow the position of the phone?

25 A. That is correct.

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Joseph Sierra
Cross-Examination by Mr. Cooper
January 7, 2015

1 Q. And so with the triangulation records, you will
2 know more exactly where the phone is located, as opposed
3 to looking at which tower is routing the call?

4 A. That is correct.

5 Q. And then the tower that routes the call is,
6 generally speaking, the strongest cell signal; correct?

7 A. Most times. There's other factors that weigh
8 into this.

9 Q. Right.

10 There's a variety of -- there's a variety of
11 factors; correct?

12 A. Yes. That's correct.

13 Q. And so one of the factors is how close you are
14 to that cell tower?

15 A. That is correct.

16 Q. But it's not necessarily the cell tower closest
17 to the phone?

18 A. That is correct.

19 Q. Because the phone is basically like reaching
20 out. It sends out a signal about every seven seconds,
21 like sort of to reach out and find the strongest signal,
22 so that way it can then, you know, give good call quality?

23 A. Yes.

24 Call quality is the main thing that we do
25 because, as stated previously, we're a telecommunications

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Cross-Examination by Mr. Cooper
January 7, 2015

1 company. So the thing we try to do is provide the best
2 service possible, so it will go to a tower that provides a
3 higher speed before the closest tower.

4 Q. Right.

5 A. So if the closest tower is 2G, it will still
6 search out a 4G tower over that 2G tower.

7 Q. Right.

8 And like I said, just a variety of factors that
9 affect the call-tower strength, including like height of
10 the tower, the number of antennas the tower has, the
11 number of cones the tower has, the positioning of the
12 cones and antennas on a tower; correct?

13 A. That is correct.

14 Q. As well as tower quality is affected by how
15 often it's serviced?

16 A. Well, the tower itself would be -- if it's being
17 serviced, it wouldn't show up in the record.

18 So in that situation -- for example, like a T-
19 Mobile tower has a range of two and a half miles. In that
20 situation, the tower itself that was being serviced would
21 find another tower within that two and a half mile range.

22 Q. So, for instance, if I'm closer to a tower
23 that's being serviced, my phone will skip that tower and
24 won't even show up, it would go to a different tower?

25 A. That is correct.

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Cross-Examination by Mr. Cooper
January 7, 2015

1 Q. And then just -- did you provide sort of the
2 tower segment information?

3 A. I apologize. I didn't hear you.

4 Q. So the cell towers, you know, they're sending
5 out a 360-degree signal; right?

6 A. That's correct.

7 Q. Or they're reaching out in like a 360-degree
8 sort of way to try to receive a cell signal. Am I
9 explaining that in a way -- is that correct?

10 A. I follow what you mean. So it'll have the
11 actual 360-degree radius for the tower --

12 A. Right.

13 And so generally speaking, it's broken up into
14 320-degree pies so you can look at it and see which
15 direction the call is routing through the tower?

16 A. Yes -- in most situations, it'll look kind of
17 like a peace sign or a Mercedes Benz sign.

18 Q. Right. So it's three, like, sections?

19 A. Correct.

20 Q. And those are each about 120 degrees?

21 A. Correct.

22 Q. And it goes out about two and a half miles, you
23 said, to reach out effectively, generally speaking, for
24 the call?

25 A. Yes. That's the maximum range a tower will do.

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Joseph Sierra
Cross-Examination by Mr. Cooper
January 7, 2015

1 MR. COOPER: Okay. Court's indulgence, Your
2 Honor.

3 THE COURT: Yes, sir.

4 [Whereupon, Mr. Cooper and Ms. Ehrlich confer]

5 MR. COOPER: Thank you.

6 MR. KIDD: I have no further questions.

7 THE COURT: Thank you.

8 MR. KIDD: Thank you, Mr. Sierra. Have a good
9 afternoon.

10 THE WITNESS: Thank you so much. You, too.

11 THE COURT: Call your next witness.

12 MR. KIDD: The State calls Dr. Riemer.

13 [Whereupon, Dr. Riemer comes forward]

14 THE CLERK OF COURT: Left hand here. Raise your
15 right.

16 [Whereupon, Dr. Riemer is duly sworn by the
17 clerk of court as follows: do you swear or affirm the
18 testimony you give the Court and the jury in the trial
19 of this case will be the truth, the whole truth, and
20 nothing but the truth, so help you God]

21 THE WITNESS: I do.

22 THE CLERK OF COURT: You may be seated. Ma'am,
23 once seated, if you could please state your first and
24 last name. Spell your last loudly and clearly into
25 the microphone, please, for the record.

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Joseph Sierra
Cross-Examination by Mr. Cooper
January 7, 2015

1 [Whereupon, Dr. Riemer takes the witness stand]

2 THE WITNESS: My name is Dr. Ellen Riemer. The
3 last name is R-I-E-M-E-R.

4 MR. KIDD: Good afternoon, Doctor.

5 Start off by apologizing to you. I know you've
6 been waiting around here yesterday and then today
7 again, so my sincere apologies.

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Ellen Riemer, M.D.
Direct Examination by Mr. Kidd
January 7, 2015

ELLEN RIEMER, M.D.,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. KIDD:

Q. So can you tell the jury who you -- what it is
that you do for a living.

A. I'm a forensic pathologist.

Q. Can you explain forensic pathology to the jury?

A. Yes.

It's a subspecialty of being a physician, which
specializes in diagnosing cause and manner of death and
diagnosing injuries to the body.

Q. Obviously you're a doctor. Did you have a lot
of training to choose that type of a physician?

A. Yes.

So after I received my Doctor of Medicine degree
in 1997, I did training in general pathology at the
College of Physicians and Surgeons of Columbia University
in New York City. And following that I did a fellowship
subspecialty training in forensic pathology, and that was
at the office of the chief medical examiner of the state
of Maryland. And subsequent to that, I did an additional
fellowship training here in cardiovascular and pulmonary
pathology at John's Hopkins hospital. And then I became

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1 board certified in anatomic pathology and also board
2 certified in forensic pathology.

3 Q. And so generally as a pathologist, you perform a
4 lot of autopsies?

5 A. Yes. I perform autopsies on a regular basis.

6 Q. Could you guess how many?

7 A. Yes.

8 In my career, I've performed approximately
9 3,000.

10 Q. And have you testified in court before?

11 A. Yes, on multiple occasions.

12 Q. Have you been qualified as an expert in the
13 field of forensic pathology?

14 A. Yes.

15 MR. COOPER: Your Honor, the defense has no
16 objection to the doctor's qualifications as an expert.

17 THE COURT: In forensic --

18 MR. COOPER: In forensic pathology, yes, ma'am.

19 THE COURT: -- pathology?

20 Ladies and gentlemen, normally a person cannot
21 give opinions when they testify. They must testify as
22 to either what they heard or saw or sensed by smell or
23 something of that nature. There does exist in our law
24 an exception if someone is qualified to be an expert.
25 They are permitted to give their opinion in certain

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1 areas if they're qualified in that area to give an
2 opinion.

3 This witness will be qualified as an expert in
4 the area of forensic pathology to give opinion
5 testimony in that area. That does not mean you must
6 accept the opinion. It is simply evidence for you to
7 use in any way that you see fit.

8 Mr. Kidd?

9 MR. KIDD: Thank you.

10 Q. [Mr. Kidd] Ms. Riemer, did you have the
11 opportunity to perform an autopsy on Sharrell Williams?

12 A. Yes.

13 Q. And we'll kind of start off -- can you go
14 through your findings of that autopsy of the evidence of
15 injury that he suffered?

16 A. Yes.

17 So I did a complete autopsy on Mr. Sharrell
18 Williams. And I did that in November, on November 21st,
19 2012. And the significant findings at the autopsy were
20 four gunshot wounds to the body.

21 Would you like me to continue and describe
22 those?

23 Q. Yes, ma'am. Well, let's first start with the
24 first gunshot.

25 A. Okay.

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1 Q. Where was the first gunshot located?

2 A. Okay. Just before I answer that question,
3 there's four gunshot wounds. I don't know what order they
4 were fired in. So when you ask me about the first gunshot
5 wound, it doesn't mean it was the first in time. You
6 know, we have to assign -- I have to, you know, kind of
7 categorize them just to assign a letter to them. But
8 there's -- I don't -- one of the gunshot wounds, as
9 opposed to the first one.

10 Q. Sure. And I didn't mean to --

11 A. Yeah. Okay. I just wanted to clarify that.

12 Q. And I appreciate that. I definitely didn't mean
13 to --

14 A. Okay. One of the gunshot wounds was to the
15 head, and that entered the right upper lip -- so in the
16 mustache region of the face -- and went through the
17 tissues of the mouth and the teeth and the tongue and then
18 the jaw before coming out the left side underside of the
19 chin.

20 Q. And I want to see if this is going to help,
21 because I think I want to try to explain trajectory as
22 much as I can as to that gunshot wound --

23 A. Uh-huh.

24 Q. -- so I'm just going to hand you this blank
25 Styrofoam head and then hopefully these -- you think

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1 you'll be able to --

2 A. We'll try to --

3 Q. We'll try?

4 A. We'll try.

5 Q. Okay. Thank you.

6 A. That's about right. Okay.

7 And so it entered about here and exited about
8 here. So it was a through-and-through gunshot wound and
9 damaged tissues of the mouth and the gums and the tongue
10 before exiting the underside of the -- the left side of
11 the chin.

12 Q. Great. Thank you.

13 How can you tell the difference between an
14 entrance wound versus an exit wound?

15 A. Well, that's part of my expertise in forensic
16 pathology is to distinguish entrance from exit wounds.

17 Entrance wounds have an abrasion border, so
18 that -- I'm able to see that. When the bullet went into
19 the skin, it kind of scrapes the skin along the edges.
20 And when a bullet exits the skin, it kind of tears it open
21 and so there's no abrasion on the surface of the skin as
22 it exits. So that's the most important feature. But
23 there are other features, but that was the most -- is the
24 most important.

25 MR. KIDD: Can I mark this, please.

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1 [Whereupon, State's Exhibit Number 54 is marked
2 by the court reporter]

3 MR. KIDD: Your Honor, at this time the State
4 would offer Exhibit 54 into evidence.

5 THE COURT: Any objection?

6 MR. COOPER: Your Honor, I think it's a
7 demonstrative aid to help the doctor. I don't think
8 it's evidence. So I do object.

9 THE COURT: Counsel approach.

10 [Whereupon, an off-the-record bench conference
11 is held]

12 THE COURT: State's 54 into evidence over your
13 objection.

14 MR. KIDD: Thank you, Your Honor.

15 THE COURT: Thank you.

16 [Whereupon, State's Exhibit Number 54 is
17 admitted into evidence by the Court]

18 Q. [Mr. Kidd] Now, can you explain to the jury
19 what stippling is?

20 A. Yes.

21 Gunpowder stippling can sometimes be present on
22 the surface of a body when a gun is fired within a certain
23 range of the victim. So if it's at close range, usually
24 up to twenty-four inches, or sometimes up to thirty inches
25 from the target, pieces of gunpowder that are unburned

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1 come out of the barrel of the gun along with the bullet
2 and then those pieces -- the bullet can travel very far,
3 but the pieces of gunpowder can only travel like up to two
4 or two and a half feet. And as a result, if there's --
5 the person is within two or two and a half feet of the
6 barrel of the gun as it's fired, frequently we have some
7 fragments of unburned gunpowder that sort of scrape the
8 skin and so it looks like there's a bunch of scrapes
9 around an entrance wound.

10 Q. Was there any stippling in this case?

11 A. No.

12 Q. Can you please describe the second gunshot wound
13 that you documented?

14 A. Okay. Another gunshot wound entered the chest,
15 went -- was a gunshot wound of the chest. And there was
16 an entrance gunshot wound on the right lateral side of the
17 chest. So lateral being the side, not the front or the
18 back. And it was on the right side. So, you know, the
19 side of the body as opposed to the front or the back. And
20 that bullet went into the chest, through the right lung,
21 and then also went through a piece of backbone, you know,
22 along its way, the part of the vertebral column, then went
23 through the left lung and then stopped. It didn't exit
24 the body, but it terminated in the left side of the back.
25 And I recovered a bullet at the end of the wound path.

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1 Q. And just to be clear, you said it went through a
2 vertebra. Did it go through the spinal column?

3 A. No. It was just a bone.

4 Q. So it wouldn't have caused any paralysis or
5 anything of that nature?

6 A. No.

7 [Whereupon, State's Exhibit Number 39 is marked
8 by the court reporter]

9 [Whereupon, State's Exhibit Number 51 is marked
10 by the court reporter]

11 Q. [Mr. Kidd] I'm going to show you what's been
12 marked for identification as State's Exhibit Number 39.
13 Do you recognize that?

14 A. Yes.

15 This is an x-ray that I took of Sharrell
16 Williams' body before opening the body to examine it.

17 Q. Does this fairly and accurately represent the
18 x-ray that you took that day?

19 A. Yes.

20 Q. And then I'm going to show you State's Exhibit
21 Number 51. Do you recognize that?

22 A. Yes. That's the bullet that I recovered from
23 the left back.

24 Q. All right. Thank you.

25 MR. KIDD: Your Honor, at this time the State

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1 would offer State's Exhibit 39 and 51 into evidence.

2 MR. COOPER: No objection, Your Honor.

3 THE COURT: State's 31 and 51 --

4 MR. KIDD: 39.

5 THE COURT: -- 39 and 51 into evidence without
6 objection.

7 MR. KIDD: Thank you.

8 [Whereupon, State's Exhibit Number 39 is
9 admitted into evidence by the Court]

10 [Whereupon, State's Exhibit Number 51 is
11 admitted into evidence by the Court]

12 Q. [Mr. Kidd] So this is State's Exhibit 39 that
13 we were referencing before. And is that --

14 MR. KIDD: The screen in front of you is
15 actually a touch screen.

16 THE WITNESS: Okay.

17 MR. KIDD: So if you mark on it with your
18 finger, it --

19 THE WITNESS: Okay.

20 MR. KIDD: -- it will indicate -- it will write
21 on the screen for the jury.

22 A. Okay. So this is Mr. Williams' neck and this is
23 his right shoulder. And in order to take the x-rays, we
24 lift the arms. He's actually lying on his back on a
25 table, not standing up, when we do the x-rays because he's

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1 already deceased. And then this is the left arm that's
2 sort of up. And you can see that there is a bullet that's
3 in the left side of the chest. It's actually along the
4 back. But this is just two dimensional, so you can see
5 that it's on the left side.

6 Q. [Mr. Kidd] Could you indicate on this screen
7 approximately where that bullet would have entered?

8 A. Yes.

9 It was in the third intercostal space, so it's
10 about over here. That would be the entrance. So it
11 wasn't far from -- it wasn't far from the armpit.

12 Q. And then could you maybe -- can you do me a
13 favor and connect those two? Where the bullet ended up
14 and where the approximate entrance wound was?

15 A. [Witness complies] Sorry. That's --

16 Q. That's all right.

17 So that would be a pretty good approximate
18 trajectory or path that that bullet traveled inside the
19 body?

20 A. Right. Relative only to the right and left.
21 You can see it's really going like straight right to left.

22 It doesn't -- in this x-ray we can't tell, you
23 know, whether it's going forward or backward. Only the
24 autopsy or -- and another x-ray can also show where the
25 bullet is, you know, relative to the front or the back of

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1 the body.

2 Q. So this one only will tell you that it was
3 traveling from the left?

4 A. From the right to the left.

5 Q. Excuse me. From his right --

6 A. From his right to his left. Right.

7 When I do an autopsy and I indicate like right,
8 left, it's all relative to the victim's body. It has
9 nothing to do with, you know, directions in the air or
10 anything.

11 Q. And I'm going to show you now what's been marked
12 as -- and entered as State's Exhibit 51. And that is, as
13 you testified a moment ago, the projectile that you
14 removed from his back?

15 A. Yes.

16 Q. Did you give anymore specific details in your --
17 from your autopsy about the direction and path that that
18 projectile traveled, other than kind of the rudimentary
19 one that we just did?

20 A. Yes.

21 Well, as you were able to observe yourselves in
22 the x-ray, it went from right to left. But also it was
23 going -- because it entered on the right side of the chest
24 and terminated in the left side of the back, we know it's
25 kind of going from a forward to a backward direction, as

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1 well. And so it's three dimensions. And then the other
2 dimension we have is an upward-downward dimension. And
3 you could still see on that x-ray that it was going
4 slightly downward. So it was going from right to left,
5 very clearly right to left, and it was going from front to
6 back and then downward, like all three at the same time.
7 Like through space, through the person's chest.

8 Q. And so it was heading slightly downward. Fair
9 to say that not that steeply, not as steep as that
10 downward trajectory?

11 A. That's right. But if we assume that the head is
12 upright.

13 Q. Sure.

14 And that's -- I'm glad you pointed that out
15 because while you can figure these things out as far as
16 which way a bullet travels through a body, you have no way
17 of telling how a body is contorted at the time it was
18 shot?

19 A. That's correct.

20 Q. So like a trajectory like that, if you're
21 leaning forward, would obviously still be a horizontal
22 trajectory shot --

23 A. That's correct.

24 Q. -- it would just appear that way?

25 A. That's correct.

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1 Q. And the third gunshot wound that you documented,
2 could you explain that to the jury?

3 A. Yes.

4 A third gunshot wound was to the right arm. And
5 this gunshot wound entered the upper part of the right
6 arm. I'll point to it on my body, to help illustrate --
7 like around here and then exited just -- kind of just went
8 underneath the skin and exited at the right armpit. And
9 so it didn't go -- injure any major internal organs. It
10 basically just went into the skin and subcutaneous tissue
11 of the right arm and armpit and then exited the right
12 armpit.

13 Q. And then you've got a final gunshot wound?

14 A. Yes.

15 And the last gunshot wound that I documented was
16 a gunshot wound to the left arm. And that was about over
17 here, kind of on the side of the arm toward the back, six
18 inches below the left shoulder, and it exited more on the
19 inside front of the arm. And that is -- was nine inches
20 below the left shoulder. So it was going downward,
21 relative to like if -- if Mr. Williams was standing with
22 his arms straight at his side.

23 But, again, I don't know what position his arms
24 were in. But it was a through-and-through gunshot wound
25 that went through skin and muscle, and then back out, and

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1 it didn't go through the bone of the arm.

2 [Whereupon, State's Exhibit Number 55 is marked
3 by the court reporter]

4 Q. [Mr. Kidd] And I'm going to show you State's
5 Exhibit 55 and see if you can recognize that.

6 A. Yes.

7 This is the envelope in which I deposited the
8 bullet that I recovered from the victim's left back. And
9 then I used my autopsy sticker and indicated that it was
10 the projectile from the left back.

11 Q. And that's the same one we're looking at on
12 the --

13 A. Yes.

14 Q. -- screen --

15 A. So I put it in an envelope and then just, you
16 know --

17 Q. Right. Thank you.

18 MR. KIDD: At this time, the State would offer
19 State's 55 into evidence.

20 MR. COOPER: Without objection.

21 THE COURT: State's 55 into evidence without
22 objection.

23 [Whereupon, State's Exhibit Number 55 is
24 admitted into evidence by the Court]

25 MR. KIDD: Dr. Riemer -- I'm saying your name

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1 correctly? Is it Riemer?

2 THE WITNESS: It's Riemer. Yes.

3 MR. KIDD: That's what I thought. Just wanted
4 to make sure.

5 Q. [Mr. Kidd] Did you notice any other injuries to
6 the victim's body?

7 A. Yes.

8 I documented that there were two abrasions on
9 the left side of the upper chest.

10 Q. And were those --

11 A. They were small. One was one-quarter inch in
12 width, and one was one-eighth inch, and they were both
13 clustered together.

14 Q. Were they new injuries?

15 A. Well, they were dried abrasions. There wasn't
16 any evidence of any kind of healing or tissue response.
17 They were fresh abrasions.

18 Q. That's what I was trying to get at.

19 A. Yes.

20 Q. And so can you kind of describe what those -- I
21 guess in more detail.

22 A. Well, they aren't -- they don't speak much about
23 where they came from. They're just nonspecific abrasions.
24 Abrasions is just a forensic pathology term for a scrape.
25 So these are small scrapes on the left side of the upper

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1 chest.

2 And they're not -- they don't have any specific
3 features that I could describe in any greater detail.
4 They were -- they didn't have a pattern or anything. They
5 were just nonspecific scrapes.

6 One of them was one-quarter inch in its greatest
7 dimension, and the other was one-eighth inch in its
8 greatest dimension. And it didn't go through the skin.
9 It just was on the surface of the skin.

10 Q. And so one one-quarter inch. I'm trying to
11 think of something that would be analogous to that.

12 A. Yes.

13 So most people, like the tip of their thumb,
14 like on me. So I'm kind of a small -- if you're big,
15 you're -- the length from the tip of your thumb to the
16 middle knuckle of your thumb, that's about one inch like
17 for an average-size woman. But if you're a larger person,
18 you would have --

19 So you can imagine one quarter the distance from
20 the tip of your finger to the knuckle would be a quarter
21 of an inch. And then one-eighth, if you divide it into
22 eighths, it would be one-eighth.

23 Q. Any bruising? Would you -- did you notice any
24 bruising?

25 A. Well, those were -- those were two small

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1 bruises.

2 Q. Okay.

3 A. You know -- well, it's an abrasion. It's not
4 really a bruise. There wasn't any bruising on the body.

5 Q. Now, if -- and I just want to -- I guess for
6 clarification. So if say someone receives a blow and then
7 they are -- then they quickly decess, will, through
8 autopsy, you be able to determine whether someone was
9 struggling?

10 A. I'm not sure exactly what you're asking me.

11 Q. Okay. So say I was punched in the face. Okay?

12 A. Yes.

13 Q. And then quickly thereafter, I die --

14 A. Yes.

15 Q. -- from maybe something else. I was shot.

16 Through your autopsy procedure, would you be able to
17 determine that I was punched in the face?

18 A. Yes, if it was hard enough to leave bruising.

19 Q. Okay. And that's all I'm asking. So you can
20 bruise post-mortem?

21 A. No. Bruising is pre-mortem.

22 So if you were punched in the face and then
23 died, that would have been before you died.

24 Q. Right.

25 Well -- okay. I'm not explaining myself very

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1 well.

2 A. So pokes -- when you say -- I can observe any
3 pre-mortem injuries post-mortem.

4 Q. Right.

5 I guess what I'm saying is so sometimes say I
6 bump my leg. Okay? It might be red right now but
7 sometimes the bruising won't show up until tomorrow. So
8 that's what I mean by if I decrease between when I bump my
9 leg and when the bruise shows up tomorrow, you would still
10 be able to tell through your autopsy?

11 A. Yes, if you were alive when you bumped your leg.

12 Q. Right.

13 And that's all I was getting at is that just
14 because it might not be black and blue on the surface --

15 A. Right.

16 Q. -- at that point, through your autopsy procedure
17 you would still be able to tell that that impact --

18 A. Yes.

19 Q. -- occurred?

20 And so through your autopsy of Mr. Williams, did
21 you uncover any contusions of that nature?

22 A. No.

23 Q. And so -- and I apologize for the way I'm asking
24 these questions.

25 No stippling on any of the other gunshot wounds?

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1 A. None of the gunshot wounds had any stippling.

2 MR. KIDD: The Court's indulgence for one
3 moment.

4 [Whereupon, Mr. Kidd and Mr. Lietzow confer]

5 MR. KIDD: I forgot to ask --

6 Q. [Mr. Kidd] Is it possible for one bullet to
7 cause, as far as you're concerned, multiple gunshot
8 wounds?

9 A. Theoretically, it's possible.

10 Q. Theoretically it's possible.

11 And I guess an example of that would be if I
12 had -- say my arm is out like this and I had a through-
13 and-through on one arm and it went through-and-through
14 another arm, when you documented that, it would be two
15 gunshot wounds?

16 A. I would document those as two gunshot wounds
17 because in that case, I may not know for certain --

18 Q. Right.

19 A. -- that they were the result of a single bullet.

20 Q. So in this case, in your opinion did any of
21 those gunshot wounds create a scenario like that in which
22 they went through and through and then caused another
23 subsequent gunshot wound?

24 A. No. No.

25 MR. KIDD: Please answer any questions

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1 Mr. Cooper may have for you.

2 MR. COOPER: Thank you. May it please the
3 Court.

4 Good afternoon, Doctor.

5 THE WITNESS: Good afternoon.
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CROSS-EXAMINATION

BY MR. COOPER:

Q. In following up on the solicitor's last question: in your opinion, there were four distinct gunshot wounds?

A. Yes.

Q. And as you've testified on direct, you don't know the order of the shots?

A. That's correct.

Q. And you're just looking at the body in its own specific moment in time?

A. Yes.

Q. And so you don't know how quickly or far apart any of those shots were in terms of moments of time?

A. [No response]

Q. The autopsy can't tell you that?

A. That's correct.

Q. And as you testified on direct, there was no stippling found on the facial wound?

A. That's correct. It was not.

Q. And there was no stippling on any of the wounds?

A. There was none.

Q. But if there is sort of an interference between the gun and the body, would you expect to find stippling? Like a leather jacket.

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1 A. A leather jacket may absorb stippling, possibly,
2 yeah, so that it's not deposited on the skin of the body.

3 Q. So assuming there's nothing in between the
4 barrel of the gun and the face, you know, that would
5 prevent stippling from occurring, right, you would only
6 see stippling within about a twenty-four inch to -- what's
7 the maximum range?

8 A. It depends on the gun, but usually up to twenty-
9 four inches and sometimes even up to thirty inches. That
10 would be the maximum amount of distance.

11 Q. And so that's how you know that the wounds in
12 the face was at least -- the gun was at least two feet
13 away?

14 A. Yes.

15 Q. But after the two feet, you have no idea --
16 like, it's two feet to infinity?

17 A. That's right. I can't tell by looking at the
18 gunshot wound to the face, any of the gunshot wounds,
19 whether they were just greater than two and a half -- two
20 to two and a half feet, or twenty feet away. There's no
21 indication --

22 Q. Right.

23 A. -- on the body, except when I have evidence of
24 close range discharge of a firearm such that gunpowder
25 gets deposited on the skin.

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1 Q. Right.

2 And so two feet is the same as three or four or
3 five?

4 A. Right. So it's an indeterminate range. I don't
5 know what the range is.

6 Q. And there's also a thing called soot. You
7 observed no soot, as well?

8 A. It was no soot, either.

9 Q. Would you please describe to the jury what soot
10 is?

11 A. Soot is burned gunpowder that only travels a
12 very short distance after it leaves the barrel of the gun
13 along with the bullet and other pieces of unburned
14 gunpowder. So soot only can travel up to six inches.
15 Okay?

16 Q. So soot you would --

17 A. And that looks like burning, like there is gray
18 fouling, like, you know, chimney soot or something.

19 So that's actually some gunpowder that's still
20 burning, you know, leaving the barrel of the gun. And if
21 it's at very close range, like contact type range, I can
22 see soot on the skin. But there was no soot on the skin
23 on any of the gunshot wounds in this case.

24 Q. Okay. Thank you.

25 And you would only -- like you said, you would

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1. only see that if it was --

2. A. Very close.

3. Q. -- within about six inches?

4. A. Six inches would be, you know, the maximum.

5. Q. Right.

6. A. But it, you know, would be very close.

7. Q. Now, hold on one minute. I'm sorry.

8. Now, so from your findings on the trajectory or
9. for the entrance wounds of the body -- and if we assumed
10. that you are -- you are the shooter, you're the direction
11. where the bullets are coming from, is it possible that
12. Mr. Williams was in a sort of static position like this,
13. standing up?

14. A. Facing the shooter?

15. Q. Right.

16. A. Directly facing the shooter?

17. Q. Right.

18. A. No.

19. Q. So if we stood face-to-face and you shot the
20. gunshots, okay, this -- the entrance wounds and everything
21. is not consistent with the way I'm standing if you were
22. the shooter?

23. A. That's correct.

24. Q. Now, I want to run through one other possible
25. scenario with you. And, now, our head moves; right?

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1 A. Yes.

2 Unless you're deceased, you can always move your
3 head.

4 Q. A living person's head moves?

5 A. Most of the time.

6 Q. And living people's arms move?

7 A. Yes.

8 Q. And so when the body -- when you're doing the
9 autopsy, you're looking at just the stationary body and
10 directional relations with the stationary body?

11 A. Right.

12 When I describe the gunshot wounds, as far as
13 the direction of the wound paths I'm only looking at them
14 referencing the deceased's body itself.

15 Q. And then -- so I know you described for them on
16 your body, and I don't know if they can see better on me
17 up here. But the wound --

18 MR. COOPER: Your Honor, may I have permission
19 to take off my jacket?

20 THE COURT: You may.

21 [Off the record momentarily]

22 Q. [Mr. Cooper] So the chest wound you said
23 entered his right armpit --

24 A. Well, it's the right-lateral aspect so it would
25 be really on the side, you know, kind of right below the

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1 armpit. Exactly. But straight just on the side. Not on
2 the front or the back.

3 Q. So right about here [indicates]?

4 A. Yes.

5 Q. And that -- I think in description it's about
6 the second rib that you can feel; is that right? I don't
7 know if it's in your description, but --

8 A. Yeah. Well, I --

9 Q. -- that's about where that would be?

10 A. -- described it the third -- the right-lateral
11 third intercostal space. So it's around the third rib.
12 Third to fourth rib.

13 Q. And then that bullet went sort of front to back
14 and ended up in his back?

15 A. Yes.

16 Q. And that trajectory is somewhat downward?

17 A. Yes.

18 Q. And so going from sort of -- its front, to his
19 back --

20 A. Well, it's not going from the front.

21 Q. Right. But from the side --

22 A. It's below the -- toward -- it's in a front-to-
23 back direction, but the entrance was smack on the side.

24 Q. And so I would have to have been in a sort of
25 position -- assuming you're the shooter; right?

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1 A. Yes.

2 Q. -- it's possible that Mr. Williams was in a
3 position similar to this when he was shot, in terms of
4 that wound?

5 A. Similar.

6 Q. And the arms move; right?

7 A. Yes.

8 Q. And so it's possible that if you're the shooter
9 and you shoot the shots in quick succession, three of
10 them, okay, that the one -- if I'm similar to this, okay,
11 goes in the chest, the arm would be raised and it would go
12 through the skin of the arm and out the armpit, where
13 would my arm have to be? About here?

14 A. Well, that's really --

15 Q. The arm would have to be straight forward?

16 A. No.

17 The arm couldn't be -- it would have to be -- I
18 mean, it would have to be way out. I mean, I can't say
19 exactly. But even if that were the case, that the arm was
20 way out, the body would have to be turned --

21 Q. Right.

22 A. -- almost perpendicular to the shooter.

23 Q. And then it's also possible that the face wound
24 could have come from the same direction?

25 A. That's possible, yes.

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1 Q. And then the wound on the left arm, it's
2 possible that if I am here, those three shots are fired in
3 quick succession this way, then the left shot, it's
4 possible that it came -- the left-arm wound, it's possible
5 that it was shot from that direction?

6 A. It would be possible. That arm would also have
7 to be back.

8 Q. Right. It would be -- it would be moving.

9 A. It would be bent. It's possible.

10 Q. Right.

11 And so it's possible that that shot comes from a
12 different direction?

13 A. From a different direction.

14 MR. COOPER: Court's indulgence, Your Honor.

15 [Whereupon, Mr. Cooper and Ms. Ehrlich confer]

16 MR. COOPER: Thank you, Your Honor.

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REDIRECT EXAMINATION

BY MR. KIDD:

Q. Which of the gunshot wounds could have proved to be fatal?

A. The gunshot wound to the chest that entered the right-lateral aspect of the chest. It went through both of the lungs, because ending in the left side of the back. And as a result of puncturing both of the lungs, it was massive amounts of bleeding in both of the chest cavities. So a lot of internal bleeding that would be inconsistent with life.

Q. Could the gunshot wound of the face have been fatal?

A. Potentially.

Not immediately. But because there was a lot of damage to teeth and the tongue and the soft tissues of the mouth, it potentially could have been like -- bleeding in the mouth could have ended up dripping into the lungs so that the person couldn't breathe. But that wasn't what happened in this case.

Q. So he didn't aspirate?

A. That's correct.

Q. What was the cause of death?

A. Well, the cause of death is multiple gunshot wounds.

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1 Q. And just -- I just want to -- I don't want to
2 gloss over this. I think it's important.

3 So the gunshot wound to the left arm --

4 A. Yes.

5 Q. -- which side was the entrance wound of the left
6 arm?

7 A. It was toward the posterior aspect.

8 Q. Towards like --

9 A. Yes.

10 Q. -- the triceps area --

11 A. Yes.

12 Q. -- of the left arm? And where was the exit
13 wound?

14 A. The exit wound was more on the inside in the
15 biceps area.

16 Q. In the biceps area?

17 A. Yes.

18 Q. And then on the right arm, the gunshot wound --

19 A. Was on the into the biceps area.

20 Q. The inner biceps area?

21 A. Yes. And exited in the armpit area.

22 Q. And exited in the armpit area.

23 Are you able to determine, or is it possible to
24 determine, the difference between calibers of guns and
25 gunshot wounds?

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1 A. I'm not able to tell the caliber of a gun used
2 to create a specific gunshot wound by looking at the
3 injury to the body.

4 The only way I would know for certain is when I
5 recover a bullet from the body at the end of the wound
6 path. But otherwise, I can't tell from looking at
7 entrance or exit wounds what kind of a gun was used.

8 MR. KIDD: Court's indulgence.

9 [Whereupon, Mr. Kidd reviews documents]

10 Q. [Mr. Kidd] How was the victim's clothes when he
11 arrived to you?

12 A. He was wearing a red tee-shirt, a white tank
13 shirt, a brown jacket, blue jeans, and a black belt, and
14 boxer shorts, socks and shoes.

15 Q. And, obviously, before your autopsy you then
16 have to remove all of that clothing from the body?

17 A. Yes.

18 Q. And then what -- who takes that clothing from
19 there?

20 A. I transferred it to an investigator.

21 Q. Was Loaiza the --

22 A. Yes, Loaiza, of the North Charleston Police
23 Department.

24 MR. KIDD: Your Honor, may we approach?

25 THE COURT: You may.

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1 [Whereupon, an off-the-record bench conference.
2 is held]

3 THE COURT: Ladies and gentlemen, we're going to
4 go ahead and take a short break.

5 You may leave your notepads where you are --
6 where they are or take them with you. Please remember
7 all my admonitions. Thank you.

8 Please rise for the jury.

9 [Whereupon, the jury exits the courtroom at
10 3:04 p.m.]

11 THE COURT: Please be seated.

12 Seven minutes.

13 MR. COOPER: Yes, ma'am.

14 THE COURT: You may step down -- please do not
15 discuss your testimony with anyone -- or you may stay
16 right where you are. All right?

17 [Whereupon, a recess is taken from 3:06 p.m. to
18 3:16 p.m.]

19 THE COURT: Thank you. Be seated.

20 Counsel approach.

21 [Whereupon, an off-the-record bench conference
22 is held]

23 THE COURT: Is everybody ready to go now?

24 MR. COOPER: Yes, ma'am.

25 MR. KIDD: I apologize. I just kind of had an

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1 epiphany.

2 THE COURT: Mr. Cooper, are you ready to go?

3 MR. COOPER: We are, Your Honor.

4 THE COURT: Are you ready to go, Doctor?

5 THE WITNESS: Yes.

6 THE COURT: All right. Let's bring in the jury.

7 [Whereupon, the jury enters the courtroom at
8 3:18 p.m.]

9 THE BAILIFF: Jurors are all present, Your
10 Honor.

11 THE COURT: Thank you. Be seated. Your
12 witness, Mr. Kidd.

13 MR. KIDD: Thank you, Your Honor. And I
14 apologize.

15 Q. [Mr. Kidd] Dr. Riemer, the first thing I'm
16 going to show you is this and see if you can identify what
17 that is.

18 A. This is a bag. It's a paper bag. I put
19 clothing in a paper bag. This I don't think is mine.
20 Yeah. I didn't -- that's not a sticker I put on it. It's
21 a paper bag and --

22 THE COURT: Could you speak loudly, Doctor? The
23 jurors --

24 A. It's a paper bag that I put clothing in.

25 Q. [Mr. Kidd] So these aren't your stickers right

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1 there?

2 A. No.

3 Q. Do you know what it contains?

4 A. I don't know.

5 Q. All right. Fair enough. Did you remove the
6 jacket from the victim?

7 A. Yes.

8 Q. And I'm just trying to avoid having to open the
9 bag, obviously. Would you recognize the jacket if you saw
10 it?

11 A. Well, I would have to refresh my memory by
12 looking at the photograph of what jacket -- what the
13 jacket looked like that he was wearing. I don't recall
14 within the current time. But I did photograph him
15 clothed.

16 Q. If I showed you a photograph from the autopsy,
17 would that help refresh --

18 A. Yes.

19 Q. -- your recollection?

20 [Whereupon, State's Exhibit Number 61 is marked
21 by the court reporter]

22 Q. [Mr. Kidd] I'm going to show you what's been
23 marked just for identification as State's Exhibit 61.

24 A. Okay. I see the jacket that he was wearing.

25 Q. And -- I apologize.

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1 [Whereupon, Mr. Kidd reviews documents]

2 [Whereupon, State's Exhibit Numbers 56, 57, 58,
3 59, and 60 are is marked by the court reporter]

4 Q. [Mr. Kidd] So in an attempt to keep from
5 opening the bag, I'm going to show you what's been marked
6 State's 56, 57, 58 and 60. Okay? And see if you can tell
7 whether those are the same jacket.

8 [Whereupon, the witness reviews documents]

9 A. Yes. It looks like it's the same jacket.

10 Q. [Mr. Kidd] Thank you.

11 MR. KIDD: And, Your Honor, at this time the
12 State would offer State's 56, 57, 58 and 60 into
13 evidence.

14 THE COURT: One more time? The numbers.

15 MR. KIDD: 56, 57, 58 and 60.

16 THE COURT: Any objection?

17 MR. COOPER: Not to the photographs, Your Honor.
18 May we approach?

19 THE COURT: You may.

20 THE COURT: 56, 57, 58 and 60 into evidence
21 without objection.

22 [Whereupon, an off-the-record bench conference
23 is held]

24 [Whereupon, State's Exhibit Numbers 56, 57, 58,
25 and 60 are admitted into evidence by the Court]

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1 Q. [Mr. Kidd] I'm sorry this is disjointed. I'm
2 going to show you State's Exhibit 56. All right. So does
3 that appear to be the left collar of the jacket we're
4 referring to?

5 A. Yes.

6 Q. And this is what I'm getting at. All right. So
7 on State's Exhibit 54, this is kind of an indication of
8 the trajectory; correct?

9 A. Yes.

10 Q. And so that would be the left collar of the
11 jacket?

12 A. Yes.

13 Q. And you testified earlier about the abrasions --

14 A. Yes.

15 Q. -- on the left I guess near the left collar
16 bone?

17 A. They were left-upper chest.

18 Q. Left-upper chest. Okay.

19 So I guess what I'm getting at is from a
20 forensic standpoint, would it make sense that as a bullet
21 travels through the right upper lip, exits the left lower
22 chin, and lodges into the collar of a leather jacket, it
23 could cause those abrasions that you referred to on the
24 collarbone?

25 A. Yes. That's possible.

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1 Q. That seems like a lot to do a little, but I --

2 MR. KIDD: Court's indulgence. I believe that's
3 all.

4 I have no more questions, Your Honor.

5 MR. COOPER: No follow up, Your Honor. Thank
6 you.

7 THE COURT: You may step down. Thank you so
8 much.

9 [Whereupon, Dr. Riemer is excused and exits the
10 witness stand]

11 THE COURT: Call your next witness.

12 MR. KIDD: Thank you, Your Honor. The State
13 calls Adam Midgett.

14 [Whereupon, Mr. Midgett comes forward]

15 THE CLERK OF COURT: Sir, if you'll place your
16 left hand here and raise your right.

17 [Whereupon, Mr. Midgett is duly sworn by the
18 clerk of court as follows: do you swear or affirm the
19 testimony you give the Court and the jury in the trial
20 of this case will be the truth, the whole truth, and
21 nothing but the truth, so help you God]

22 THE WITNESS: I do.

23 THE CLERK OF COURT: You may be seated. Sir,
24 once seated, if you could please state your first and
25 last name. Spell your last loudly and clearly into

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1 the microphone for the record, please, sir.

2 THE WITNESS: Adam Midgett. M-I-D-G-E-T-T.

3 MR. COOPER: Your Honor, at this time I would
4 renew my pretrial motions regarding --

5 THE COURT: They will be noted for the record.

6 You may continue.

7 [Whereupon, Mr. Midgett takes the witness stand]

8 MR. LIETZOW: Good afternoon, Deputy.

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Adam Midgett
Direct Examination by Mr. Lietzow
January 7, 2015

ADAM MIDGETT,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. LIETZOW:

Q. Could you tell the jury where you're employed,
please?

A. Charleston County Sheriff's Office.

Q. And what are your duties there?

A. I'm assigned to the K-9 unit, patrol K-9.

Q. How long have you been working for Charleston
County?

A. Approximately nine years.

Q. Explain a little bit more what working with the
K-9 unit entails.

A. Working with the K-9 unit I assist the road
units with any work necessary; if they get backed up on
calls; I go to any major scenes. Also, another part of my
job is to do criminal interdiction in high-crime areas.

Q. What do you mean by criminal interdiction?

A. Looking for any kind of illegal activity that
might be traveling up and down the roads or in the area.

Q. Do you recall what you were doing on November
24th, 2012?

A. Yes. I was patrolling the area of Lincolnville.

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1 Q. Can you be more specific about that area?

2 A. I was actually on East Owens Drive, in
3 Lincolnville, patrolling the area.

4 Q. And tell us a little bit more about what
5 happened.

6 A. I was patrolling -- like I said, I was
7 patrolling the area of East Owens Drive when I observed a
8 vehicle make a lefthand turn, come into my lane of travel,
9 so much so that I had to slow down to avoid the collision.
10 At that point, I began to turn around. The vehicle sped
11 up, went over the railroad tracks, and it made a right-
12 hand turn onto Railroad Avenue, once again going into the
13 opposite lane of travel.

14 I managed to catch up to the vehicle. I
15 initiated my blue lights, at which time the vehicle
16 partially pulled over and stopped for a brief moment, and
17 then sped off. I initiated a pursuit --

18 MR. COOPER: Objection. Your Honor, I would
19 just request a continuing objection to -- that we
20 argued pretrial, Lyle, 404(b).

21 THE COURT: All right. Thank you.

22 MR. COOPER: Yes, ma'am. Thank you.

23 Q. [Mr. Lietzow] Continue, Deputy.

24 A. I initiated a pursuit. The pursuit lasted
25 approximately a minute. The vehicle came to a stop at

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January 7, 2015

1 East Ferry and East Randolph Street, at which time the
2 defendant exited from the driver's seat. He ran on foot.
3 I exited my vehicle and gave a K-9 warning for him to
4 stop, but he continued to flee.

5 I gave my K-9, Rex, his apprehension command, at
6 which time he chased down the defendant and apprehended
7 him. He continued to struggle with the K-9 as I made
8 contact with him. This lasted for approximately thirty
9 seconds or so before he was finally taken into custody.

10 Q. Let's back up a little bit and go into a little
11 bit more detail on what you just told us. Okay? What
12 kind of vehicle was this that you first noticed was
13 driving in a way that you decided to pull it over?

14 A. It was a 2000 gold Nissan.

15 Q. And did you have a chance to see the number of
16 occupants in that vehicle?

17 A. It was -- he was the sole occupant, the
18 defendant.

19 [Whereupon, State's Exhibit Number 19 is marked
20 by the court reporter]

21 MR. LIETZOW: May I approach the witness, Your
22 Honor?

23 THE COURT: You may.

24 Q. [Mr. Lietzow] Deputy, I'm showing you what's
25 been marked as State's Exhibit 19. Do you recognize that?

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Adam Midgett
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1 A. Yes, I do.

2 Q. How are you able to recognize that?

3 A. By my initials and the date.

4 Q. And did you have a chance to watch this video?

5 A. Yes, I have.

6 Q. And where did you watch that video at?

7 A. At the solicitor's office.

8 Q. And do the contents of this video fairly and
9 accurately portray what happened on that night that you
10 just got done explaining?

11 A. Yes, it does.

12 MR. LIETZOW: Your Honor, at this time I would
13 request to move State's Exhibit 19 into evidence.

14 THE COURT: Any objection?

15 MR. COOPER: Same objection, Your Honor. I'm
16 just going to have a continuing objection.

17 THE COURT: State's 19 into evidence over your
18 objection.

19 MR. COOPER: Thank you, Your Honor.

20 [Whereupon, State's Exhibit Number 19 is
21 admitted into evidence by the Court]

22 MR. LIETZOW: Request to publish, Your Honor?

23 THE COURT: You may publish.

24 MR. LIETZOW: While that's loading, I have a few
25 more questions for you, Deputy.

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1 Q. [Mr. Lietzow] Did you notice how fast the
2 vehicle was traveling?

3 A. As it passed me, it accelerated very quickly, so
4 much so that when it went over the railroad tracks I could
5 see the headlights bouncing up and down as it went over
6 the railroad tracks. And then it made a right-hand turn
7 onto Railroad Avenue, at which time it sped up and I had
8 to speed up to approximately sixty miles an hour to
9 actually catch up with him.

10 Q. What kind of vehicle were you traveling in?

11 A. I was in a marked Charleston County Tahoe.

12 Q. And had you activated your blue lights?

13 A. Not at that point.

14 Q. At what point did you activate your blue lights?

15 A. I believe it might have -- somewhere along
16 Railroad Avenue, I believe.

17 MR. KIDD: The Court's indulgence.

18 THE COURT: Yes.

19 Q. [Mr. Lietzow] About how long did the entire
20 chase take before the defendant exited on foot?

21 A. Approximately a minute. It wasn't very long.

22 Q. Did you have any idea who you were chasing after
23 at that point?

24 A. No, I did not.

25 Q. All right, Deputy. I'm going to show you the

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Adam Midgett
Direct Examination by Mr. Lietzow
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1 beginning portion of that night.

2 But before we do that: is your car equipped
3 with audio and video recording?

4 A. Yes, it is.

5 Q. Is this standard on all marked law enforcement
6 cars at the Charleston County Sheriff's Office?

7 A. Yes, it is.

8 Q. And at what point does this activate?

9 A. It activates when my blue lights are turned on
10 and it goes back thirty seconds prior to activation of my
11 blue lights.

12 [Whereupon, State's Exhibit Number 19, CD,
13 plays, with questions from Mr. Lietzow]

14 [Whereupon, State's Exhibit Number 19, CD, is
15 not transcribed by the court reporter]

16 Q. [Mr. Lietzow] So we don't have audio at this
17 point?

18 A. No. The audio comes on when the blue lights are
19 activated.

20 Q. Had you already seen the car at this point, or
21 you were just on patrol?

22 A. I seen the car that is the defendant's vehicle
23 in front of me.

24 Q. At this point, what's going -- explain what's
25 happening at this point.

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Adam Midgett
Direct Examination by Mr. Lietzow
January 7, 2015

1 A. I initiated my blue lights for the traffic stop
2 for several moving violations, at which time he began to
3 pull onto the shoulder of the road.

4 Q. Now, let's go back through this. What's
5 happening right here?

6 A. The defendant is stopping at the corner of East
7 Berry and East Randolph Street and he's beginning to bail
8 out of the car and run on foot.

9 Q. And when he does that, what do you do?

10 A. I get out of my vehicle, I release my K-9. Give
11 him a K-9 warning, which he continues to flee, and I used
12 the K-9 to apprehend him.

13 Q. What's the purpose of giving a K-9 warning?
14 Explain that a little bit more.

15 A. You give a K-9 warning to give the suspect or
16 defendant the opportunity to give up.

17 Q. And what is the purpose of the K-9?

18 A. The K-9 is to keep officers out of harm's way.
19 That's the main function of the K-9.

20 Q. Do they pursue fleeing suspects?

21 A. Yes, they do after being -- fleeing suspects.

22 Q. Is you yelling -- is that you giving the K-9
23 unit -- it's kind of hard to make out the audio. What
24 exactly are you saying?

25 A. What I'm saying there is the word stolen

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Adam Midgett
Direct Examination by Mr. Lietzow
January 7, 2015

1 [phonetic], that you're hearing me say several times.
2 That's his apprehension command.

3 Q. And the video isn't attached to you? It's
4 stationary in your car?

5 A. Yes, sir. That's correct.

6 Q. But the audio does follow wherever you go?

7 A. Yeah, the audio, I have a mike for my vest that
8 I wear.

9 Q. Did you have a -- were you able to observe the
10 suspect the entire time while you were chasing him on
11 foot?

12 A. That is correct. I was able to keep visual.

13 Q. Did you notice him throw anything during that?

14 A. No, I did not.

15 He was grabbing towards his waistband the whole
16 -- as he exited the vehicle and as he kind of veered to
17 the left there, but I did not see him throw anything.

18 Q. And at this point we're hearing a lot of
19 commotion. What is happening at this point?

20 A. At this point, K-9 Rex has apprehended him in
21 the buttocks region. When I'm running up to him he's
22 still standing, struggling with the dog trying to loosen
23 his grip.

24 I had to tell him several times to get on the
25 ground. He finally complies and gets on the ground but he

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Adam Midgett
Direct Examination by Mr. Lietzow
January 7, 2015

1 continues to struggle with my K-9. He's grabbing his
2 throat, he's grabbing his snout, and trying to release the
3 grip of the K-9.

4 Q. Is the K-9 Rex trained to hold on to a defendant
5 or a suspect until he's compliant and safely secured?

6 A. That is correct.

7 Q. And what is the purpose of that?

8 A. It's for officer safety.

9 Q. And was the point where the K-9 started barking
10 the point where you thought this situation was safe enough
11 to give the release commands?

12 A. He was actually already released at that point.

13 I had -- just prior to that, probably maybe five
14 or ten seconds prior to that, the defendant was finally
15 handcuffed at that point and that's when the K-9 was
16 released from the defendant.

17 Q. And you don't give the release command until the
18 suspect's hands are safely secured behind his back in
19 handcuffs?

20 A. That's correct. He is taken off at that time.

21 Q. And was the defendant resisting arrest at this
22 point?

23 A. Yes.

24 He was resisting the whole time. He wouldn't
25 comply with what -- he put his hands behind his back.

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Adam Midgett
Direct Examination by Mr. Lietzow
January 7, 2015

1 Continued to fight with my K-9.

2 Q. Did another deputy show up to the scene to
3 assist you?

4 A. Yes.

5 That was Deputy Christmas that you saw on the
6 video.

7 Q. What's he doing at this point?

8 A. He was just securing the vehicle, and then he
9 was trying to figure out exactly where I ran.

10 Q. Is that you in the video right there?

11 A. That is Deputy Christmas.

12 Q. Where are you at at this point?

13 A. I'm still coming back with my K-9.

14 Q. At this point, do you have any idea who this is?

15 A. No, I do not.

16 Q. When were you able to determine who the person
17 you were chasing after was?

18 A. It was a short time later. I was able to run it
19 through our dispatch center and confirmed who he was.

20 Q. And who was he?

21 A. He was Kadrin Singleton.

22 Q. And so he's obviously in custody right there?

23 A. That's correct.

24 Q. Did you read him his rights after you took him
25 into custody?

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Adam Midgett
Direct Examination by Mr. Lietzow
January 7, 2015

1 A. A short time after that, I was -- he was read
2 his rights by me.

3 Q. And when you read somebody your rights, what
4 does that entail?

5 A. I have a vest that I carry with me in my -- I'm
6 sorry -- a card, that I carry in my vest, which I read to
7 them once they're in custody.

8 Q. Is that what is known as his Miranda rights?

9 A. Miranda rights. That is correct.

10 Q. Did he acknowledge that he understood his
11 rights?

12 A. Yes, he did.

13 Q. Did you ask him any questions?

14 A. Yes, I did. I asked him why did he run.

15 Q. And what was his response to that?

16 A. That he knew the car was stolen and that he --

17 MR. COOPER: Your Honor, I renew those
18 objections, as well.

19 THE COURT: They're noted.

20 A. That he knew the vehicle was stolen and that he
21 got it from someone else.

22 Q. [Mr. Lietzow] Were you able to confirm whether
23 the vehicle was stolen?

24 A. Yes, I was -- yes, I did.

25 Q. How did you do that?

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Adam Midgett
Direct Examination by Mr. Lietzow
January 7, 2015

1 A. Through our dispatch center. They run it
2 through what they call NCIC and it came back stolen out of
3 North Charleston.

4 Q. Was there anything about the actual license tag?

5 A. Yes. The license plate was actually stolen out
6 of Summerville Police Department jurisdiction and the
7 vehicle was stolen out of North Charleston.

8 [Whereupon, State's Exhibit Number 19, CD,
9 concludes]

10 MR. LIETZOW: The Court's indulgence.

11 [Whereupon, Mr. Lietzow and Mr. Kidd confer]

12 Q. [Mr. Lietzow] Where did Mr. Singleton go after
13 this video? next place?

14 A. He was secured at Deputy Faison's vehicle in the
15 back seat.

16 Q. Was he given EMS attention for the dog bite that
17 he received?

18 A. Yes.

19 EMS responded to the scene. They treated him at
20 the scene, then he was transported to the emergency room.

21 Q. Did y'all search the immediate area where the
22 chase took place for any contraband?

23 A. Yes, we did. We searched the area.

24 Q. Did you find anything that night?

25 A. No, I did not.

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Adam Midgett
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January 7, 2015

1 Q. Did you later become aware that drugs and cell
2 phones were located very close to where this chase took
3 place?

4 A. Yes, I did.

5 Q. Tell us about how you came to know that.

6 A. The sargent at that time, Sargent Reinwelski
7 [phonetic], informed me the following day that some
8 contraband was found in the same general area where the
9 defendant was caught.

10 MR. COOPER: Hearsay, Your Honor.

11 MR. KIDD: That would be --

12 THE COURT: Overruled.

13 Q. [Mr. Lietzow] Continue.

14 A. Deputy Joyce responded to that location and
15 secured it earlier that day.

16 Q. Did you have a chance to yourself, personally,
17 go out to this area where the contraband was found?

18 A. Yes, I did.

19 A few days later I went out there and spoke with
20 the -- I believe the person that lives at the residence
21 where the contraband was located at in the back yard.

22 Q. And were you able to confirm that where the
23 contraband was located was in proximity to where the chase
24 took place?

25 A. That's right. It was approximately fifteen

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Adam Midgett
Direct Examination by Mr. Lietzow
January 7, 2015

1 yards from the location of the small chainlink fence where
2 the defendant was apprehended at.

3 Q. At this time, did you have any idea what that
4 cell phone was about or what the drugs were about? Were
5 you able to make any connections with this information?

6 A. Well, at that time --

7 MR. COOPER: Objection. Calls for hearsay.

8 THE COURT: Rephrase your question.

9 Q. [Mr. Lietzow] Were you able to link the drugs
10 and the cell phone they found to the incident that
11 occurred with the chase that we just witnessed?

12 MR. COOPER: Same objection, Your Honor.

13 THE COURT: Overruled.

14 Q. [Mr. Lietzow] You can answer.

15 A. At that point, I had a -- I knew that it was but
16 I didn't have enough probable cause to get a warrant at
17 that point. I just -- it was secured for safekeeping at
18 that time.

19 Q. Did you later receive a phone call from
20 Detective Matt Hughes at the North Charleston Police
21 Department?

22 A. Yes, I did.

23 Q. What did you learn through that phone call?

24 A. During that search warrant of the phone records
25 at the jail, he overheard a conversation describing -- the

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Adam Midgett
Direct Examination by Mr. Lietzow
January 7, 2015

1 defendant --

2 MR. COOPER: Objection. Hearsay.

3 THE COURT: Overruled.

4 Q. [Mr. Kidd] Continue.

5 A. -- the defendant describing the contents of the
6 bag which he threw with the cell phones, the drugs, trying
7 to get somebody to go pick up the contraband that was
8 thrown.

9 Q. Deputy, did you have any other involvement with
10 this situation that day?

11 A. At that point, I just issued a warrant based on
12 his conversation that he had on the recorded jail lines.

13 Q. What was that warrant issued for?

14 A. Trafficking cocaine.

15 Q. What were the defendant's other charges as a --
16 other warrants issued as a result of this situation?

17 A. It was failure to stop for blue light and siren,
18 resisting arrest, and possession of stolen vehicle greater
19 than \$1,000.

20 MR. LIETZOW: Court's indulgence, please.

21 [Whereupon, Mr. Lietzow and Mr. Kidd confer]

22 MR. LIETZOW: That's all I have for you, Deputy.
23 Please answer any questions Mr. Cooper has for you.

24 THE WITNESS: Thank you.

25 THE COURT: Mr. Cooper.

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Adam Midgett
Cross-Examination by Mr. Cooper
January 7, 2015

CROSS-EXAMINATION

BY MR. COOPER:

Q. Deputy, you said that Mr. Singleton was
resisting the dog?

A. That is correct.

Q. A dog bite doesn't feel great, does it?

A. I've never been bit, but I wouldn't think so.

Q. I mean, I don't imagine it's a pleasurable
experience, is it?

A. I wouldn't think so.

Q. How big is Rex?

A. Ninety pounds.

Q. Ninety-pound dog?

A. That's correct.

Q. What kind of dog is he?

A. German Shepard.

Q. German Shepard.

And when you say apprehended, you mean he was --
that Mr. Singleton was bit?

A. That's correct.

Q. And that bite lasted for approximately a full
minute?

A. Before he was finally detained, before he
complied, yes, it did quite some time.

Q. And so he was in quite some pain for about a

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Adam Midgett
Cross-Examination by Mr. Cooper
January 7, 2015

1 minute?

2 A. He still continued to fight. I don't know if he
3 was in pain, but he was continuing to fight at that point.

4 Q. Would you want to be bitten by Rex?

5 A. No, I wouldn't.

6 Q. If Rex bit you, would you just let him hang on?

7 A. No.

8 MR. COOPER: Okay. Thank you. No further
9 questions.

10 THE COURT: Mr. Lietzow.

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Adam Midgett
Redirect Examination by Mr. Lietzow
January 7, 2015

REDIRECT EXAMINATION

BY MR. LIETZOW:

Q. Again, you would have given the release command had the defendant successfully not resisted arrest and you would have been able to take him into custody? You would have released Rex right away; right?

A. That is correct. He just continued to fight my dog, grab him by the snout, his neck. He was still a threat at that point.

MR. LIETZOW: Thank you. No further questions,
Your Honor.

THE COURT: Mr. Cooper.

Adam Midgett
Recross-Examination by Mr. Cooper
January 7, 2015

RECROSS-EXAMINATION

BY MR. COOPER:

Q. Deputy, did you know that the resisting charge has been dismissed?

A. I was not aware of that.

MR. COOPER: Okay. Thank you.

THE COURT: You may step down. Thank you.

[Whereupon, Mr. Midgett is excused and exits the witness stand]

THE COURT: Call your next witness.

MR. LIETZOW: The State calls James Wagoner.

[Whereupon, Mr. Wagoner comes forward]

THE CLERK OF COURT: Sir, if you could please put your left hand here, raise your right.

[Whereupon, Mr. Wagoner is duly sworn by the clerk of court as follows: do you swear or affirm the testimony that you give the Court and the jury in the trial of this case will be the truth, the whole truth, and nothing but the truth, so help you God]

THE WITNESS: I do.

THE CLERK OF COURT: You may be seated. Sir, once seated, if you could please state your first and last name and then spell your last loudly and clearly into the microphone for the record.

[Whereupon, Mr. Wagoner takes the witness stand]

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Adam Midgett
Recross-Examination by Mr. Cooper
January 7, 2015

1 THE WITNESS: My name is Jennings B. Wagoner.
2 MR. LIETZOW: Spell your last name, please, sir.
3 THE WITNESS: Wagoner. W-A-G-O-N-E-R.
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Jennings B. Wagoner
Direct Examination by Mr. Lietzow
January 7, 2015

JENNINGS B. WAGONER,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. LIETZOW:

Q. How old are you, Mr. Wagoner?

A. Pardon?

Q. How old are you, sir?

A. Seventy-nine.

Q. And where do you live?

A. Lincolnvillle.

Q. What's your address, sir?

A. [No response]

Q. Your address?

A. East Cain Street, Lincolnvillle, South
Carolina.

Q. What do you do for a living?

A. [No response]

Q. What do you do for a living?

A. I'm retired.

Q. What did you do prior to your retirement?

A. I retired from the navy base after I retired
from the air force.

Q. How long were you in the navy base and the air
force?

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Jennings B. Wagoner
Direct Examination by Mr. Lietzow
January 7, 2015

1 A. I was in the air force twenty-eight years, and
2 then worked for the submarine center on the navy base for
3 about fifteen.

4 Q. Here in Charleston?

5 A. Yes.

6 Q. Let's talk about the morning of November 25th,
7 2012. Do you remember that morning?

8 A. Yes.

9 Q. What were you doing that morning?

10 A. I got up to go out to get the paper and when I
11 stepped out onto the back porch, why, I saw a plastic bag
12 out in the yard.

13 Q. Did you stay in the house the previous night?

14 A. Yes.

15 Q. Were you aware of any commotion, or did you hear
16 anything that happened, the night before?

17 A. No, I did not.

18 Q. And you said you went outside to get your paper
19 in the morning. Is that a pretty regular routine of
20 yours?

21 A. Yes.

22 Q. Had you done it the morning before?

23 A. Yes.

24 Q. So you saw a clear plastic bag out there. What
25 did you do next?

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Jennings B. Wagoner
Direct Examination by Mr. Lietzow
January 7, 2015

1 A. I walked out there to pick it up, since I was
2 going by the trash can, and when I reached down to pick it
3 up I saw what was in it, or what I thought was in it, and
4 I didn't touch it and went back and called the police.

5 Q. What did you see inside of the bag?

6 A. It looked like marijuana, is what it appeared to
7 me to be.

8 Q. Was there any electronics in the bag?

9 A. Pardon?

10 Q. Was there any -- was there a cell phone in the
11 bag?

12 A. It looked like there was a phone in it. And
13 there was not cellophane, but aluminum foil or something
14 wrapped in there. I'd say marijuana, it looked like.

15 Q. Did you see anything else in the bag?

16 A. No, I did not.

17 Q. Did you see anything that looked white?

18 A. Pardon?

19 Q. Anything that looked white inside of the bag?

20 MR. COOPER: Objection. Leading.

21 A. Yeah. Aluminum foil or white or something.

22 THE COURT: I'm going to give him a little
23 leeway, Mr. Cooper.

24 MR. COOPER: Yes, ma'am.

25 THE COURT: Thank you.

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Jennings B. Wagoner
Direct Examination by Mr. Lietzow
January 7, 2015

1 Q. [Mr. Lietzow] I know that it's kind of hard to
2 do without a frame of reference, but how big is your back
3 yard? Is it an acre, a half acre?

4 A. It's a half acre.

5 Q. And is your back yard surrounded by a fence?

6 A. It's on three sides.

7 Q. How tall is that fence?

8 A. It's four foot.

9 Q. What kind of fence is it?

10 A. Chainlink.

11 Q. And where was the bag in relation to your entire
12 yard?

13 A. It was straight out the back door towards the
14 back fence and about halfway across the yard.

15 Q. Was it --

16 A. I would say fifty feet.

17 Q. How far away from it was the nearest fence?

18 A. The fence was probably twenty, maybe twenty-five
19 feet.

20 Q. Had you ever seen this particular bag before?

21 A. No.

22 Q. Do you have any idea when it was put there?

23 A. Just the night before.

24 Q. And how -- what makes you say that?

25 A. Well, it was out in the yard and I would have

Jennings B. Wagoner
Direct Examination by Mr. Lietzow
January 7, 2015

1 seen it walking out there. And it was -- you know, the
2 grass was cut, so --

3 Q. And you said after you saw it, you went inside
4 and called the police. What made you call the police?

5 A. Pardon?

6 Q. What made you call the police after you saw this
7 bag?

8 A. Just what I thought it was, and I wasn't sure,
9 so I called the police and let them decide.

10 Q. And did you touch that bag?

11 A. No.

12 Q. Did you open it?

13 A. Pardon?

14 Q. Did you open it?

15 A. No.

16 Q. Did you move it?

17 A. No. I never touched it.

18 Q. So as soon as you -- as soon as you saw it, you
19 went inside and you called the police. Did you go back
20 outside until the police got there?

21 A. I went back out and got the paper and then went
22 back in the house.

23 Q. And when the police got there, what happened?

24 A. I took him -- well, when he come around the back
25 of the house, I showed it to him and he went over and

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Jennings B. Wagoner
Direct Examination by Mr. Lietzow
January 7, 2015

1. looked at it and picked it up and took it.

2. Q. Did you have any other involvement?

3. A. [No response]

4. Q. Did you have any other involvement?

5. A. No.

6. MR. LIETZOW: The Court's indulgence.

7. [Whereupon, Mr. Lietzow and Mr. Kidd confer]

8. MR. LIETZOW: Mr. Wagoner, thank you for coming.
9. I have no further questions. And Mr. Cooper is going
10. to ask you some questions, so just answer anything he
11. asks you. All right?

12. THE WITNESS: Okay.

13. MR. LIETZOW: Thank you, sir.

14. THE COURT: Mr. Cooper.

15. MR. COOPER: Mr. Wagoner, thank you for your
16. service, sir. I have no questions. Thank you.

17. THE COURT: You may step down. Thank you.

18. [Whereupon, Mr. Wagoner is excused and exits the
19. witness stand]

20. THE COURT: Call your next witness.

21. MR. LIETZOW: The State calls Kevin Joyce.

22. MR. KIDD: The State calls Mark Lipsey.

23. MR. LIETZOW: Mark Lipsey, Your Honor.

24. THE COURT: Are we calling two at one time?

25. MR. LIETZOW: Mark Lipsey, Your Honor.

Jennings B. Wagoner
Direct Examination by Mr. Lietzow
January 7, 2015

1 Mr. Joyce is on his way.

2 THE COURT: Thank you.

3 MR. COOPER: May we approach, Your Honor?

4 THE COURT: You may.

5 [Whereupon, an off-the-record bench conference
6 is held]

7 [Whereupon, State's Exhibit Number 62 is marked
8 by the court reporter]

9 THE COURT: Sir, please come forward and be
10 sworn.

11 [Whereupon, Mr. Lipsey comes forward]

12 THE CLERK OF COURT: Sir, if you would please
13 place your left hand here and raise your right.

14 [Whereupon, Mr. Lipsey is duly sworn by the
15 clerk of court as follows: do you swear or affirm the
16 testimony you give the Court and the jury in the trial
17 of this case will be the truth, the whole truth, and
18 nothing but the truth, so help you God]

19 THE WITNESS: I do.

20 THE CLERK OF COURT: You may be seated. Sir,
21 once seated, if you could please state your first and
22 last name and spell your last loudly and clearly into
23 the microphone for the record.

24 [Whereupon, Mr. Lipsey takes the witness stand]

25 THE WITNESS: My name is Mark Lipsey. M-A-R-K

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Jennings B. Wagoner
Direct Examination by Mr. Lietzow
January 7, 2015

1 L-I-P-S-E-Y.

2 THE COURT: Mr. Kidd, your witness.

3 MR. KIDD: Thank you, Your Honor.

4 Good afternoon, Sargent.

5 THE WITNESS: Hey. How are you doing?

6 MR. KIDD: And once again, you have my
7 apologies. I really appreciate your being here today.

8 THE WITNESS: No problem, sir.

9 MR. KIDD: I know we've kind of jerked you
10 around a little bit today.

11 THE WITNESS: That's all right, sir.

12 MR. KIDD: So you have my apologies.

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Mark Lipsey
Direct Examination by Mr. Kidd
January 7, 2015

MARK LIPSEY,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. KIDD:

Q. I'm going to show you what's been marked for
identification as State's Exhibit Number --

Before I do that, let me lay a little bit of
background. Can you tell the jury where you're employed?

A. I work at the sheriff -- Al Cannon Detention
Center.

Q. And what are your duties with Cannon Detention
Center?

A. I'm a lobby cash supervisor.

Q. And what is that?

A. Basically I deal with the cash that flows
throughout the jail, as well as visitation, phone records,
and identification.

Q. So I want to talk about phone records.

A. Yes, sir.

Q. When someone is lodged at the detention center,
are they given a pin number?

A. Yes, sir.

Q. And what is that pin number used for?

A. It's used to make phone calls.

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Mark Lipsey
Direct Examination by Mr. Kidd
January 7, 2015

1 Q. Used to make phone calls?

2 A. Uh-huh.

3 Q. And does the detention center record those phone
4 calls?

5 A. Yes.

6 Q. Are your inmates advised that their phone calls
7 are going to be recorded?

8 A. Yes.

9 Q. In what way?

10 A. They have it up on the poles when they first
11 come in, by the phones, and as well as when they make
12 phone calls.

13 Q. So there's actually a recording on the phone
14 call that advises them --

15 A. Yes.

16 Q. -- they're being recorded?

17 A. Uh-huh. Yes, sir.

18 Q. So how, then -- so is every phone call made with
19 an inmate recorded?

20 A. Yes.

21 Q. And where is it stored?

22 A. It's in our little database for our phone
23 records.

24 Q. So if I sent you a search warrant, subpoena, for
25 any inmate's phone records, all you need is their pin

MIA PERRON, CVR-CM-M

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Mark Lipsey
Direct Examination by Mr. Kidd
January 7, 2015

1. number and you could give me all the phone calls that were
2. made?

3. A. Yes, sir.

4. Q. I'm going to show you what's been marked as
5. State's Exhibit Number 62 and see if you can recognize
6. that item.

7. A. Yes, sir.

8. Q. How do you recognize it?

9. A. It's one of our downloads that we have from our
10. phone system for audio recordings.

11. Q. And does this recording belong to the pin number
12. of Kadrin Singleton?

13. A. Yes.

14. Q. And would you be able to tell me what date and
15. time that call was made, or would you need to see the
16. printout?

17. A. I would have to see -- I would have to see a
18. printout.

19. [Whereupon, the witness reviews documents]

20. A. The printout shows November 25th, 2012.

21. Q. [Mr. Kidd] At approximately what time?

22. A. 4:30.

23. Q. 4:30?

24. A. Or excuse me.. 4:29.

25. Q. 4:29?

MIA PERRON, CVR-CM-M

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Mark Lipsey
Direct Examination by Mr. Kidd
January 7, 2015

1 A. Yes.

2 Q. A.m. or p.m.?

3 A. Shows a.m.

4 Q. A.m.?

5 A. Uh-huh.

6 Q. I'm sorry. I shouldn't have walked away.

7 All right. Can you tell me how long that phone
8 call is?

9 A. Sure. Fifteen minutes.

10 Q. Fifteen minutes?

11 A. Uh-huh.

12 Q. So at 4:29 a.m. on November 25th, 2012, there is
13 at least a fifteen-minute phone call made from the pin
14 number given to Kadrin Singleton?

15 A. Yes, sir.

16 Q. And that phone call has been recorded and placed
17 on State's Exhibit Number 62?

18 A. Yes, sir.

19 MR. KIDD: Your Honor, at this time the State
20 would offer State's Exhibit Number 62 into evidence.

21 THE COURT: Any objection?

22 MR. COOPER: Yes, Your Honor, I have an
23 objection. May we approach?

24 THE COURT: You may.

25 [Whereupon, an off-the-record bench conference

MIA PERRON, CVR-CM-M.

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Mark Lipsey
Direct Examination by Mr. Kidd
January 7, 2015

1 is held]

2 THE COURT: State's 62 into evidence over the
3 defendant's objection.

4 I will allow you to fully articulate outside the
5 presence of the jury, Mr. Cooper.

6 MR. COOPER: Thank you, Your Honor.

7 [Whereupon, State's Exhibit Number 62 is
8 admitted into evidence by the Court]

9 THE COURT: You may publish.

10 [Whereupon, State's Exhibit Number 62, CD, is
11 played]

12 [Whereupon, State's Exhibit Number 62, CD, is
13 not transcribed by the court reporter]

14 Q. [Mr. Kidd] All right. Sargent Lipsey, I've
15 just got one quick question. If there is a period of
16 silence on a phone call, what will happen?

17 A. It will automatically end the phone call.

18 Q. It will automatically end the phone call?

19 A. Yes.

20 Q. So in order to prevent that from happening,
21 sometimes they sing or blow into the phone?

22 A. Yeah. Or tap on the phone.

23 Q. Tap on the phone?

24 A. Uh-huh.

25 Q. And that's just to keep it from being

MIA PERRON, CVR-CM-M

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Mark Lipsey
Direct Examination by Mr. Kidd
January 7, 2015

1 disconnected?

2 A. Yes.

3 MR. KIDD: I have no further questions. Please
4 answer any questions Mr. Cooper may have.

5 MR. COOPER: I have no questions of this
6 witness.

7 THE COURT: You may step down. Thank you.

8 THE WITNESS: Thank you.

9 [Whereupon, Mr. Lipsey is excused and exits the
10 witness stand]

11 THE COURT: Is your next witness ready,
12 Mr. Kidd?

13 MR. KIDD: The State calls Brian George.

14 [Whereupon, Mr. George comes forward]

15 MR. COOPER: Your Honor, may we approach?

16 [Whereupon, an off-the-record bench conference
17 is held]

18 THE CLERK OF COURT: Left hand here, sir. Raise
19 your right.

20 [Whereupon, Mr. George is duly sworn by the
21 clerk of court as follows: do you swear or affirm the
22 testimony you give the Court and the jury in the trial
23 of this case will be the truth, the whole truth, and
24 nothing but the truth, so help you God]

25 THE WITNESS: I do.

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Mark Lipsey
Direct Examination by Mr. Kidd
January 7, 2015

1 THE CLERK OF COURT: You may be seated. Sir,
2 once seated, if you could please state your first and
3 last name and then spell your last loudly and clearly
4 into the microphone for the record.

5 [Whereupon, Mr. George takes the witness stand]

6 THE WITNESS: First name is Brian. Last name is
7 George, G-E-O-R-G-E.

8 MR. LIETZOW: Good afternoon, Officer George.
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Brian George
Direct Examination by Mr. Lietzow
January 7, 2015

BRIAN GEORGE,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. LIETZOW:

Q. Please tell the jury where you're employed.

A. North Charleston Police Department.

Q. And how long have you been employed there?

A. Two years.

Q. And what are your duties at the North Charleston
Police Department?

A. Mainly answering dispatch calls, patrolling the
areas.

Q. Do you recall what you were doing on October 18,
2013?

A. I do in reference to this case.

Q. Explain to the jury what happened on that day in
reference to this case.

A. On that day, officers got dispatched to the
address of this location and -- in reference to a purple
vehicle, possibly subject smoking narcotics in it. Upon
arriving, I observed a male get out of a vehicle. I made
contact with that subject. Odor of marijuana was coming
from his person, which at that time another officer
arrived on scene. He stayed with the subject. I walked

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Brian George
Direct Examination by Mr. Lietzow
January 7, 2015

1 over to the vehicle that I observed him get out of. You
2 could smell the marijuana coming from that vehicle that he
3 just got out. So which at that time, I opened the vehicle
4 to do probable cause and observed a handgun sitting in the
5 side door.

6 Q. What was the address of this incident that you
7 went out on a call for?

8 A. The exact address I can't recall. It was at
9 Rivers and Sable. I do know that.

10 Q. North Charleston?

11 A. Yes, sir.

12 Q. Give the jury kind of an overview of what's
13 located in this area.

14 A. It's going to be near Gaslight Square. You've
15 got Rivers and Remount and then you've got the Gaslight
16 Square shopping center, Wells Fargo is next to that, and
17 then next to Wells Fargo is the location with a
18 barbershop, a studio, and a mechanic shop.

19 Q. What kind of studio is this?

20 A. I guess for making music. I've never been in
21 it.

22 Q. Fair enough.

23 All right. So when you got on scene, was this
24 individual at -- was there an individual near the car?
25 Inside the car?

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Brian George
Direct Examination by Mr. Lietzow
January 7, 2015

1 A. He was getting out of the vehicle at the time of
2 me driving into the parking lot.

3 Q. Getting out of what side of the vehicle?

4 A. Passenger side.

5 Q. Front or back seat?

6 A. I am going to say the front seat. I clearly
7 wasn't paying attention to what door he got out of. I
8 just was looking for the purple vehicle that was stated,
9 and when I arrived that's when I saw him --

10 Q. What did he do as you were approaching the
11 vehicle?

12 A. Continued to walk and went -- was going to go
13 into the studio, which I stopped him.

14 Q. Let's talk about the firearm. Where in the car
15 was the firearm located that you found?

16 A. It's going to be in the -- it was located in the
17 side pocket on the passenger front door.

18 Q. In plain view?

19 A. Yes, sir.

20 [Whereupon, State's Exhibit Number 63 is marked
21 by the court reporter]

22 MR. LIETZOW: May I approach the witness, Your
23 Honor?

24 THE COURT: You may.

25 Q. [Mr. Lietzow] Officer, I'm showing you what's

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Brian George
Direct Examination by Mr. Lietzow
January 7, 2015

1 been marked for identification purposes only as State's
2 Exhibit 63.

3 A. Uh-huh.

4 Q. Do you recognize this? If you need to open it,
5 that's fine.

6 A. Yes, sir.

7 Q. How are you able to recognize that?

8 A. It's got the same serial number as the one I
9 located in the vehicle.

10 Q. And what was the serial number of that?

11 A. In the picture I have of when I located the gun,
12 it's going to be the same one as this: the RAU 6241.

13 MR. LIETZOW: The Court's indulgence.

14 Q. [Mr. Lietzow] Can you double-check that serial
15 number for us?

16 A. RAU 8241.

17 Q. And where is the serial number on that firearm?

18 A. Located under the barrel.

19 Q. And do you record that serial number anywhere
20 for record-keeping?

21 A. We do it in our report, our property, and in our
22 SLED analysis paperwork that we send off to SLED with the
23 gun, and our chain of custody.

24 Q. So is that -- is it safe to say that that
25 firearm right there is the same firearm that you recovered

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Brian George
Direct Examination by Mr. Lietzow
January 7, 2015

1 from the incident that we're speaking of today that
2 happened on October 18, 2013?

3 A. Correct.

4 MR. LIETZOW: Your Honor, at this point I would
5 like to move State's Exhibit 63 into evidence.

6 MR. COOPER: No objection.

7 THE COURT: State's 63 into evidence without
8 objection.

9 [Whereupon, State's Exhibit Number 63 is
10 admitted into evidence by the Court]

11 Q. [Mr. Lietzow] I'm going to let you hold on to
12 this for reference.

13 A. Okay.

14 Q. What kind of firearm is that, Officer?

15 A. It's a Smith and Wesson.

16 Q. What color is it?

17 A. Black.

18 Q. And what is the caliber on that?

19 A. I think this one is a .9.

20 Q. Are you able to tell, based on just looking at a
21 weapon?

22 A. I am. It's going to be a .40.

23 Q. When you found it, was it loaded? What was the
24 status of the weapon?

25 A. There was one in the chamber, and the magazine

Brian George
Direct Examination by Mr. Lietzow
January 7, 2015

1 was fully loaded.

2 MR. LIETZOW: Your Honor, just for the jury's
3 sake, I'm going to hold the firearm up so that they
4 can have a look at it.

5 THE COURT: All right. Thank you.

6 MR. LIETZOW: It's actually strapped in, so I'm
7 going to tilt it down this way.

8 Q. [Mr. Lietzow] All right. So did you take this
9 individual into custody, who was near the car, after you
10 recovered that firearm?

11 A. I did.

12 Q. Tell us what happened after that.

13 A. During the paperwork of processing, all the
14 paperwork running the --

15 MR. COOPER: Objection. Hearsay.

16 THE COURT: Overruled.

17 MR. COOPER: As to what the individual said.

18 THE COURT: Overruled.

19 Q. [Mr. Lietzow] Please continue, Officer.

20 A. As I was doing the paperwork, I was doing all
21 the paperwork waiting for transport to arrive on-scene, we
22 ran the gun, found the gun to be stolen.

23 We were about to transport the first individual
24 that we saw get out of the vehicle, which at that time a
25 black male exited one of the -- it was either the studio

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Brian George
Direct Examination by Mr. Lietzow
January 7, 2015

1 or the barbershop, and came up and advised us the firearm
2 was his.

3 Q. All right. Let me back up. I don't think I
4 made this clear enough.

5 Who was the first individual that was walking
6 away from the car when you got on scene? What was his
7 name?

8 A. If I'm not mistaken, his last name was Thompson.

9 Q. So you ran the firearm. Tell us how you run a
10 firearm to determine whether it's stolen or not.

11 A. Through NCIC, which is on our records channel.
12 You run the serial number and it comes back either stolen
13 or not stolen.

14 Q. And so you were getting ready to transport the
15 original individual to jail and then another individual
16 walked out of the studio or the barbershop and came up to
17 you and told you it was stolen?

18 A. Correct. Well, he stated that it was his
19 firearm.

20 Q. I'm sorry. My apologies.

21 So after he stated that to you, what did you do?

22 A. We arrested him.

23 Q. And what was his name?

24 A. I can't even pronounce it.

25 MR. LIETZOW: May I approach, Your Honor?

Brian George
Direct Examination by Mr. Lietzow
January 7, 2015

1 THE COURT: You may.

2 Q. [Mr. Lietzow] If I show you your incident
3 report, would that refresh your mind?

4 A. Correct.

5 [Whereupon, the witness reviews documents]

6 Q. [Mr. Lietzow] I believe it's in the suspect.
7 The top one.

8 A. Yeah. That's where I'm trying to locate it.

9 Q. It's somewhere around in this area [indicates].

10 A. That's Craig Thompson.

11 Q. And is that the individual who came out and said
12 the gun was his?

13 A. Correct.

14 MR. LIETZOW: Let me grab that from you. You
15 can hold on to this for reference.

16 THE WITNESS: Okay.

17 Q. [Mr. Lietzow] So you took Craig Thompson to
18 jail?

19 A. Yes, sir. For the gun.

20 Q. Were you able to determine what Craig Thompson's
21 address was?

22 MR. COOPER: Calls for hearsay.

23 THE COURT: I don't know that that particular
24 question calls for hearsay. Overruled.

25 A. Yes, sir. He stated that he lived in Holly

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Brian George
Direct Examination by Mr. Lietzow
January 7, 2015

1 Hill.

2 MR. LIETZOW: Court's indulgence.

3 THE COURT: Yes.

4 [Whereupon, Mr. Lietzow reviews documents]

5 Q. [Mr. Lietzow] When you took Mr. Thompson into
6 custody, did you get his driver's license from him?

7 A. That I recall, both suspects did have IDs on
8 them.

9 Q. And through that license, were you able to
10 determine what Mr. Thompson's address was?

11 A. Yes, sir.

12 Q. What is Mr. Thompson's address?

13 A. It is what I entered in --

14 MR. COOPER: Objection, Your Honor.

15 THE COURT: Counsel approach.

16 [Whereupon, an off-the-record bench conference
17 is held]

18 Q. [Mr. Lietzow] What is Craig Thompson's address,
19 Officer?

20 A. As I entered in the incident report, it's going
21 to be Thornburgh Street, Holly Hill, South Carolina.

22 Q. And just for clarity's sake, Craig Thompson was
23 not the first person you saw on the scene but the
24 gentleman who came out of the recording or barbershop area
25 and claimed ownership of the firearm?

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Brian George
Direct Examination by Mr. Lietzow
January 7, 2015

1 A. Correct.

2 MR. LIETZOW: Thank you, Officer. Please answer
3 any questions that Mr. Cooper might have for you.

4 THE WITNESS: All right.

5 THE COURT: Mr. Cooper.

6 MR. COOPER: Thank you, Your Honor.
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Brian George
Cross-Examination by Mr. Cooper
January 7, 2015

CROSS-EXAMINATION

BY MR. COOPER:

Q. Officer George, Mr. Singleton was not there at the scene that day and had nothing to do with any of that; correct?

A. Singleton?

Q. Right.

A. That would be the first subject that was on scene.

Q. Kadrin Singleton?

I think you said Connell Shepard was there and Craig Thompson was there.

A. Correct. Okay. Correct.

Q. And Mr. Singleton was not involved with any of that, your scene?

A. Not that I'm aware of. He could have been there but didn't involve with me.

MR. COOPER: Okay. Thank you.

THE COURT: Mr. Lietzow?

MR. LIETZOW: Nothing further, Your Honor.

THE COURT: You may step down. Thank you.

THE WITNESS: Thank you.

[Whereupon, Mr. George is excused and exits the witness stand]

THE COURT: Do y'all need a break, or ready to

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Brian George
Cross-Examination by Mr. Cooper
January 7, 2015

1 continue, Mr. Foreman?

2 THE FOREPERSON: Continue.

3 THE COURT: All right. Call your next witness.

4 MR. LIETZOW: The State calls Kevin Joyce, Your
5 Honor.

6 THE COURT: Thank you.

7 [Whereupon, Mr. Joyce comes forward]

8 THE CLERK OF COURT: Left hand here, sir. Raise
9 your right.

10 [Whereupon, Mr. Joyce is duly sworn by the clerk
11 of court as follows: do you solemnly swear or affirm
12 the testimony you will give the Court and the jury in
13 the trial of this case will be the truth, the whole
14 truth, and nothing but the truth, so help you God]

15 THE WITNESS: I do.

16 THE CLERK OF COURT: You may be seated. Sir,
17 once seated, if you could please state your first and
18 last name. Spell your last loudly and clearly into
19 the microphone into the record. And you can adjust
20 that as you need.

21 [Whereupon, Mr. Joyce takes the witness stand]

22 THE WITNESS: Kevin Joyce. J-O-Y-C-E.

23 MR. LIETZOW: Hi, Deputy Joyce.

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Kevin Joyce
Direct Examination by Mr. Lietzow
January 7, 2015

KEVIN JOYCE,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. LIETZOW:

Q. Where are you employed?

A. Charleston County Sheriff's Office.

Q. And what specifically do you do right now with
Charleston County Sheriff's Office?

A. Currently, I'm a school resource officer at Port
Johnson Middle School on James Island.

Q. Did you just come from there?

A. Yes.

Q. What were your duties -- were you employed with
Charleston County in November of 2012?

A. I was.

Q. What were you doing back then for Charleston
County?

A. Back then I was in the patrol division and I was
typically mostly assigned to the North Charleston area in
patrol.

Q. We're going to back up. But do you recall
collecting evidence at Cain Street in November of
2012?

A. Yes.

MIA PERRON, CVR-CM-M

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Kevin Joyce
Direct Examination by Mr. Lietzow
January 7, 2015

1 Q. What date was that, specifically, that you did
2 that?

3 A. That was November the 25th, 2012.

4 Q. Tell us a little bit about what happened there.
5 How did you know to go out to this location?

6 A. I was patrolling the area of North Charleston
7 area and was dispatched to that location to meet with a
8 citizen who had discovered in his back yard a Ziploc
9 baggie and within the Ziploc baggie was bags of marijuana,
10 bags of cocaine, and two cell phones.

11 Q. Okay. And what time was this?

12 A. I was dispatched at 0821 hours.

13 Q. 8:21 a.m.?

14 A. [No response]

15 Q. What time did you come on duty that day?

16 A. Reported for duty at about 6:30 in the morning.

17 Q. So did you know of anything that had happened
18 the night before?

19 A. No, sir.

20 Q. So you get to the house and you meet with the
21 citizen. Then what happens?

22 A. I meet with the citizen. He directs me to the
23 back yard. And directly in the middle of the back yard
24 there was a Ziploc bag. And, again, within the bag was
25 the marijuana, cocaine, and the two cell phones.

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Kevin Joyce
Direct Examination by Mr. Lietzow
January 7, 2015

1 Q. Do you recall what the citizen's name was?

2 A. Mr. Wagoner.

3 [Whereupon, State's Exhibit Numbers 40, 41, 42,
4 and 43 are marked by the court reporter]

5 MR. LIETZOW: May I approach the witness, Your
6 Honor?

7 THE COURT: You may.

8 Q. [Mr. Lietzow] Deputy, I'm showing you what's
9 been marked for identification purposes only as State's
10 Exhibit 40, State's Exhibit 41, State's Exhibit 42 and 43.
11 Take them one at a time. Do you recognize these items?

12 A. Yes.

13 Q. Now, they're all in bags or containers. How are
14 you able to recognize all these items?

15 A. I see where my name's attached to the label on
16 the evidence.

17 Q. Explain the process that's involved with
18 collecting evidence and preserving it and documenting
19 who's done what with it.

20 A. Well, in this case I took the evidence and took
21 a pair of latex gloves out and bagged the evidence. Went
22 to my patrol car. In this particular case, took the
23 Ziploc bag and I put it in a brown plastic -- I'm sorry --
24 a brown paper bag in my trunk. Sealed it. Once that was
25 done, I traveled to the north squadron. At the north

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Kevin Joyce
Direct Examination by Mr. Lietzow
January 7, 2015

1 squadron, I went in, took the evidence in the squadron
2 with me. I wrote the report.

3 In addition to writing the report, I went ahead
4 and accessed the evidence system for the sheriff's office.
5 I printed out an evidence label. Once the evidence label
6 was printed out, the evidence label was attached to the
7 brown paper bag containing the plastic Ziploc bag.

8 Once that was completed, I transported it to the
9 sheriff's office headquarters on Pine Haven Drive and
10 placed it -- secured it in the evidence locker.

11 Q. Now, what I handed to you, is that the cocaine,
12 the marijuana, and the cell phone that was recovered from
13 East Cain Street?

14 A. Yes, sir.

15 Q. And how do you know that it's the same stuff
16 that was recovered from there?

17 A. Again, because the name on the label indicates
18 to me that I was the one that submitted the evidence.

19 Q. And go ahead and just open up some of those,
20 please. Let's do it one by one. Let's start with Exhibit
21 40, please. What is that?

22 A. This is the white powdery substance.

23 Q. Does it fairly and accurately represent what it
24 looked like on that day when you collected it and bagged
25 it up?

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Kevin Joyce
Direct Examination by Mr. Lietzow
January 7, 2015

1 A. Yes, sir.

2 Q. What about Exhibit 41? What is that?

3 A. Exhibit 41, two plastic bags with white powder.
4 substance.

5 Q. Open it up for us.

6 A. [Witness complies]

7 Q. Same question, sir. Does that accurately and
8 fairly portray what that substance looked like the day you
9 collected it and secured it up?

10 A. Yes, sir.

11 Q. 42, please. What is 42?

12 A. 42 is 16.7 grams of green, leafy substance.

13 Q. Sorry to be redundant, sir, but does that fairly
14 and accurately portray what it looked like the day you
15 collected it and secured it?

16 A. Yes, sir.

17 Q. And the last one, please. I believe that's 43.

18 A. Yes.

19 Q. What is 43? You can open it up, if it helps you
20 out.

21 A. 43 is a T-Mobile cell phone.

22 Q. Take it out of that bag for us, please.

23 A. [Witness complies]

24 Q. This is the last time I'm going to ask you. But
25 does that fairly and accurately portray the phone that you

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Kevin Joyce
Direct Examination by Mr. Lietzow
January 7, 2015

1 got at East Cain Street that day?

2 A. Yes, sir.

3 MR. LIETZOW: Your Honor, at this time I would.
4 like to enter State's 40, 41, 42 and 43 into evidence.

5 THE COURT: Any objection?

6 MR. COOPER: Your Honor, I just renew my
7 pretrial objections.

8 THE COURT: 40, 41, 42, 43 into evidence over
9 your objection.

10 MR. COOPER: Thank you.

11 [Whereupon, State's Exhibit Numbers 40, 41, 42
12 and 43 are admitted into evidence by the Court]

13 Q. [Mr. Lietzow] Deputy Joyce, what is the IMEI
14 number on the cell phone?

15 A. That's the identifier for the cell phone.

16 Q. And could you please read that number to the
17 jury? I know it's lengthy, but just go ahead and read it
18 for us, please.

19 A. I need some stronger glasses. 865074010422466.

20 Q. Did you have any other involvement in this case?

21 A. No, sir.

22 MR. LIETZOW: Court's indulgence.

23 I'm going to grab that evidence back from you
24 and lay it out on the table.

25 That's all the questions I have for you. Thank

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Kevin Joyce
Direct Examination by Mr. Lietzow
January 7, 2015

1 you.. Please answer any questions Mr. Cooper might
2 have.

3 THE COURT: Mr. Cooper?

4 MR. COOPER: No questions, Your Honor.

5 THE COURT: Deputy Joyce, you may step down.
6 Thank you.

7 [Whereupon, Mr. Joyce is excused and exits the
8 witness stand]

9 THE COURT: All right. Call your next witness.

10 MR. KIDD: The State calls Brian Sommerfeldt.

11 THE COURT: Mr. Foreman, if you'll let me know
12 if y'all have any child-care concerns or any reason
13 you cannot stay past 6:00.

14 [Whereupon, Mr. Sommerfeldt comes forward]

15 THE CLERK OF COURT: Sir, if you could please
16 place your left hand here. Raise your right.

17 [Whereupon, Mr. Sommerfeldt is duly sworn by the
18 clerk of court as follows: do you swear or affirm the
19 testimony you will give the Court and the jury in the
20 trial of this case will be the truth, the whole truth,
21 and nothing but the truth, so help you God]

22 THE WITNESS: I do.

23 THE CLERK OF COURT: Thank you, sir. You may be
24 seated. Sir, once seated, if you could please state
25 your first and last name. Spell your last loudly and

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Kevin Joyce
Direct Examination by Mr. Lietzow
January 7, 2015

1 clearly into the microphone for the record. And you
2 can adjust it as you need to.

3 [Whereupon, Mr. Sommerfeldt takes the witness
4 stand]

5 THE WITNESS: It's Brian Sommerfeldt. S-O-M-M-
6 E-R-F-E-L-D-T.

7 MR. KIDD: Good afternoon, Mr. Sommerfeldt. I
8 appreciate you being here.
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MIA PERRON, CVR-CM-M

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Brian Sommerfeldt
Direct Examination by Mr. Kidd
January 7, 2015

BRIAN SOMMERFELDT,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. KIDD:

Q. Can you tell the jury where you're employed?

A. I work at the Charleston County Sheriff's
Office.

Q. Are you a commissioned officer?

A. No, sir.

Q. A civilian?

A. Yes.

Q. What are your duties with -- I'm sorry. You
said the County?

A. Yes.

Q. So the sheriff's office?

A. Yes.

Q. What are your duties with the sheriff's office?

A. I'm the integrated ballistics identification
system specialist, which is also known as IBISS.

Q. IBISS.

And can you maybe give a layman's explanation of
what IBISS is and how that functions?

A. Well, basically what IBISS does is takes a shell
casing, the back of the shell casing -- what you have,

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Brian Sommerfeldt
Direct Examination by Mr. Kidd
January 7, 2015

1 when you load a round everyone knows when you pull the
2 trigger the bullet comes out one end. But what happens on
3 the other end is the shell casing tries to go out. But it
4 can't, so it makes an imprint on the back of that -- from
5 the back of that gun.

6 And then we take those shell casings, I put them
7 into the system, the system takes digital images of those
8 marks and it's put into the database, and that database
9 brings the most likely results back as which one it could
10 match.

11 Q. Did you -- well, let me show you what's been
12 marked and entered into evidence as State's Exhibit Number
13 47. See if you can recognize those objects.

14 A. Yes.

15 Q. Do you enter -- what are those items, first of
16 all?

17 A. There's two .40 caliber shell casings and one
18 .9mm shell casing.

19 Q. And did you enter those shell casings into
20 IBISS?

21 A. Yes, sir.

22 Q. Next I'm going to show you what's been marked as
23 State's Exhibit -- marked and entered into evidence as
24 State's Exhibit 63 and see if you recognize that item.

25 A. Yes, I do. It's a Smith and Wesson .40 caliber.

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Brian Sommerfeldt
Direct Examination by Mr. Kidd
January 7, 2015

1 Q. So that's a .40 caliber pistol?

2 A. Yes.

3 Q. And did you -- how do you enter a pistol into
4 IBISS?

5 A. What I do is I take it and test-fire a round
6 through it, and I'll take that shell casing from the test
7 fire and put it into the ballistic system.

8 Q. And did you do that with this specific firearm?

9 A. I did.

10 Q. And did you get a match back from IBISS?

11 A. Yeah.

12 It came back with a high correlation score that
13 the two .40 caliber shell casings I had put in previously,
14 that that shell casing that I test-fired matched those two
15 shell casings. And once I see that, what I have to do is
16 I'll take those, package them up, and they go to SLED and
17 SLED confirms whether they're a match or not.

18 Q. So then SLED sort of does a manual comparison of
19 that one?

20 A. Exactly.

21 Q. And so I'm going to ask you one kind of maybe --
22 maybe it's dumb, maybe it's not. Depends on how you look
23 at it. A firearm like this would eject a shell casing in
24 which direction?

25 A. Normally to the right.

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Brian Sommerfeldt
Direct Examination by Mr. Kidd
January 7, 2015

1 Q. To the right.

2 So like if I was pointing to this wall right
3 here, the shell casing would eject this way?

4 A. It could eject anywhere in this window here.

5 Q. In this window, but typically with a rightward
6 trajectory?

7 A. Toward the right. Yes.

8 Q. Now, additionally, I'm going to show you, if I
9 can find it --

10 MR. KIDD: The Court's indulgence for a moment.
11 Here it is.

12 Q. [Mr. Kidd] I'm going to show you what's been
13 marked and entered into evidence as State's Exhibit Number
14 55. Have you ever had an opportunity to look at that?

15 A. I believe so, yes.

16 Q. And if it helps, it's open, so you could
17 probably -- I mean, I don't know if you want to or not.
18 If you want gloves, you can have gloves. I just want to
19 make sure that that's the same one that you looked at.

20 MR. KIDD: Do you want two?

21 THE WITNESS: One will be fine.

22 A. Again, it looks similar. I have no markings on
23 it, so I'm not -- it doesn't have any identifying features
24 that I had put on it saying that I looked at it, but it's
25 similar to the one that I looked at.

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Brian Sommerfeldt
Direct Examination by Mr. Kidd
January 7, 2015

1 Q. [Mr. Kidd] Are you able to tell from maybe the
2 envelope that it came in that it was related to this case?

3 A. Well, the North Charleston case number is the
4 same, yes.

5 Q. And did you take diameter measurements of that
6 projectile?

7 A. I didn't -- I don't have the tools to do that.

8 Q. Did you compare it to say a .45 caliber and a
9 .9mm?

10 A. I did. I took it and held it up against the
11 back --

12 MR. COOPER: Your Honor, may we approach?

13 THE COURT: You may.

14 [Whereupon, an off-the-record bench conference
15 is held]

16 Q. [Mr. Kidd] So I guess it was a little bit of a
17 rudimentary examination of the projectile. But did you
18 compare it to a .45 caliber --

19 A. I did.

20 Q. -- cartridge? Was it bigger or smaller?

21 A. It was smaller.

22 Q. Did you compare it to a .9mm cartridge?

23 A. I did.

24 Q. Was it bigger or smaller?

25 A. It was bigger.

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Brian Sommerfeldt
Direct Examination by Mr. Kidd
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1 Q. So it was larger than a .9mm, smaller than a
2 .45?

3 A. Yes.

4 MR. KIDD: Thank you. And that's all I have.
5 One more.

6 Q. [Mr. Kidd] Would it be consistent with a .40
7 caliber?

8 A. It would be.

9 MR. KIDD: The Court's indulgence one moment.

10 Q. [Mr. Kidd] And if so -- so you test-fire the
11 firearm, you get the cartridge, as well as the cartridge
12 casings that we talked about earlier that you enter into
13 IBIS, and then you sent that stuff to SLED?

14 A. Yes.

15 MR. KIDD: Okay. I have no further questions of
16 Mr. Sommerfeldt.

17 THE COURT: Mr. Cooper.
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Brian Sommerfeldt
Cross-Examination by Mr. Cooper
January 7, 2015

CROSS-EXAMINATION

BY MR. COOPER:

Q. Mr. Sommerfeldt, the solicitor asked you if you had -- you said you didn't have tools to measure?

A. Correct. I'm not a -- I'm not a firearms examiner.

Q. You're not an expert?

A. I'm not a firearms examiner.

Q. Examiner?

A. Right.

An examiner actually looks at things and correlates them under a compare microscope.

Q. Right.

So your testimony is just that to your eye, it looked smaller than a .45 and larger than a .9mm to your eye?

A. Yes.

Q. And that's it?

A. Yes.

MR. COOPER: Thank you.

THE COURT: Mr. Kidd?

MR. KIDD: No further questions.

THE COURT: You may step down. Thank you.

[Whereupon, Mr. Sommerfeldt is excused and exits the witness stand]

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Brian Sommerfeldt
Cross-Examination by Mr. Cooper
January 7, 2015

1 MR. KIDD: The State would call Dan DeFreese.

2 [Whereupon, Mr. DeFreese comes forward]

3 THE CLERK OF COURT: Left hand here, sir. Raise
4 your right.

5 [Whereupon, Mr. DeFreese is duly sworn by the
6 clerk of court as follows: do you swear or affirm the
7 testimony you will give the Court and the jury in the
8 trial of this case will be the truth, the whole truth,
9 and nothing but the truth, so help you God]

10 THE WITNESS: I do.

11 THE CLERK OF COURT: You may be seated, sir.
12 Sir, once seated, if you could please state your first
13 and last name and then spell your last loudly and
14 clearly into the microphone for the record. And you
15 can adjust that as you need to.

16 [Whereupon, Mr. DeFreese takes the witness
17 stand]

18 THE WITNESS: My name is Frank Dan DeFreese.
19 DeFreese is spelled capital D-E, capital F-R-E-E-S-E.

20 MR. KIDD: Good afternoon, Mr. DeFreese. I
21 appreciate your being here.

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Frank D. DeFreese
Direct Examination by Mr. Kidd
January 7, 2015

1 FRANK DAN DEFREESE,
2 Having Been First Duly Sworn,
3 was Examined and Testified as Follows:

4 DIRECT EXAMINATION

5 BY MR. KIDD:

6 Q. Can you tell the jury where you're employed,
7 please?

8 A. I work for the South Carolina Law Enforcement
9 Division in the forensic services laboratory in Columbia.

10 Q. Do you have any -- a specialty within the
11 forensics services laboratory?

12 A. Within the laboratory I'm assigned to the unit
13 where we do the identification of firearm and tool-mark
14 evidence.

15 Q. And what sort of education and training have you
16 had to be able to have that job?

17 A. Well, I'm a graduate of the University of South
18 Carolina in Columbia, but my principle training in the
19 identification of firearm and tool-mark evidence occurred
20 at SLED.

21 But after my employment, I began a course of
22 instruction that lasted about two and a half years. I
23 studied the techniques of firearm and tool-mark
24 identification under Lieutenant Millard Cate. Lieutenant
25 Cate established the SLED laboratory when SLED itself was

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Frank D. DeFreese
Direct Examination by Mr. Kidd
January 7, 2015

1 established in 1947. After working under his supervision,
2 I began accepting cases on my own and testifying as to my
3 results, which I've been doing since 1969.

4 Q. So you've testified in court a number of times?

5 A. Yes, sir.

6 Q. And have you been qualified as an expert?

7 A. Yes, sir.

8 Q. In what field?

9 A. In firearm and tool-mark identification.

10 MR. KIDD: Your Honor, at this time the State
11 would offer Mr. DeFreese as an expert in firearm and
12 tool-mark identification.

13 THE COURT: Any objection?

14 MR. COOPER: No, ma'am.

15 THE COURT: He will be so qualified.

16 Q. [Mr. Kidd] Mr. DeFreese, to get right to the
17 point, I'm going to show you what's been marked and
18 entered in evidence as State's Exhibit Number 47 and then
19 again State's Exhibit Number 63 and see if you can
20 recognize those two items.

21 MR. KIDD: Do you know -- do you need scissors?

22 THE WITNESS: I do, please, sir. Thank you.

23 MR. KIDD: Yes, sir. You don't make it very
24 easy on yourself, do you?

25 THE WITNESS: I'm afraid I don't. But I don't

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Frank D. DeFreese
Direct Examination by Mr. Kidd
January 7, 2015

1 want the evidence to move around within the packaging,
2 so -- maybe I put too much tape on it.

3 A. Yes, sir. I've examined all of these items of
4 evidence before. That in State's Exhibit 47, containing
5 three fired cartridge cases, and State's Exhibit 63
6 containing the pistol and magazine.

7 Q. [Mr. Kidd] And in reference to the case that
8 we're here about, does SLED sort of create its own case
9 numbers to associate with this evidence?

10 A. We do. We assign a unique case number to every
11 particular incident and we -- the case number usually
12 contains the year and then a sequential number just
13 according to the order in which the evidence is presented
14 during the year.

15 One of these items has -- was submitted in
16 connection with one case number and one in another. I
17 don't -- 63 was submitted in our case number L14-02703 and
18 item 47 was submitted in our case number L12-14894.

19 Q. And if the firearm which was submitted in 2014
20 has a link to the 2012 case, would any reports then be
21 linked back to that L12-14894 case number?

22 A. Yes, they would.

23 Q. And your work on these items, did you -- how
24 many reports did you generate?

25 A. I generated an original report and a

Frank D. DeFreese
Direct Examination by Mr. Kidd
January 7, 2015

1 supplemental report and then an amended supplemental.
2 report in the L12 case, and then a report in the L14 case.

3 Q. Now, I want to first talk about the first case,
4 which would be your L12-14894.

5 A. Yes, sir.

6 Q. And so I believe in that case you only analyzed
7 the three shell casings; is that correct?

8 A. That's correct.

9 There were three fired cartridge cases, two .40
10 Smith and Wesson caliber fired cartridge cases and one
11 .9mm fired cartridge case.

12 Q. So what were the results of the analysis of
13 those three cartridge cases?

14 A. I compared the markings on the three cartridge
15 cases with each other. And I compared them under our
16 comparison microscope where we can look at the various
17 different marks that are left on a cartridge case by the
18 gun or guns in which they're fired, principally being the
19 firing-pin impression and the breech-face marks. The
20 chamber marks can also be used as a basis for concluding
21 that they were fired in a given gun.

22 In this case I found matching breech-face marks
23 on the two fired .40 caliber cartridge cases, which I
24 refer to as items 5 and 7. There were sufficient
25 differences on the .9mm cartridge case, which I called

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1 item 6, to conclude that it was not fired by the gun that
2 fired items 5 and 7.

3 It is possible to fire a .9mm Luger caliber
4 cartridge in some .40 Smith and Wesson caliber firearms.
5 So it's -- the fact that the calibers were different
6 didn't necessarily exclude the possibility that they could
7 all three have been fired by one gun. But they weren't.

8 Q. And I was going to get to that. So the two --
9 so basically, just to kind of sum up as shortly as I can,
10 the two .40 caliber shell casings were fired by the same
11 firearm?

12 A. Correct.

13 Q. The .9mm shell casing was fired by a different
14 firearm?

15 A. Correct.

16 Q. And then at a later date, after you generated
17 that report, you received the firearm that you have in
18 front of you?

19 A. Yes, sir.

20 Q. And did you test-fire that firearm?

21 A. I did.

22 Q. And then did you compare -- manually compare
23 that shell casing to items 5 and 7, which were the two .40
24 caliber shell casings from the report we were just
25 referencing?

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Frank D. DeFreese
Direct Examination by Mr. Kidd
January 7, 2015

1. A. I did.

2. Q. And what were your results there?

3. A. I concluded that I found matching breech-face
4. marks on both the test cartridge cases and on the two .40
5. Smith and Wesson caliber cartridge cases in item 47. From
6. that, I concluded that these two cartridge cases were
7. fired by that pistol.

8. Q. And once again, just so -- for me, simple. This
9. firearm right here fired those two .40 caliber shell
10. casings?

11. A. Yes, sir. Fired these two but did not fire the
12. .9mm.

13. Q. Do you put any sort of degree of confidence in
14. those findings? Are they absolute? Are they -- is there
15. any sort of a --

16. A. Well, they're -- it's as certain as I, as a
17. human being, can be that -- that there's a certain degree
18. of uncertainty in everything, and I don't claim
19. infallibility in the things that I do. But I think as a
20. practical matter, the possibility that these two .40
21. caliber cartridge cases were fired by another gun is a
22. practical impossibility.

23. MR. KIDD: Thank you, sir. I have no further
24. questions for you. Please answer any questions that
25. Mr. Cooper may have.

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Frank D. DeFreese
Direct Examination by Mr. Kidd
January 7, 2015

1 THE COURT: Mr. Cooper.

2 MR. COOPER: Thank you. May it please the
3 Court.

4 Is it okay if I call you Mr. DeFreese?

5 THE WITNESS: Sure.

6 MR. COOPER: Do you have -- do you have a title?

7 THE WITNESS: I'm actually a senior agent in
8 rank or a criminalist in the laboratory, but just, you
9 know, Mr. DeFreese will be fine.

10 MR. COOPER: Okay. Thank you, sir. Good
11 afternoon.

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Frank D. DeFreese
Cross-Examination by Mr. Cooper
January 7, 2015

CROSS-EXAMINATION

BY MR. COOPER:

Q. You were never asked to forward that firearm for the DNA lab for a forensic testing?

A. No, I wasn't. Normally --

Q. But SLED --

A. Normally, in the scheme of things, if a DNA request had been made on a firearm, the firearm is always routed to DNA before we ever get it because once we get the firearm, it's necessary for us to handle it, to load it and unload it, and make inspections on it, which would contaminate it and really ruin it for further analysis for DNA.

Q. And to your knowledge, did that gun come from the DNA lab?

A. Let me check something in my paperwork.

[Whereupon, the witness reviews documents]

A. It came initially into the laboratory, went into intake storage, and then a forensic technician, Lisa K. Barfield, received it and I received it from her. But I don't know what Lisa Barfield did to the gun.

Q. [Mr. Cooper] Okay. Now, in terms of this case, you were not requested to analyze any projectiles; correct?

A. That's correct.

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Frank D. DeFreese
Cross-Examination by Mr. Cooper
January 7, 2015

1 Q. You just looked at the shell casings?

2 A. Just the three cartridge cases and the pistol
3 itself.

4 Q. Okay. But it's possible to tell also -- like
5 you can tell that the shell casings were ejected by a
6 particular gun. It's possible to tell if the actual
7 projectile itself comes from a particular gun?

8 A. Yes, sir.

9 When the projectile is recovered in sufficiently
10 undamaged condition, it is possible to associate it with a
11 particular gun barrel, with the barrel of the gun in which
12 it was fired.

13 Q. And you can also tell the difference between a
14 .9mm round or projectile versus a .40 caliber projectile?

15 A. Usually, unless they're very badly damaged.

16 Q. And there's a number of different things you can
17 look at including -- diameter is one thing?

18 A. That's correct.

19 Q. And they are about a millimeter apart?

20 A. Well, the difference between a .40 caliber and a
21 .9mm is about a millimeter. A .40 caliber is ten
22 millimeters.

23 Q. And it would potentially have things like
24 different riffling characteristics?

25 A. They could. They could have different numbers

Frank D. DeFreese
Cross-Examination by Mr. Cooper
January 7, 2015

1 of lands and grooves, different directions of twists, and
2 different widths of land and groove impressions.

3 Q. And they would also have different mass?

4 A. Pardon?

5 Q. The two projectiles -- a .9mm projectile has a
6 different mass from a .40 caliber projectile?

7 A. Usually the .40 caliber is somewhat heavier than
8 the .9mm, yes.

9 Q. Measurably so?

10 A. Yes, sir.

11 Q. In all the standard rounds?

12 A. Well, as we may have discussed, the standard .40
13 S&W caliber bullets generally fall in a range between 155
14 and 180 grains. However, there are some bullets that
15 weigh more and some that weigh less than that. But the
16 popular ones fall within that range.

17 And the popular .9mm bullets generally fall
18 within a range of about 115 grains to 147 grains, although
19 there are some that are lighter and heavier than that. So
20 there could potentially be some overlap.

21 But most of the popularly distributed rounds in
22 .40 caliber are heavier than the .9mm.

23 Q. And just to reiterate, you were never requested
24 to analyze any actual projectiles in this case?

25 A. There were never any bullets submitted to me in

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Cross-Examination by Mr. Cooper
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1. this case.

2. Q. Thank you, sir.

3. MR. COOPER: Court's indulgence.

4. [Whereupon, Mr. Cooper and Ms. Ehrlich confer]

5. MR. COOPER: Thank you, Your Honor.

6. MR. KIDD: Just a couple of quick questions.

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Frank D. DeFreese
Redirect Examination by Mr. Kidd
January 7, 2015

REDIRECT EXAMINATION

BY MR. KIDD:

Q. I'm going to ask you to do something very elementary for us.

Can you open that package for me, please? It's State's -- or Defense Exhibit 11.

A. [Witness complies] Yes, sir.

Q. Can you tell me what that is?

A. This is a .9mm Luger caliber unfired cartridge that has a Blazer head stamp. This is what's known as a Blazer Brass .9mm Luger caliber cartridge. There's also a Blazer not reloadable aluminum cartridge, but this is a brass cartridge. And the cartridge case portion of this is similar in construction and markings to the fired cartridge case in my item number 6, the .9mm Luger caliber cartridge case that was in State's Exhibit Number 47.

Q. Okay. And now I'm going to show you what's been marked and entered as State's Exhibit Number 55. And I don't really want you touch it unless you put a glove on. Does that look similar to the .9mm Blazer?

A. The bullet does not look similar. The bullet in this case has a flat nose, whereas the bullet in State's Exhibit 11 is -- has a round nose.

Q. Would it be pretty easy to determine that that is not a Blazer .9mm consistent with the one I just showed

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Redirect Examination by Mr. Kidd
January 7, 2015

1 you?

2 A. Given my limitations in looking at stuff on the
3 stand --

4 Q. Sure. I understand. I'm not trying to put you
5 on the spot.

6 A. -- it does not appear to be the same.

7 MR. KIDD: All right. Thank you. I have no
8 further questions.

9 MR. COOPER: No follow up, Your Honor.

10 THE COURT: All right. You may step down.
11 Thank you.

12 THE WITNESS: Thank you.

13 THE COURT: Safe travels back to Columbia.

14 THE WITNESS: Thank you, ma'am.

15 [Whereupon, Mr. DeFreese is excused and exits
16 the witness stand]

17 THE COURT: Call your next witness.

18 MR. KIDD: The State calls Willis Walker.

19 [Whereupon, an off-the-record bench conference
20 is held]

21 THE COURT: Ladies and gentlemen, let's go ahead
22 and take our last break for the day. This witness I
23 anticipate will take about forty-five minutes and then
24 we'll be done for the evening, so if anybody needs to
25 make any arrangements and phone calls, please let me

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Frank D. DeFreese
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January 7, 2015

1 know. And I will also need to know, Mr. Foreperson --
2 Charleston County schools has delayed openings
3 tomorrow by two hours -- if that's going to impact
4 anyone on the jury. So if you will let me know that,
5 as well. Thank you.

6 Please rise for the jury.

7 [Whereupon, the jury exits the courtroom at
8 5:13 p.m.]

9 THE COURT: Thank you. Please be seated.

10 Anything before we take our break? He is to be
11 your last witness?

12 MR. KIDD: For the day, yes, ma'am.

13 THE COURT: Mr. Cooper, just for scheduling --
14 y'all may be seated. Just for scheduling, do you
15 anticipate -- how long do you anticipate your case
16 taking?

17 MR. COOPER: I have -- we could take a maximum
18 of half a day, I think.

19 THE COURT: So we're now looking into, depending
20 on what time we start tomorrow, into Friday for
21 arguing and charging?

22 MR. COOPER: Potentially. I think at most.

23 THE COURT: I think that's a pretty solid --

24 MR. KIDD: There is a chance I might not call a
25 witness tomorrow. This could be my last witness, but

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Frank D. DeFreese
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1 I don't want to rest because there's also a chance I
2 might call a witness.

3 THE COURT: I did not make a notation on State's
4 50 that it was entered into evidence.

5 MR. KIDD: State's 50 was --

6 THE COURT: Is that correct?

7 THE COURT REPORTER: Yes.

8 MR. KIDD: That's correct. State's 50 has not
9 been entered.

10 THE COURT: And do you wish to enter it?

11 MR. KIDD: No, ma'am. Not at this time.

12 THE COURT: All right. Ten minutes.

13 MR. COOPER: Your Honor, before we bring the
14 jury back in, and for efficiency's sake, the next
15 witness is presenting the historical cell-site maps.

16 THE COURT: Right.

17 MR. COOPER: And I'll just put -- I'll put an
18 objection on the record at the appropriate time as to
19 those.

20 THE COURT: All right.

21 MR. COOPER: And then I'll -- at your direction.

22 THE COURT: Okay. Thank you.

23 MR. COOPER: Yes, ma'am.

24 [Whereupon, a recess is taken from 5:15 p.m. to
25 5:30 p.m.]

Frank D. DeFreese
Redirect Examination by Mr. Kidd
January 7, 2015

1 THE COURT: As of now, all the jurors can stay
2 until we finish this evening, and are able to come
3 back. The school delay is not going to impact them,
4 so we're staying on track.

5 MR. COOPER: Thank you, Your Honor.

6 THE COURT: All right.

7 MR. COOPER: Your Honor, before we bring the
8 jury in, I'll go ahead and place my objection on the
9 record, if it pleases the Court.

10 THE COURT: Thank you.

11 MR. COOPER: The next witness is Willis Walker.
12 He is the individual that analyzed the historical
13 cell-site information. I'm renewing my pretrial
14 objections, based on the fourth amendment, as well as
15 I'm objecting to his -- he made diagrams, I guess, or
16 -- I'm trying -- lack of a better word, basically he
17 generated maps that sort of he's marked and indicated
18 where like addresses are, and other hearsay evidence.
19 So for instance, he indicates a house at 111 Lesbold
20 Court. Within the map, that's not -- it doesn't have
21 generally the house numbers, and I think that's
22 hearsay evidence, as well.

23 Then, and finally, Your Honor, I think that the
24 actual maps that he generated are demonstrative
25 devices and not evidence in the case. The cell-phone

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Frank D. DeFreese
Redirect Examination by Mr. Kidd
January 7, 2015

1 records are evidence, and his maps that he generated
2 help him to explain what the evidence shows to the
3 jury but they are not themselves evidence. It's just
4 a demonstrative device.

5 THE COURT: Well, we'll see what the testimony
6 is. All right?

7 MR. COOPER: Thank you, ma'am.

8 THE COURT: I'm going to bring in the jury.
9 Thank you.

10 [Whereupon, the jury enters the courtroom at
11 5:32 p.m.]

12 THE BAILIFF: The jurors are all present and
13 seated, Your Honor.

14 THE COURT: Thank you. Please be seated.

15 Mr. Kidd?

16 MR. KIDD: Thank you, Your Honor. The State
17 calls Willis Walker.

18 [Whereupon, Mr. Walker comes forward]

19 THE CLERK OF COURT: Left hand here, sir. Raise
20 your right.

21 [Whereupon, Mr. Walker is duly sworn by the
22 clerk of court as follows: do you swear or affirm the
23 testimony you give the Court and the jury in the trial
24 of this case will be the truth, the whole truth, and
25 nothing but the truth, so help you God]

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Frank D. DeFreese
Redirect Examination by Mr. Kidd
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1 THE WITNESS: I do.

2 THE CLERK OF COURT: You may be seated. Sir,
3 once seated, if you could please state your first and
4 last name and spell your last loudly and clearly into
5 the microphone for the record.

6 [Whereupon, Mr. Walker takes the witness stand]

7 THE WITNESS: Willis Walker. W-A-L-K-E-R.

8 MR. KIDD: Good afternoon, Mr. Walker.

9 THE WITNESS: Good evening.

10 MR. KIDD: Thank you for being here.

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Willis Walker
Direct Examination by Mr. Kidd
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WILLIS WALKER,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. KIDD:

Q. Can you tell the jury where you're employed?

A. Sure.

I work for the Charleston County Sheriff's
Office.

Q. And how long have you been employed by the
sheriff's office?

A. Since 2009.

Q. Since 2009.

Currently with the sheriff's office do you have
any sort of shared duties with SLED or any other agency?

A. I do. I'm assigned to the Seahawk Interagency
Operations Center, which falls under SLED. Where I am, we
have analysts from -- intelligence analysts from Mount
Pleasant, the City of Charleston, National Drug, DNR,
Coast Guard, SLED. A bunch of different agencies work
together.

Q. It's like a unit that has a collaboration of
individuals from all of the departments that are kind of I
guess loosely organized under SLED, as well --

A. Yes, sir.

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Willis Walker
Direct Examination by Mr. Kidd
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1 Q. -- is that correct?

2 A. That would be correct.

3 Q. Specifically, do you deal a lot with cell phones
4 and historical cell-phone analysis?

5 A. I do.

6 Q. What sort of education and training do you have
7 in that regard?

8 A. I have extensive training in ARC map, also
9 referred to as ARC GMS [phonetic]. That is the mapping of
10 the cell records in the returns that you get from the cell
11 phone companies.

12 I also have access and training in a bunch of
13 different databases, to include PinLink, I-2, Intell
14 Analysts Notebook. They're different databases and
15 programs where you can input the information to get it
16 into the mapping format.

17 Q. Do you have like any continuing training going
18 on, or do you -- I mean, do you have any certification or
19 anything like that?

20 A. I do. I was a special agent with Drug
21 Enforcement Administration, so I went to the academy for
22 four months in Quantico, Virginia. I did five years with
23 them in Manhattan, the New York City Field Division, where
24 we worked on numerous title three wire intercepts, which
25 is basically a wire where you're listening to phones and

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Willis Walker
Direct Examination by Mr. Kidd
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1 stuff like that. So I learned a lot from realtime
2 analysis with that. And I did a little bit with that
3 here, too, as well, with the DEA office here in
4 Charleston. But at that point I got a lot of training in
5 that academy, and then after that, as well, as to how to
6 look at the phone records and the information that you
7 receive from cell phone carriers.

8 Q. What is historical record analysis?

9 A. Basically, a subpoena is given to the carrier,
10 be it Verizon -- when I say carrier, I mean Verizon, AT&T,
11 T-Mobile -- and they will be able to provide you with a
12 historical analysis, which will include the date, time,
13 and duration of every call. It will also include the
14 number that was in contact with that number, be it an
15 incoming or an outgoing call. It will show cell tower
16 information and a sector of the tower, which I can go into
17 further detail, if you want me to, with that.

18 Q. Let's follow up on that for a second.

19 A. Sure.

20 Q. Is that all right?

21 Do you know how many times you've analyzed
22 historical cell phone records?

23 A. Hundreds, roughly. I can't give you an exact
24 figure, but quite a few.

25 Q. Have you testified in court before about --

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1 A. I have.

2 Q. Have you been qualified as an expert?

3 A. I have.

4 Q. In what specific area?

5 A. Cell phone analysis, and specifically with the
6 mapping of cell phone records.

7 Q. Has your work in analyzing cell phone records
8 ever assisted in capturing a fugitive?

9 A. Yes.

10 Q. Has it ever assisted in proving that someone
11 accused of a crime was actually innocent?

12 A. Yes, it has.

13 MR. KIDD: Your Honor, at this time I would like
14 to offer Mr. Walker as an expert in historical cell
15 phone -- or historical records analysis.

16 MR. COOPER: I think he's been duly qualified,
17 Your Honor.

18 THE COURT: All right. Thank you. He will be
19 so qualified.

20 Q. [Mr. Kidd] In regards to this case, I'm going
21 to show you what's been marked and entered into evidence
22 as State's Exhibit Number 52. See if you can recognize
23 these cell phone records.

24 A. I do.

25 Q. You do? Did you analyze those records?

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1 A. Yes, sir, I did.

2 Q. Was that at my request?

3 A. It was.

4 MR. KIDD: Sorry. Excuse me. I just --

5 Q. [Mr. Kidd] So based on your training and
6 experience, is -- relying on records such as these, is
7 that a reliable process? Is that a trustworthy endeavor?

8 A. It is:

9 Q. And so it doesn't necessarily prove where -- in
10 determining a location of a phone, you can do that through
11 these records?

12 THE WITNESS: Can I -- Your Honor, may I use the
13 white board to kind of show a little drawing of a kind
14 of -- because it's not like a --

15 THE COURT: Do you want him to use the white
16 board, Mr. Kidd?

17 MR. KIDD: That'll be great. I just wanted to
18 ask --

19 [Off the record momentarily]

20 A. To answer your question, it's not like a GPS
21 where I can tell you the exact location of the phone
22 itself. And that is --

23 THE WITNESS: There's a drawing up there.

24 MR. KIDD: It almost looks like --

25 A. So basically the city and county, or what-have-

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1 you, is divided into hundreds of different cells. Hence,
2 the term cell phones. And they're hexagon, something like
3 that. And you can have a cell tower which is going to be
4 typically 150 to 300 feet off the ground. It's a metal
5 pole. It looks kind of like a telephone pole. And it's
6 usually metal.

7 A lot of times we'll use the term cell site
8 instead of cell tower because a tower can be -- or an
9 antenna can be on top. There's one on top of the Marion
10 Square. It can be hidden in a -- you know, on top of a
11 building like that. So it's not a tower, per se, it's
12 just a tall pole.

13 On that pole you're going to have little
14 antennas. Typically, they're going to be triangular, kind
15 of like that [indicates]. And not always, but typically
16 when a cell phone call is made in say this area, it's
17 going to hit off of this sector. Each sector is 120
18 degrees.

19 So the records that I map for you are on a
20 three-mile radius, so it's not going to show you the exact
21 point where it was. The records are going to tell you the
22 cell phone tower, give me the lat and lon of the tower,
23 which is what's mapped on the maps. Then it's going to
24 give you a sector, which is whichever side of the tower
25 it's on. So it'll be this tower, it's on that side.

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1 So it's not going to give you like a -- you
2 know, I can't give you he was at this house, if that
3 clarifies that.

4 What happens is when this phone call is made --
5 a cell phone is basically like a fancy souped-up two-way
6 radio. If we had walkie-talkies, it works on one
7 frequency, so only one person can talk at a time, whereas
8 a cell phone is a little bit more complicated. Works on
9 two different frequencies so you can talk -- you can hear
10 both people talk at the same time.

11 But this phone sends a frequency that hits off
12 this tower and then is either routed either to another
13 cell phone that will hit another tower which is closest to
14 the other cell phone and it comes back. All this is done
15 in like a millisecond. I mean, it's amazing how much work
16 is done.

17 So the records -- you can get -- you can get
18 records to where you get the actual, but that's an
19 extended circumstances realtime data where you're going to
20 get what they call a ping on the phone. But this is
21 historical records. You're just going to get the -- where
22 it's going to show you -- I can tell you it's in -- once
23 you see the presentation, it will be a little clearer.
24 But I can tell you he's in this vicinity right here.

25 Q. Correct.

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1 A. But I know that's a long answer and I hope I
2 answered it.

3 Q. No, and that's partly what I was looking for.

4 I guess also I just want to be clear that you --
5 you don't know anything really about this case and why
6 we're here, other than the cell phone records?

7 A. I don't know.

8 Q. Do you even know that defendant's name?

9 A. I do not.

10 Q. And so one of the things I guess I'm asking is
11 that based on what you've analyzed, you don't necessarily
12 know where he was, you just know where a specific phone
13 tied to those records were, generally, from a sector
14 standpoint?

15 A. Yes.

16 I look at the cell phone number. I don't --
17 names, case, nothing. I just look at the cell phone
18 number records. That's all I --

19 Q. Right.

20 And so that's all I did was ask you to analyze
21 the cell phone records, and then you're just going to tell
22 me where this cell phone was throughout the course of a
23 period of time?

24 A. Yes, sir. That's correct.

25 Q. Based on the records that I provided to you,

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1 what was the time frame over which you analyzed those
2 records?

3 A. I can't recall exactly, but I believe it was --
4 I can't recall exactly.

5 Q. Okay. Well, how about this? What time frame do
6 the records cover?

7 A. The records cover November 19th, 2012, at
8 12:42 a.m. and they go all the way -- they go to November
9 24th, 2012, at 3:38 p.m. Which I think I actually did a
10 map of all these, but I can't recall.

11 Q. So from the 19th to the 24th is what the record
12 covers?

13 A. Yes, sir.

14 Q. And then I asked you to kind of narrow that down
15 and focus on some smaller segments. Is that fair to say?

16 A. Yes.

17 I think I mapped them all but then I narrowed
18 them down, yes, sir.

19 MR. KIDD: If I may approach the reporter?

20 THE COURT: You may.

21 [Whereupon, State's Exhibit Number 64 is marked
22 by the court reporter]

23 Q. [Mr. Kidd] I'm going to show you what's been
24 marked as State's Exhibit 64 for identification purposes
25 and see if you recognize that.

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1 [Whereupon, the witness reviews documents]

2 A. I do.

3 Q. [Mr. Kidd] And what is that?

4 A. These are the records that I did for you.

5 Q. So the maps --

6 A. The maps. The maps that I generated from the
7 records during the time frame that you asked.

8 Q. So basically you used the records that I
9 provided you to generate maps that depict the sectors that
10 that phone is pinging off on those specific towers?

11 A. The tower and the sector, yes, sir.

12 Q. The tower and the sector.

13 A. Yeah. It shows it on a map.

14 Q. And what time frame does that presentation that
15 you prepared for us today -- what time frame does that
16 cover?

17 A. It covers from November 20th, 2012, at 8:52
18 p.m., and the last one I have here is November 21st, 2012,
19 at 3:32 p.m.

20 Q. Before I get into the specifics of this, can you
21 tell the jury some of the factors that go into which tower
22 -- I mean, not tower -- which cell site is selected by a
23 phone? Like if I'm going to make a phone call right now,
24 what are some of the factors that go into determining
25 which tower is going to -- my phone is going to use?

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1 A. Sure.

2 Typically, the majority of the time it's going
3 to go to the closest tower to where you are. Some things
4 that might happen that would send you to a different tower
5 would be that if you were blocked by a building or
6 something like that. Frequencies travel faster over
7 water. Basically, if there was an obstruction or
8 something, it might divert you to a different tower.

9 If you're moving, you get a hand-off. So you
10 might start in one area and you might travel. Say you
11 talk for thirty minutes and you drive from West Ashley to
12 Mount Pleasant, you're going to keep getting handing off
13 from tower to tower.

14 The frequencies just jump from one tower to the
15 next, which the records are only going to show me the
16 beginning and the end of that.

17 Q. They're only going to show the first and the
18 last tower --

19 A. Correct.

20 Q. -- that were used?

21 So basically if I were standing where that dot
22 is in that sector that you drew up there, most likely I
23 would be using that tower. Now, if there was another cell
24 site close by, I guess that overlapped part of that sector
25 and I was in it, as well, basically I could use either

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1 cell site -- without any of the other things going on, I
2 would go to the easiest one? Like my phone would use the
3 tower that had the least interference or had the strongest
4 signal; is that right?

5 A. I would agree with that, yes.

6 Q. But if there was something that -- whether a
7 building --

8 A. Sure.

9 Q. -- something like that --

10 A. Sure.

11 Q. -- I might then go to a tower that's farther
12 away --

13 A. Sure.

14 Q. -- just because there was less interference
15 between my phone and that tower?

16 A. Sure.

17 The only other circumstance I would think would
18 be something like September 11th where there were so many
19 calls, just a huge amount of phone calls going out, that
20 the whole system got jammed up.

21 But we don't have the population like you would
22 have in a big, huge metropolitan city to where you might
23 get diverted due to excess traffic on one tower or
24 something like that.

25 Q. Okay. So that is possible, too? So if a tower

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1 gets overloaded, you might --

2 A. Yeah.

3 Q. -- get kicked to --

4 A. Yeah.

5 Q. -- another tower?

6 A. Yeah.

7 I've never experienced that in this area, but
8 it's plausible. I mean, it could happen but it would take
9 a huge amount of traffic coming here.

10 Q. [Mr. Kidd] Okay. So -- and this might be
11 repetitive. So every time a phone selects a tower or a
12 tower selects a phone, it is then recorded on one of these
13 records --

14 A. It is --

15 Q. -- first and last?

16 A. It's retained by the cell phone carrier, yes.

17 Q. Retained by the cell phone carrier.

18 So based on the records that you analyzed, were
19 you able to sort of come to any conclusions about the
20 locations of that phone number during the times I
21 requested?

22 A. I was.

23 Q. And are those conclusions depicted by that
24 presentation you have there in front of you?

25 A. Yes, sir, they are.

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1 MR. KIDD: What's my exhibit number on that? I
2 apologize.

3 THE WITNESS: 64.

4 MR. KIDD: Your Honor, the State would offer
5 State's Exhibit 64 into evidence.

6 THE COURT: Any objection?

7 Your Honor, I just renew my previously stated
8 objections.

9 THE COURT: State's 64 into evidence over your
10 objection.

11 MR. COOPER: Thank you, Your Honor.

12 [Whereupon, State's Exhibit Number 64 is
13 admitted into evidence by the Court]

14 Q. [Mr. Kidd] Mr. Walker, I'm actually just going
15 to put those on the overhead so we can kind of talk about
16 them and everybody can look at them. All right?

17 A. Okay.

18 Q. This is the cover page you created; fair to say?

19 A. Correct.

20 Q. And so that's the phone number that you
21 conducted the analysis on?

22 A. It is.

23 Q. So you received records for this phone number
24 and then conducted your analysis?

25 A. Correct.

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1 MR. KIDD: Kind of hard to see, I guess.

2 Q. [Mr. Kidd] So this phone number, which is at
3 the bottom right-hand corner of the screen or of the map
4 there, now, what we're looking at doesn't have that sort
5 of pie chart like you explained on the board. Why is
6 that?

7 A. This is what they call an omni pole. Some
8 carriers will have this. This is an antenna that covers
9 the whole circumstance -- covers that whole 360-degree
10 angle. It's --

11 We see it. There's a couple of them around
12 here, I mean, a handful of them around here, but it's
13 not -- it's fairly normal, but you don't see much of it.
14 Most of the time you're going to get better reception,
15 better service, with the one -- the 120 degree. But this
16 is what they call an omni pole, so it covers the whole
17 circumference here.

18 Q. And so the call that came off this pole, what
19 time did it occur -- or what time did it begin?

20 A. 8:52 p.m. Let me pull it up on here just to
21 confirm it.

22 [Whereupon, the witness reviews documents]

23 A. 8:52 p.m. at 39 seconds.

24 Q. [Mr. Kidd] And just so we can see here where
25 this is located, where in the Charleston area is this?

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1 A. It's in the Summerville area. The tower itself
2 there is -- obviously, this is I-26 running diagonal
3 across the screen there.

4 Q. And just so we can explain to the jury: in the
5 top corner of that map it says cell site. What is that an
6 indicator of?

7 A. Each company is a little different. They
8 classify -- some will actually give you a cell site and
9 then a sector. And sectors are usually going to be
10 labeled like one, two or three. So it was say -- like
11 Verizon does it like that.

12 T-Mobile does it a little bit different to where
13 their sector and their tower, they give you one number
14 that depicts both or both of those. So --

15 Q. I guess what I'm asking is that cell site number
16 is specific to the center of that circle?

17 A. It is.

18 And if you look at the cell phone records, it's
19 going to have the latitude and longitude of that cell
20 phone tower.

21 Q. So that's how you're able to determine that
22 location is you look at the records, you find that
23 8:52 p.m. call, you see it as coming off that tower ID
24 50308 --

25 A. That's correct.

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1 Q. -- you're then able to find the location,
2 latitude, longitude, and address of that cell site, and
3 then that's how you're able to locate where that phone was
4 when it made that call?

5 A. Correct.

6 Q. So on the second page of the report that you
7 generated, I guess there are three separate calls made on
8 this page?

9 A. Correct.

10 Q. And I know it's dated right there. But over
11 what time period?

12 A. 9:47 p.m. Another call at 9:49 p.m. and at 9:50
13 p.m. That third --

14 The 09 is the hour, the 47 is the minutes, and
15 the 58 is the second. That's what that is. And then the
16 39 seconds there is the duration of that phone call.

17 Q. And from a geographically speaking, where is
18 this tower located?

19 A. This one is --

20 THE WITNESS: Do you have the other -- the
21 physical records, or do we not?

22 MR. KIDD: Yeah. I handed them to you. You
23 should have them in front of you.

24 THE WITNESS: You took it back from me.

25 MR. KIDD: The physical records? That's --

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1 THE WITNESS: I mean the chart itself.

2 MR. KIDD: You're talking about this?

3 THE WITNESS: Yeah. Do you have that, just
4 because it's hard for me to read --

5 [Off the record momentarily]

6 Q. [Mr. Kidd] Do you want me to zoom in on it?

7 Can you not see --

8 A. You're good.

9 So this orange coming down the left side here is
10 26 is running kind of right down the middle of that
11 sector, that pie there. Azalea Drive, Rivers Avenue.

12 Can I draw on here?

13 Q. You can. And if you want me to zoom in, too, to
14 help you read the location, I can do that.

15 A. That's good.

16 All right. So this here is 26 is running
17 there. Cosgrove is running across here. Rivers Avenue,
18 Spruill.

19 Q. So I want to bring your attention to I guess
20 that orange dot. Do you have it on there?

21 A. Yes, sir.

22 Q. What's the address of that orange dot?

23 A. Dorchester Road.

24 Q. Are you familiar with what's in that location?

25 A. I'm trying to -- not -- I believe there's a

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1 Bi-Lo or something there, some kind of --

2 Q. It's okay if you don't.

3 A. I mean, that's -- Leeds Avenue is running right
4 here, Dorchester Road here.

5 Q. So it's on the corner of Leeds and Dorchester?

6 A. Pretty much, yes. Yeah. It looks like it falls
7 exactly on it.

8 Q. So is it safe to say that at least from 9:47 to
9 9:50, this cell phone is in this sector?

10 A. Yes.

11 Q. And, now, we're still kind of in the same
12 vicinity. And what time are these calls made?

13 A. 10:28 p.m. and 10:47 p.m.

14 Q. And what are the addresses of the two red and
15 blue locations?

16 A. The red is Cambridge Avenue and the blue is
17 Cosgrove Avenue.

18 Q. Same question. So we're now at what time?

19 A. 11:25 p.m. on the 20th of November, 2012.

20 Q. And where are we here?

21 A. We're back up to the Summerville area.

22 Q. And so that's back off that omni pole?

23 A. Yes, sir, it is.

24 Q. Now, I don't really need you to read those
25 numbers, I guess, but what's depicted here?

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1 A. Yeah. It's kind of hard when you look at it.
2 But let's talk about like this one here. You can see it
3 says 50012 and then you have 50013. Basically, that's --
4 the tower is in the center of it and then these are going
5 to be just different sectors. It doesn't show -- it's not
6 depicted with a sector in this, but these are all towers
7 and sectors that these records hit off.

8 Q. During this time frame?

9 A. Correct.

10 Q. During the larger time frame that we talked
11 about before?

12 A. During the time frame of these records here,
13 which is from the 19th through the 24th..

14 Q. And what about these phone calls here?

15 A. This is on November 21st, 2012. Four calls
16 were made off of this tower in this sector: 3:19 p.m.,
17 3:22 p.m., 3:24 p.m., and 3:32 p.m.

18 Q. And that green dot, what's the address of that?

19 A. Thornburgh Street.

20 Q. So that cell phone was in that location on
21 November 21st, 2012?

22 A. Yes, sir.

23 Q. Finally, I want to show you the last page. What
24 is this?:

25 A. This is a Google Earth map of that address

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1 there, Thornburgh -- I'm sorry -- Thornburgh Street.

2 Q. And what kind of area is this in?

3 A. It appears to be a very rural area. It's up
4 near Holly Hill.

5 MR. KIDD: The Court's indulgence.

6 [Whereupon, Mr. Kidd and Mr. Lietzow confer]

7 MR. KIDD: I have no further questions of
8 Mr. Walker.

9 Please answer any questions the defense may have
10 for you.

11 THE WITNESS: Yes, sir.

12 THE COURT: Mr. Cooper.

13 MR. COOPER: Thank you, Your Honor. May it
14 please the Court.

15 I just have a couple of quick questions real
16 quick.

17 THE WITNESS: Sure.

18 MR. COOPER: Well, actually, I haven't been that
19 quick at all today, and I apologize.

20

21

22

23

24

25

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- - -
- - -

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CROSS-EXAMINATION

BY MR. COOPER:

Q. Looking at the exhibit -- well, real quick:
it's not GPS information; correct?

A. Correct.

Q. And it's not cell phone triangulation
information; correct?

A. Define triangulation.

Q. So, for instance, it's possible to use multiple
cell sites to then narrow in the location of a phone? I
used the word triangulation, but there are several ways
that you can -- that you can assess where a phone is;
correct?

A. Sure.

Q. One is the GPS on the phone?

A. Sure.

Q. And one is historical cell site information?

A. Correct.

Q. And then it's also possible to look at --
because when a phone tries to reach out to a tower, it's
like a pebble in a pond? Essentially, it's reaching out
in all directions?

A. That's fair to say. I mean, in --

Q. That's just my example.

A. -- in search of the nearest tower, yeah.

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1 Correct. I would agree.

2 Q. And so in searching for its nearest tower, you
3 have some towers that are maybe in an easterly direction
4 and a northerly direction and a southernly direction, and
5 based off of when that signal hits each of those towers
6 you can then more narrowly determine where the phone is
7 located?

8 A. You can.

9 Q. It is possible?

10 A. Yeah. Yeah.

11 Typically, it's used in a real-time situation
12 where you have a severe circumstance. Yeah, we'll do what
13 you call ping the phone --

14 Q. Right.

15 A. -- to where you can actually get the actual
16 exact location, which is comparable to GPS where you're
17 going to get the exact location of the phone, which you
18 can put it at an address, typically.

19 Q. It's accurate within I think six yards or maybe
20 even more accurate than that?

21 A. I can't give you an exact. But, yeah, it's
22 pretty accurate, yes. Correct.

23 Q. And that's not what was done in this case?

24 A. No, sir.

25 These records are historical. That's done

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1 typically more realtime, you know, immediate. This is
2 after the fact. And, no, you're not going to be able to
3 get that after the fact.

4 Q. And then you said that each of these is about
5 three miles? Is that essentially what I understood?

6 A. The circumference, the whole circle, is a three-
7 mile radius.

8 Q. So I don't remember my geometry. Diameter is
9 how far it is all the way across the circle and radius is
10 just half the circle?

11 A. I can't recall off the top of my head, either.

12 Q. I'm pretty sure if this was a circle, the radius
13 would be half of the diameter. And so that's three miles
14 from the center of the circle --

15 A. Yeah, I believe -- yeah, I --

16 Q. -- so the hour edge of the circle?

17 A. Yes, sir. I believe that's correct.

18 Q. And so --

19 A. I apologize.

20 Q. So the estimation is that the phone is within
21 sort of, for lack of a better term, that pie?

22 A. Correct.

23 Q. That piece of pie?

24 A. Correct.

25 Q. And each of those goes out about three miles or

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1 so?

2 A. Roughly, yes.

3 Q. And this is -- the pie is such that it's marked
4 with the sector from which the phone is pinging to that
5 tower?

6 A. Correct.

7 Q. And so this tells you that the phone is on -- I
8 don't know northeast or anything but -- on this map. But
9 as we look at it, the bottom part of that map, not for the
10 bottom part of that tower?

11 A. Correct.

12 Q. The opposite side of the tower is Thornbury?

13 A. Correct. So the -- yes. So the phone would
14 have been in any -- in this vicinity.

15 Q. Right.

16 A. Is that --

17 Q. Yeah.

18 MR. COOPER: Thank you.

19 THE WITNESS: Yes, sir.

20 MR. COOPER: I think that's as quick as I've
21 been all day. Thank you.

22 MR. KIDD: Briefly?

23 THE COURT: Take all the time you need.

24 - - -

25 - - -

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REDIRECT EXAMINATION

BY MR. KIDD:

Q. I just want to go back to the same picture. So when you're -- so when we're making the phone calls, we're in that sector?

A. Yes.

Whenever the phone calls -- and I would have to look to see if these were ingoing -- incoming or outgoing. But, yes, all those -- those four phone calls occurred with the frequency hitting off that tower there.

Q. So I just want to use an example. So like if I am driving to your house, okay, and I'm calling you like getting directions to your house, I'm on the way, and I call you and you give me directions and then we hang up and then I get to your house, the tower that I'm going to be pinging off of, the sector I'm going to be pinging off of, is from the call when I was on the way to your house? It's not going to show me when I got there; is that fair to say?

A. Fair to say.

MR. COOPER: But if you did get to the house and you got any phone call --

THE COURT: Hold on. I don't know that Mr. Kidd was done.

MR. COOPER: I'm sorry.

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Willis Walker
Redirect Examination by Mr. Kidd
January 7, 2015

1 MR. KIDD: I am, Judge.

2 THE COURT: Let him get out of the way and get
3 his stuff out of the way.

4 Thank you. Thank you, Mr. Cooper. I know
5 you're very excited.

6 MR. COOPER: Yes, ma'am. I think we're all
7 ready to go home.

8 THE COURT: All right. Mr. Cooper, your
9 witness.

10 MR. COOPER: Yes, ma'am.

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MIA PERRON, CVR-CM-M

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Willis Walker
Recross-Examination by Mr. Cooper
January 7, 2015

RECROSS-EXAMINATION

BY MR. COOPER:

Q. If you get to the house and you don't -- and you get a phone call or you get a text message or any sort of communication, then it would have -- it would show you at that house or on the other side? In terms of if we're using that diagram, if there was any communication between the phone and that tower and that side of Thornburgh, it would show up?

A. Yes. It would be in the records.

Q. Right. And it's not?

A. No. No. All the phone calls up there were in that sector during the time --

MR. KIDD: All right. Thank you.

THE COURT: Thank you. You may step down. Have a nice evening.

THE WITNESS: Thank you.

[Whereupon, Mr. Walker is excused and exits the witness stand]

THE COURT: Ladies and gentlemen, we have heard all the testimony that we will hear this evening. You have indicated that you are able to start the trial, assuming that the weather cooperates as we anticipate, at the regular scheduled time. So if you'll be back again at 9:15, like you were, and we'll start as close

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Willis Walker
Recross-Examination by Mr. Cooper
January 7, 2015

1 to 9:30 as we can.

2 Ladies and gentlemen, please remember all of my
3 admonitions. And please take your notepads with you
4 and we'll lock them up over the evening hour.

5 Have a wonderful evening. Please go home and
6 get some rest. It's been a long day and you've paid
7 great attention. Thank you so much.

8 [Whereupon, the jury exits the courtroom at
9 6:10 p.m.]

10 THE COURT: Thank you. Be seated.

11 Anything from the State?

12 MR. KIDD: Nothing further at this time, Judge.

13 THE COURT: And you anticipate --

14 MR. KIDD: If I call another witness, it will be
15 just one more.

16 THE COURT: And who will that be?

17 MR. KIDD: Christopher Felder.

18 THE COURT: Mr. Cooper?

19 MR. COOPER: If the State does not call
20 Mr. Felder, then we would anticipate potentially
21 calling Mr. Felder for a defense witness.

22 And then we have Detective Desheers, who just --
23 he obtained the gunshot residue evidence; the gunshot
24 residue expert, Whitney Berry; and then potentially
25 Mr. Singleton's testimony.

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Willis Walker
Recross-Examination by Mr. Cooper
January 7, 2015

1 THE COURT: What I don't want to happen is in
2 the morning we come and Mr. Kidd decides not to call
3 Mr. Felder and you decide not to call any witnesses
4 and then we're -- so is that a potential?

5 MR. COOPER: No, ma'am. At the very least, we
6 will have Detective Desheers and Whitney Berry from
7 SLED.

8 THE COURT: I'm going to go ahead and work on
9 the charges over the evening hour. Anything unusual
10 that you think should be included, Mr. Kidd?

11 MR. KIDD: I mentioned it briefly in my brief.
12 You know, I don't know if we could be solid on it at
13 this point, and a lot depends on what sort of evidence
14 they put forward, but -- and I wouldn't ask you to
15 take that step if I didn't think it was going to hold
16 up, and that being not charging self-defense.

17 And the reason I believe self-defense shouldn't
18 be charged is summarized pretty well by Judge Lockemy
19 in State v. Smith in his concurring opinion in which,
20 stated pretty succinctly, he says that when an
21 individual brings a firearm to a drug deal, that it's
22 an indication that he knows that it is inherently
23 dangerous activity and that he can then not claim
24 self-defense because the first prong is not met
25 because he is responsible for bringing on the

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Willis Walker
Recross-Examination by Mr. Cooper
January 7, 2015

1 difficulty. Other states have codified that in the
2 statute.

3 THE COURT: At this point, I don't know that I
4 need to have this argument.

5 MR. KIDD: Right.

6 THE COURT: Thank you..

7 MR. KIDD: But you asked so I --

8 THE COURT: I did. So that would be the only
9 unusual issue?

10 MR. KIDD: It would be, Judge. Other than that,
11 I --

12 THE COURT: Mr. Cooper, anything unusual that
13 you think needs to be -- unobvious that I may not have
14 included?

15 MR. COOPER: Well, Your Honor, I guess it
16 depends on how testimony tomorrow goes, but I would
17 potentially request to argue against precedent for an
18 imperfect self-defense charge. And that would be the
19 only unusual point.
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State vs. Kadrin Singleton
Defendant's Rights
January 7, 2015

DEFENDANT'S RIGHTS

1
2 THE COURT: At this time, I am going to advise
3 your client of his right to testify so you'll have
4 over the evening hour to speak with him.

5 Mr. Singleton, if you will please stand. We're
6 going to place you under oath. I know that I've
7 placed you under oath at least two other times but
8 just for the purposes of this, I'm going to put you
9 back under oath.

10 [Whereupon, Mr. Singleton is duly sworn by the
11 clerk of court as follows: do you swear or affirm the
12 testimony you give the Court will be the truth, the
13 whole truth, and nothing but the truth, so help you
14 God]

15 THE WITNESS: I do.

16 THE CLERK OF COURT: Thank you, sir. Please
17 state your first and last name.

18 MR. SINGLETON: Kadrin Singleton.

19 THE COURT: Mr. Singleton, at this time I'm
20 going to explain to you certain of your rights. And
21 as you are aware, the progress of the trial, we're
22 breaking for the evening and so this is the last
23 evening that you will have to speak with your attorney
24 before you have to make a decision whether or not you
25 testify, so I wanted to go over your rights so that

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State vs. Kadrin Singleton
Defendant's Rights
January 7, 2015

1 you would have -- that I have fully explained your
2 rights to you and any potential charges -- or any
3 potential convictions that may be used to impeach you.
4 So I wanted to take this opportunity. I do not expect
5 -- I do not expect an answer from you at this time..
6 Do you understand?

7 MR. SINGLETON: Yes, ma'am.

8 THE COURT: We've reached the stage of the trial
9 and we'll -- I anticipate it will be around the lunch
10 hour tomorrow where you may present your defense. You
11 have the right to claim the protections given to you
12 by the fifth amendment to the Constitution of the
13 United States. This amendment states in part that no
14 person shall be compelled in any criminal case to be a
15 witness against himself. This means that you cannot
16 be required to testify in this case. You do have the
17 right to testify on your behalf. No one can make you
18 testify. This is a personal right and no one can
19 waive this right except for you. If you decide to
20 testify, you will be subject to the same rules that
21 govern any other witness and you may be examined and
22 cross-examined on any relevant issue in this case.

23 If you have any convictions involving dishonesty
24 or false statement or for crimes punishable by
25 imprisonment for more than one year, and I determine

MIA PERRON, CVR-CM-M

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State vs. Kadrin Singleton
Defendant's Rights
January 7, 2015

1 the probative value outweighs its prejudicial effect
2 to you, the solicitor will be able to introduce your
3 record to attack your credibility.

4 Are there convictions you plan to use?

5 MR. KIDD: Yes, Your Honor. There's a burg
6 third and a strong arm robbery.

7 THE COURT: Did you advise your client --

8 MR. KIDD: And I think I should be able to use
9 the charges he pled to today -- or on Tuesday, as
10 well. Not necessarily for impeachment, but I think I
11 need to at least be able to reference them.

12 THE COURT: Mr. Cooper, I will be happy to
13 hear -- that was a motion that we had. I'll be happy
14 to hear from you as to the charges, the burglary and
15 the strong arm --

16 MR. COOPER: Yes, ma'am.

17 THE COURT: I think they would -- are they
18 within the time frame?

19 MR. COOPER: Yes, ma'am.

20 THE COURT: So any reason they should not come
21 in?

22 MR. COOPER: The third degree burglary, it's the
23 State's burden to show that the burglary is tied to a
24 crime of dishonesty. And once they can do that, then
25 I think that the burglary third degree would come in.

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Defendant's Rights
January 7, 2015

1 And whether the strong arm robbery, which the
2 State is alleging --

3 THE COURT: It definitely comes in because of
4 the time, punishable by more than one year; correct?

5 MR. COOPER: Yes. Yes, Your Honor. I
6 misunderstood the question. Yes.

7 THE COURT: What is the -- do you know what the
8 nature of the burglary third, and do you agree with
9 Mr. Cooper's --

10 MR. KIDD: I believe --

11 THE COURT: -- position?

12 MR. KIDD: -- I have the indictment back in my
13 office. I don't remember off the top of my head. I
14 think the burg third alone is a stealing. I don't
15 think it's quite like a burg first, because it's not a
16 dwelling or anything like that. The only reason to
17 enter a property like that is to steal. But I can
18 clarify that tomorrow.

19 THE COURT: Mr. Singleton, based upon what I've
20 heard, you have two prior convictions that could be
21 subject to be used against you to attack your
22 credibility. Do you understand that?

23 MR. SINGLETON: Yes, ma'am.

24 THE COURT: If you decide to testify, the
25 decision of your part must be freely, voluntarily,

State vs. Kadrin Singleton
Defendant's Rights
January 7, 2015

1 knowingly and intelligently made with the knowledge of
2 the protections given to you by the fifth amendment
3 and the consequences of your decision to testify.

4 If you decide not to testify, I will instruct
5 the jurors that they cannot give the fact that you did
6 not testify any consideration whatsoever and there is
7 to be absolutely no prejudice to you because you did
8 not testify.

9 It is left entirely up to you whether or not you
10 testify. You may talk to your attorneys either
11 together or separately, you may talk to your friends,
12 your family members, or anyone else, but ultimately
13 the final decision is left entirely up to you. Do you
14 understand what I've explained to you?

15 MR. SINGLETON: Yes, ma'am.

16 THE COURT: Any questions?

17 MR. SINGLETON: No, ma'am.

18 THE COURT: Have you had an opportunity to
19 discuss with your attorney prior to today whether or
20 not you would testify?

21 MR. SINGLETON: No, ma'am.

22 THE COURT: You have not discussed --

23 MR. SINGLETON: Oh. Yes, ma'am. Yes, ma'am.

24 THE COURT: And, again, I don't need to know the
25 nature of the conversation. I just want to make sure

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State vs. Kadrin Singleton
Defendant's Rights
January 7, 2015

1 this is not the first time that you're aware that you
2 have the right to testify or the right not to testify.

3 MR. SINGLETON: Yes, ma'am.

4 THE COURT: So when we come back, at the
5 appropriate time I will ask if your client has made a
6 decision on whether or not he will testify.

7 MR. COOPER: Yes, ma'am.

8 THE COURT: All right. Anything else?

9 MR. COOPER: No, ma'am.

10 MR. KIDD: No, ma'am.

11 THE COURT: Thank you.

12 MR. COOPER: Thank you, Your Honor.

13 [JURY TRIAL ADJOURNS AT 6:19 P.M.]

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State vs. Kadrin Singleton
Certificate of Court Reporter

C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the jury trial held before the Honorable Kristi L. Harrington, on Wednesday, January 7, 2015.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 21st day of June, 2015.

Mia Perron

Mia Perron, CVR-CM-M
Circuit Court Reporter
9th Judicial Circuit

MIA PERRON, CVR-CM-M

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STATE OF SOUTH CAROLINA
10TH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON
COURT OF GENERAL SESSIONS
CASE NUMBER 2013-GS-10-01153

STATE OF SOUTH CAROLINA

PLAINTIFF

VERSUS

DAY FOUR, THURSDAY

JANUARY 8, 2015

TRANSCRIPT OF TRIAL

CHARLESTON, SOUTH CAROLINA

KADRIN RAJUN SINGLETON

DEFENDANT

B E F O R E:

HON. KRISTI LEA HARRINGTON, JUDGE

AND A JURY

WANDA H. ROWE, CVR-M
OFFICIAL COURT REPORTER

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DAY FOUR, THURSDAY,

JANUARY 8, 2015, 10:48 A.M.

BY THE COURT:

THE COURT: Let's bring in the jury.

MR. COOPER: Your Honor?

THE COURT: Oh, hold on.

MR. COOPER: If we may? I'm sorry. I think, in terms of efficiency purposes, the State has no more witnesses. So, if we can allow the State to rest, I'll argue D.V., and then, we can argue the Rule 609 things. And then, the State could rest in front of the jury, and then, I will just begin my case.

THE COURT: All right. Perfect. Thank you, Mr. Cooper.

MR. COOPER: Yes, your Honor.

THE COURT: I like the way you're thinking ahead.

MR. COOPER: Yes, ma'am. For once, this week.

THE STATE RESTS, OUT OF PRESENCE

OF JURORS:

MR. KIDD: The State rests.

THE COURT: All right. I'll allow you to rest in front of the jury, but instead of having to bring the jury back in. All right. Mr. Cooper.

MOTIONS:

MR. COOPER: Thank you, your Honor. May it please

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1 the Court? Michael Cooper, on behalf of the defendant,
2 Kadrin Singleton. Your Honor, at this time, we move for
3 a directed verdict on the indictment of murder. And we
4 also renew all of our pretrial objections, as well as
5 objections made to portions of evidence throughout the
6 trial.

7 Your Honor, I'm told that I need to make this
8 directed verdict motion in order to preserve it later,
9 and to preserve my other pretrial objections, so I'm
10 making it at this time. And I will simply articulate
11 that. I do not think that the State has presented
12 evidence to rebut the claim of self-defense, which was
13 established through Kenneth Fludd's testimony about the
14 tussle. And they have not overcome or shown that
15 there's any evidence that shows that it was otherwise in
16 self-defense.

17 We move for a directed verdict on the murder
18 charge.

19 THE COURT: All right. Mr. Kidd?

20 MR. KIDD: Thank you, your Honor. Viewing the
21 facts in the light most favorable to the State, we
22 presented both direct and circumstantial evidence to
23 support the elements of murder, unlawful killing of
24 Sharrell Williams was testified by Dr. Reimer, with
25 malice aforethought, as testified to through witness

1-8-15 STATE V. SINGLETON

1 Kenny Fludd, who testified that the defendant drew his
2 firearm during the drug deal in order to commit an armed
3 robbery, stated *give it up*, and immediately started
4 shooting without provocation.

5 THE COURT: And as to the self-defense issue?

6 MR. KIDD: As to self-defense, first of all, my
7 argument would be similar to what I'm arguing in the
8 charge documents of bringing a gun to a drug
9 transaction. This puts one at fault for bringing on the
10 difficulty; therefore, defeating self-defense right
11 there. But there's, in fact, no evidence in the record
12 to support self-defense. Even Mr. Fludd's testimony
13 that Mr. Cooper's referring to, he said it was like a
14 tussle. They never -- no one -- there's no testimony
15 that anyone ever threatened Mr. Singleton, that anyone
16 ever pulled a gun on Mr. Singleton. The only evidence
17 in the record is that Mr. Singleton drew a firearm to
18 commit an armed robbery, and shot and killed Sharrell
19 Williams. There's no evidence in the record to the
20 contrary. There are allegations and things like that,
21 but there's no evidence.

22 The only evidence about what happened inside that
23 residence comes from the crime scene technicians and the
24 only witness who was present inside. All of that
25 evidence, which, when viewed together, makes perfect

1-8-15 STATE V. SINGLETON

1 sense, and corroborates Kenny Fludd's testimony that the
2 defendant drew a firearm, shot the victim, robbed Mr.
3 Fludd, grabbed the other firearm, shot him again on the
4 way out of the residence. I think it was very clear
5 that there's no evidence that he was ever threatened or
6 provoked in any way. I think, even if he had been, by
7 shooting him again with the second firearm, I think is
8 evidence that he didn't -- he was no longer in danger at
9 that point, and I would have had the duty to retreat
10 before firing the last shot, even if you believe their
11 theory of the case. So, your Honor, there's ample
12 evidence on the record to defeat all of the elements of
13 self-defense, but surely enough to get it to the jury.

14 THE COURT: Mr. Cooper.

15 MR. COOPER: No reply at this time.

16 THE COURT: Tell me, Mr. Cooper, what evidence has
17 been shown regarding self-defense.

18 MR. COOPER: Mr. Fludd testified that there was a
19 tussle. And while he -- he had told police that there
20 was a tussle. And on the stand he said, well, it was
21 like a tussle. And that, he started backing away from
22 him, once he was confronted with his prior -- not
23 testimony -- but his prior statements. But I think that
24 the fact that there was a tussle raises self-defense,
25 that Mr. Singleton did shoot in self -- shoot in

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1 defending himself, I think, at this point.

2 There's some evidence in the record that he could
3 have reasonably feared bodily injury, and that he acted
4 in self-defense.

5 THE COURT: And you base that on the statement, it
6 was *like a tussle*, by Mr. Fludd?

7 MR. COOPER: Right. Mr. Fludd also said that they
8 were just standing there, too. So, Mr. Fludd is not the
9 most credible witness whatsoever.

10 THE COURT: But if he's the only witness that would
11 be able, that has testified, that would be able to
12 establish self-defense, correct? At this point.

13 MR. COOPER: As well as the medical examiner's
14 testimony that the positioning of Mr. Williams at the
15 time of the shooting was possible, or was consistent
16 with Mr. Williams rushing at or attempting to tussle
17 with Mr. Singleton.

18 THE COURT: All right. Anything further, to
19 support your argument, anything further?

20 MR. KIDD: No, ma'am.

21 RULING:

22 THE COURT: All right. Pursuant to *Rule 19* in the
23 *Rules of Criminal Procedure*, as you know, in ruling on a
24 motion for a directed verdict, I must view the evidence
25 and all reasonable inferences in the light most

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1 favorable to the non-moving party, the State.

2 I am concerned only with the existence or non-
3 existence of the evidence that has been presented. The
4 defendant is charged with one count of murder. The
5 State must prove beyond a reasonable doubt that the
6 defendant killed another person with malice
7 aforethought.

8 Kenneth Fludd testified that, on the night of
9 November 20, 2012, he set up a drug purchase between the
10 victim, Sharrell Williams, and the defendant, Kadrin
11 Singleton.

12 Kenneth Fludd further testified that the defendant,
13 along with Mr. Felder, attempted to purchase a quarter-
14 pound of marijuana from the victim. He testified that
15 he witnessed the defendant shoot the victim, after the
16 defendant said, *give it up*, to the victim.

17 Mr. Fludd said he observed the defendant pull a gun
18 from behind his back and fire a number of shots at the
19 victim. He testified that the defendant left with Chris
20 Felder in Mr. Fludd's vehicle, and the victim stated,
21 *please call the people*, and stated that, *I'm dying*.

22 Mr. Fludd stated that the victim became
23 unresponsive, and he identified the defendant as the
24 shooter during court, as well as during the prior
25 identification.

1-8-15 STATE V. SINGLETON

1 Officer Woods testified that he responded to the
2 shots-fired call at Cambridge House, located in
3 Charleston County. He testified that the victim was
4 unresponsive, and was deceased when he arrived. He
5 testified that he cleared everyone from the house,
6 beginning a crime scene log.

7 Dr. Reimer testified the cause of death was ruled
8 as a multiple gunshot wound; that the fatal shot hit the
9 victim through the right side of the torso. There's no
10 way -- that those are the significant testimony,
11 evidence, that has been presented to me, and all of the
12 elements in the light most favorable to the non-moving
13 party, your motion for a directed verdict is denied. I
14 note your exception to my ruling.

15 MR. COOPER: Thank you, your Honor.

16 THE COURT: Thank you. All right. So, then, now
17 we need to address whether Mr. Singleton will testify.
18 Is that correct?

19 MR. COOPER: Yes. Yes, your Honor.

20 THE COURT: And in order to do that, we need to
21 address his prior -- his convictions.

22 MR. COOPER: Yes, your Honor.

23 THE COURT: Okay. All right. I will, Mr. Cooper,
24 happy to hear from you.

25 MOTIONS:

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1 MR. COOPER: Thank you, your Honor. May it please
2 the Court? Michael Cooper, again, on behalf of Kadrin
3 Singleton. Your Honor, we are moving, under Rule 609
4 and State v. Lyle, to determine what of Mr. Singleton's
5 prior convictions and/or bad acts may be admitted.

6 He has, as my understanding, -- the State will
7 correct me if I'm wrong -- they are intending to
8 introduce the convictions that he recently pled to this
9 week, the trafficking in cocaine, failure to stop for
10 blue lights, and possession of a stolen motor vehicle.
11 I think that the jury has heard all that testimony and
12 evidence, and so those convictions coming in are a sort
13 of just a rational extension of the testimony that we've
14 heard throughout the week.

15 However, I would, at this time, renew my pretrial
16 objection to that testimony and in terms of my argument
17 for bifurcation in that respect.

18 THE COURT: All right.

19 MR. COOPER: And it's only sort of tangentially
20 related. But specifically, the State intends to
21 introduce two other convictions of burglary in the third
22 degree, which is their burden to show that it was tied
23 to a crime of dishonesty. And they have the warrants
24 which show that it was a burglary with the intent to
25 steal. And so, I think that the State has met its

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1 burden of showing the burglary third degree, and
2 introducing that against Mr. Singleton.

3 The outstanding issue and the main one that I take
4 issue with, is that Mr. Singleton has a conviction for
5 strong-armed robbery on his record. Under Rule
6 609(a) (1), the second part refers to:

7 *Evidence that an accused has been*
8 *convicted of a crime shall be admitted if*
9 *the Court determines that the probative*
10 *value of admitting this evidence outweighs*
11 *its prejudicial effect to the accused.*

12 The prejudicial effect, your Honor, is the
13 propensity. That's why it would be improper to admit
14 the strong-armed robbery conviction. And the State's
15 allegations in this case are that Mr. Singleton
16 committed the murder within the context of committing an
17 armed robbery, perpetrating an armed robbery. This --

18 RULING:

19 THE COURT: I'm going to limit the State. Of
20 course, you get to ask about the -- inquire about the
21 guilty -- the convictions for the three charges that he
22 pled guilty in front of the jury to the burg third, to
23 the dishonesty, but I will only inquiry as to a
24 conviction for a felony on that date. All right. and
25 the name of the charge, due to the similarity in nature.

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1 MR. KIDD: So, I cannot mention that it was a
2 strong-armed robbery?

3 THE COURT: Correct. But you can mention that it
4 was a -- you had a conviction for a felony.

5 MR. KIDD: For a felony, and on the date that he
6 was convicted of it?

7 THE COURT: Correct.

8 MR. KIDD: I think that's reasonable.

9 THE COURT: All right. Unless you have case law, I
10 don't think strong-armed robbery was pled for any --
11 there would any other reason.

12 MR. KIDD: Well, I mean, you know, just relying on
13 *State v. Al-Amin*, I think that it's a, you know, a
14 federal circuit court split on whether or not crimes of
15 force are considered as crimes of dishonesty. But your
16 Honor's ruling, I think, is reasonable because of the
17 similar nature to the crime, as the circumstances and
18 the facts appear.

19 THE COURT: That's my concern, and because -- and
20 I'm not going to go through any further analysis,
21 because I --

22 MR. KIDD: And I agree. I have no objection.

23 THE COURT: All right.

24 MR. KIDD: I think it's a very rational resolution.

25 THE COURT: Thank you.

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1 MR. COOPER: Thank you, your Honor.

2 THE COURT: Thank you. All right. Mr. Singleton,
3 I have a question for you, unless Mr. Cooper -- do you
4 want me to inquire later?

5 MR. COOPER: No, ma'am. Mr. Singleton and I met at
6 the jail for some time last night. We met throughout
7 the week about this. And so, I think we are prepared to
8 respond to the Court.

9 THE COURT: All right. Please place Mr. Singleton
10 under oath this morning.

11 COURT CLERK: Yes, ma'am. Do you swear the
12 testimony you give the Court this morning to be the
13 truth, the whole truth, and nothing but the truth, so
14 help you God?

15 DEFENDANT SINGLETON: I do.

16 COURT CLERK: And sir, if you'll be seated. First
17 and last name, please.

18 DEFENDANT SINGLETON: Kadrin Singleton.

19 THE COURT: All right. Mr. Singleton, do you
20 remember our discussion before we broke for the evening
21 yesterday?

22 DEFENDANT SINGLETON: Yes, ma'am.

23 THE COURT: And where I went over with you all of
24 the benefits and the consequences of your testifying?

25 DEFENDANT SINGLETON: Yes, ma'am.

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1 THE COURT: And you understand now, I have ruled on
2 your prior convictions.

3 DEFENDANT SINGLETON: Yes, ma'am.

4 THE COURT: Do I need to explain that to you, or do
5 you need anymore time to meet with your attorney to go
6 over that decision?

7 DEFENDANT SINGLETON: No, ma'am.

8 THE COURT: All right. Have you had enough time to
9 meet with your attorneys?

10 DEFENDANT SINGLETON: Yes, ma'am.

11 THE COURT: And you spoke with them last week, and
12 then again some today, I'm assuming.

13 DEFENDANT SINGLETON: Yes, ma'am.

14 THE COURT: We actually had a delay, so you had
15 some additional time to meet with your attorney this
16 morning, as well, correct?

17 DEFENDANT SINGLETON: Yes, ma'am.

18 THE COURT: And Mr. Singleton, have you reached a
19 decision on whether or not you will testify?

20 DEFENDANT SINGLETON: Yes, ma'am.

21 THE COURT: And what is that decision?

22 DEFENDANT SINGLETON: I will testify.

23 THE COURT: All right. Thank you. You may have a
24 seat. And Mr. Cooper, do you have other witnesses?

25 MR. COOPER: Yes, your Honor. I have two other

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1 witnesses. We'll be calling Mr. Singleton first, and
2 then the other two witnesses. I don't -- one is a chain
3 witness that should take two minutes.

4 THE COURT: All right.

5 MR. COOPER: And then, the other is the gunshot
6 residue expert, and she may take 45 minutes. I don't --
7 I don't know how long she will take exactly, but I
8 think, in total.

9 THE COURT: All right. All right. Do we want to
10 bring in the jury now, or do you want a short comfort
11 break, so we can continue on through?

12 MR. COOPER: Can we take just one break? And then,
13 we will continue through until we're finished with our
14 case.

15 THE COURT: All right. About five minutes
16 sufficient?

17 MR. COOPER: Yes, ma'am. Thank you, your Honor.

18 THE COURT: All right. About five minutes. If
19 you'll let the jury know we're going to begin in about
20 seven minutes, and they need to take their comfort
21 break. Thank you.

22 OFF THE RECORD 11:04 A.M.

23 BACK ON THE RECORD 11:12 A.M.

24 BY THE COURT:

25 THE COURT: All right. Anything before we bring in

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1 the jury? Mr. Kidd?

2 MR. KIDD: No, ma'am.

3 MR. COOPER: No, ma'am. We need Mr. Singleton.

4 THE COURT: He's on his way, right?

5 BAILIFF: Yes, ma'am.

6 THE COURT: Please rise for the jury.

7 JURY ENTERS COURTROOM 11:14 A.M.

8 THE COURT: Thank you. Be seated.

9 Good morning, ladies and gentlemen. Thank you for
10 your accommodation. As I told you, we were having some
11 scheduling difficulty, so I appreciate your
12 accommodation. And ladies and gentlemen, this is our
13 new court reporter for the day. So, thank you. She had
14 to travel far to be here, so, through no fault of her
15 own, kind of a last-minute switched plan, so thank you
16 again for your patience and understanding.

17 Ladies and gentlemen, the State now has an
18 announcement.

19 THE STATE RESTS, IN PRESENCE

20 OF JURORS:

21 MR. KIDD: The State rests, your Honor.

22 THE COURT: Okay. And Mr. Kidd -- I mean, excuse
23 me. Mr. Cooper, if you'll please call your first
24 witness.

25 MR. COOPER: Thank you, your Honor. May it please

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1 the Court? The Defense calls Kadrin Singleton to the
2 stand.

3 COURT CLERK: Sir, if you'll place your left hand
4 here, and raise your right. Do you swear or affirm the
5 testimony you give the Court and the jury in the trial
6 of this case will be the truth, the whole truth, and
7 nothing but the truth, so help you God?

8 DEFENDANT SINGLETON: I do.

9 COURT CLERK: Thank you, sir. You may be seated.
10 Sir, once seated, if you could, please, state your first
11 and last name, and spell your last loudly and clearly
12 into the microphone, for the record, please, sir.

13 DEFENDANT SINGLETON: Kadrin Singleton.

14 S/i/n/g/l/e/t/o/n.

15 KADRIN RAJUN SINGLETON

16 DIRECT EXAMINATION, BY MR. COOPER:

17 Q All right, Kadrin. Did you want to kill Sharrell
18 Williams?

19 A No, sir.

20 Q Did you plan to?

21 A No, sir.

22 Q Did you plan to rob him?

23 A No, sir.

24 Q Why did you shoot him?

25 A Because I had -- I had no other choice.

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1 Q Okay. We're going to come back to that stuff later
2 on. Okay? I want you to talk a little bit about your
3 background and introduce you to the jury for a second.
4 Okay? Where are you from?

5 A I'm from Summerville, South Carolina.

6 Q All right.

7 Q And where did you go to school?

8 A Summerville High School.

9 Q Do you have any siblings?

10 A Yes, sir. I got six brothers and two sisters.

11 Q Okay. Did you graduate from high school?

12 A No, sir. I went to Willowgreen Academy after ninth
13 grade in high school, and I completed a program, and I
14 got my GED.

15 Q Okay. Did you play any sports growing up?

16 A Yeah, I played basketball in middle school, and I
17 played basketball at Summerville High School team.

18 Q What kind of other stuff did you do with your time
19 back then?

20 A I really just played basketball at the time.

21 Q Okay. Did you go to church with some of your
22 family?

23 A Yes, sir. That's kind of like mandatory living
24 with my parents, I had to go to church with them. So,
25 out of a month, I'd probably go to church three times,

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1 three times a month.

2 Q Back when you were growing up?

3 THE COURT: Mr. Singleton, I've said this to every
4 witness. It must be something in that chair. I'm going
5 to need you to speak loudly.

6 DEFENDANT SINGLETON: Yes, ma'am.

7 THE COURT: Thank you.

8 BY MR. COOPER:

9 Q Were you a choir boy?

10 A No, sir.

11 Q You've made mistakes, right?

12 A Yes, sir, I have.

13 Q And you've broken the law before.

14 A Yes, I have.

15 Q Okay. You have some prior convictions.

16 A Yes, sir.

17 Q You were convicted of a burglary in the third
18 degree.

19 A Yes, sir.

20 Q And then, you were convicted of another felony.

21 A Yes, sir.

22 Q And then, as I'm sure the jury heard on Monday, you
23 have pled guilty to trafficking.

24 A Yes, sir.

25 Q And failure to stop for blue lights.

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1 A Yes, sir.

2 Q And possession of a stolen motor vehicle.

3 A Yes, sir.

4 Q Why did you plead to those charges?

5 A Because I am guilty of those charges.

6 Q Okay. With the failure to stop for blue lights,
7 why did you run from the police?

8 A Because I was scared to go to jail.

9 Q Okay. Did you know the car was stolen?

10 A The person that gave it to me, he told me it might
11 be stolen, and he never really said it was, you know.
12 So, I just took it that it was stolen.

13 Q Okay. Did you know that the license tag on the car
14 was stolen, too?

15 A No, sir.

16 Q Did anybody tell you anything about that?

17 A No, sir.

18 Q All right. Okay. Now, I want to turn to the
19 events that led up to the shooting. Okay?

20 A Um-hmm.

21 Q But first, let me ask you, when the police first
22 spoke to you about this case, were you completely
23 forthright with them?

24 A No, sir.

25 Q And why not?

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1 A Because at the time, I felt like nothing I could
2 have said would have stopped me from going to jail, so I
3 decided it was best to say that I wasn't there.

4 Q Okay. And is that true?

5 A No, sir.

6 Q All right. But the story you're about to tell, is
7 that the true story?

8 A Yes, sir.

9 Q Okay. So, all right. Let's go back and lay some
10 of the ground work. Okay?

11 A Um-hmm.

12 Q What was your goal that evening?

13 A To purchase marijuana.

14 Q And how was that going to come about?

15 A Through Chris Felder, and he told me that his
16 cousin had it.

17 Q Okay. I know I can hear you, but I just want to
18 make sure everybody else can hear you, too. Just
19 remember to speak up. Okay?

20 A All right.

21 Q Okay. So, Chris Felder was brokering the deal, or
22 you were talking to Chris Felder about it?

23 A Yes, sir. I was -- I actually got connected to him
24 through my friend Kenny B, you know, we are in a phone
25 conversation, and he knew I was looking for marijuana,

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1 and he told me that Chris knew where to get it. So --

2 Q And so then, what did Chris -- how did -- what did
3 -- what was that convers -- well, you know -- how were
4 you going to get the marijuana?

5 A He just told me his cousin had it. We was going to
6 meet him at Pizza Hut.

7 Q Did you know his cousin?

8 A No, sir.

9 Q Did you ever talk to him?

10 A No, sir.

11 Q Okay. And so, where were you supposed to meet
12 him?

13 A At Pizza Hut. To my knowledge, it was at Pizza
14 Hut.

15 Q Okay. And so, why were you all going to Pizza Hut?

16 A To make the transaction.

17 Q So, you thought you were getting the marijuana from
18 Pizza Hut?

19 A Yes, sir.

20 Q All right. Did you bring a gun with you there?

21 A No, sir.

22 Q Why not?

23 A Because, even if I had a gun, I didn't feel there
24 was any need to bring it to Pizza Hut, and risk the fact
25 of riding all the way from that area back to

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1 Summerville, I knew the area. It was like, police
2 really heavily traffic that area.

3 Q Okay. I'm going to show you the map which has been
4 admitted as State's Exhibit 64. Okay?

5 A All right.

6 Q All right. This dot right here, is that where the
7 Pizza Hut was?

8 A Yes, it is.

9 Q Sir?

10 A Yes, sir.

11 Q Okay. And the Pizza Hut, is it by itself there?
12 What's near there?

13 A The Pizza Hut, Checkers, there's like a shopping
14 center right behind, right there.

15 Q Okay. So, it's fairly decent activity going on
16 around there?

17 A Right.

18 Q And how did you all get there?

19 A I rode with Chris Felder.

20 Q Whose car?

21 A His car.

22 Q His car?

23 A Yeah. I guess it was his girlfriend car, now that
24 I know. But then, at the time, I didn't know exactly
25 who car it was.

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1 Q Who drove?

2 A Chris drove.

3 Q All right. And do you remember what direction you
4 went to get there from Summerville?

5 A We took the I.

6 Q Okay. So, you came down I-26?

7 A Yes, sir.

8 Q All right. Do you know North Charleston well?

9 A Some parts, because I moved to Summerville when I
10 was like, fourteen, you know. So, I never really --
11 traveled to Summerville -- I mean Charleston like that,
12 so I ain't know a little -- long.

13 Q Okay. All right. So, you all get to Pizza Hut.
14 And whose idea is it, again, to meet at Pizza Hut?

15 A Chris. Chris took me. Well, he took -- he just
16 told me the person at Pizza Hut.

17 Q Okay. Did you even know the person who was selling
18 weed was Chris's cousin at the time?

19 A No, sir. He just said, *my people*. So, I figured
20 it was his family or one of his friends or something.

21 Q Okay. And so, what happens when you get to Pizza
22 Hut?

23 A We get there. We're sitting there waiting, for
24 probably like, five minutes. And then, Kenny comes up.
25 He gets in the car, and I turn around and dap him up

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1 with --

2 COURT REPORTER: I'm sorry, I turned around and?

3 A I kind -- give him a handshake.

4 Q All right. Dap him up, what does that mean?

5 A That's like slang for handshake.

6 Q Okay. And did you introduce yourself?

7 A Yes, sir. I said -- as I was shaking his hand, I
8 said, *Rajun*. He said, *Boss Hogg*, you know, and I turned
9 back around.

10 Q Okay. And did he get in the car with you all?

11 A Yes, sir. I was in the passenger seat. Chris was
12 driving, and he actually was sitting behind Chris, not
13 behind me.

14 Q Okay. And so, what happens while you all are at
15 Pizza Hut?

16 A Well, he got in the car, I was kind of like,
17 waiting for -- I was thinking, you know, he had the
18 weed. So, I'm sitting there waiting, and he be like --
19 me and my cousin, we -- we --

20 MR. KIDD: Objection, Judge. Just hearsay. I'd
21 just like to stay away from hearsay.

22 THE COURT: All right, but overrule this to that
23 particular -- I don't think that's -- I don't think that
24 was -- I don't find that that was hearsay.

25 BY MR. COOPER:

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1 Q Okay. So, what's going on in the car, again?

2 A I was actually waiting for him, you know, like,
3 present the weed or whatnot, and you know, he said his
4 cousin was going to be L817 23:15:55 there, all right,
5 but.

6 Q Had you ever met his cousin?

7 A No, sir.

8 Q Do you know who that was at all?

9 A No, sir.

10 Q Okay. And now, what do you do while you're in the
11 car?

12 A I was texting. I was texting a couple people, but
13 I was texting like, one -- one of my home boys.

14 Q And what were you all texting about?

15 A He was actually at the house with two girls. He
16 was waiting on me, and we was supposed to go over there
17 and chill after I got the marijuana, and they wanted to
18 smoke.

19 Q And when you say *chill*, what does that mean?

20 A Just like chill or watch T.V., or, you know,
21 whatever. Whatever happen.

22 Q Were you all planning to get high?

23 A Yes, sir.

24 Q Okay.

25 A I mean, I was -- they were planning to get high.

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1 Q Okay. And let's back up again. Why would you want
2 to get the marijuana?

3 A To sell.

4 Q Okay. Is that how you made money back then?

5 A Yes, sir.

6 Q All right. So, you're at Pizza Hut, and you all
7 introduce yourselves, or you know, dap up or whatever.
8 And it's clear the deal's not going down there.

9 A Um-hmm.

10 Q All right. And so then, tell me what happens.
11 About how long are you all at Pizza Hut?

12 A Seem like probably about an hour, hour and a half.

13 Q And so, are you all talking in the car, or what's
14 going on?

15 A No. Everybody like, kind of like, in their own
16 zone, and it was -- Chris was on the phone, and I'm on
17 the phone. Well, he was kind of talking to Chris, you
18 know, like, *you better not tell your daddy I'm doing*
19 *this*, you know, just talking about family and stuff like
20 that.

21 Q Okay. And so then -- so then, what happens next?

22 A After we wait for a little while, Kenny said he got
23 to go use the bathroom. He gets out of the car. So,
24 then, I asked Chris like, you know, *what you got --*
25 *what's going on*, I said, *you told me he had the weed.*

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1 He's like, I don't know; I thought he had it, too. So,
2 I was like, you know, whatever.

3 Q Okay. And so, when you all decide to leave, just
4 tell me about how that goes about.

5 A All right. When Kenny got out the car, he never
6 came back to the car when he said he had to use the
7 restroom. Like, aft -- right after he got out the car,
8 Chris got out the car, and he came back, and he crank
9 the car. And I'm like, where we going at? And he like,
10 he tells me to follow him. So, I'm like -- I'm like, he
11 won't say where we going? He be like, no, we just going
12 to follow him, you know, so.

13 Q Okay. So, do you know where you're going at this
14 point?

15 A No, sir.

16 Q And so, what happens?

17 A We ride probably, approximately, like, five minutes
18 down the street. Made a couple of turns, and --

19 Q Who's following who?

20 A We're following Kenneth Fludd. And we kind of
21 turned like, down this off street, side street, and he
22 just put his hand out the window, he -- I could hear him
23 saying, park over there, park over there.

24 Q All right. Let's back up real quick. Okay?

25 A Um-hmm.

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1 Q Because I want to show the jury what you're talking
2 about. All right. I'm showing the jury what's been
3 previously admitted as State's Exhibit 3. And so, in
4 looking at -- sorry -- State's Exhibit 64. This is what
5 -- the red dot, that's where the house is.

6 A Um-hmm.

7 Q And the blue dot --

8 COURT REPORTER: Is that yes?

9 A Yes.

10 Q Sorry, yes, I forgot to tell you, for the court
11 reporter, you have to say yes or no, not uh-huh or huh-
12 uh.

13 A Got you.

14 Q Okay?

15 A All right.

16 Q We all know what that means, but when someone reads
17 it later, it's not very clear.

18 A All right.

19 Q Okay. So, that's the house, the red dot; and the
20 blue dot is where you all drop off the car?

21 A Yes, sir.

22 Q All right. I don't know if you can see it clear
23 enough. Okay. So, I'm going to come to you. Okay?

24 A Um-hmm.

25 MR. COOPER: Your Honor, permission to approach the

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1 witness.

2 THE COURT: You have continuing permission.

3 MR. COOPER: Thank you.

4 BY MR. COOPER:

5 Q Okay. So, you said that you came down like a
6 little side street. Can you point that out on this map
7 here? So, if this is Azalea --

8 A Um-hmm.

9 Q -- are you all -- do you all come down Azalea?

10 A Right. Come down Azalea, and come about -- we
11 turned, I guess, on this street right here.

12 Q Okay. Had you ever been back there?

13 A No, sir.

14 Q And if I may demonstrate for the jury what Mr.
15 Singleton just described. So, I don't know if you guys
16 can see, but.

17 THE COURT: Okay. Mr. Cooper, Mr. Kidd?

18 OFF-THE-RECORD BENCH CONFERENCE, OUT OF
19 HEARING OF JURORS. PRESENT: THE COURT,
20 MR. COOPER, AND MR. KIDD.
21 END BENCH CONFERENCE.

22 BY MR. COOPER:

23 Q So, let's see if we can put the ELMO here. Can you
24 see?

25 A Yes.

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1 Q Can you see?

2 MR. COOPER: Permission for the witness to stand,
3 your Honor.

4 THE COURT: You may stand.

5 BY MR. COOPER:

6 Q And so, can you show the jury sort of what this
7 street is.

8 A We came down this street right here. And then, we
9 turned right there.

10 Q Okay. Was that street lit?

11 A No, sir.

12 Q Had you ever been there before?

13 A No, sir.

14 Q Did you know where you were going?

15 A No, sir.

16 Q And so, when you all get back there, what happens?

17 A Kenny puts his arm out the window, and he was like,
18 *park over there, park over there.* So, I'm like, *what do*
19 *you mean, park over there?* So, Chris pulled over there.
20 *I'm like, get out and ask him what's going on.* So, he
21 *get out, and he be like, he want us to get in the car*
22 *with him. So.*

23 Q Did you want to get in the car with him?

24 A No, sir.

25 Q So, what happens?

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1 A My exact words was, *hell, no*. I'm like, *hell, no*,
2 *I ain't getting in the car with him*, you know. What --
3 where -- where is the guy with the drugs, the weed? I
4 don't know what he -- he ain't -- he just going for
5 anything; he not concerned about what's going to -- he
6 be like -- I don't know.

7 Q Okay. And so then, tell me what happened.

8 A He goes back to Kenny and tell Kenny, *well, I don't*
9 *want to get in the car with him*. So, Kenny said to me,
10 *you all acting scary; you all acting like some little*
11 *bitches; you all need to take that shit back to*
12 *Summerville, and dah, dah, dah, dah, dah, dah, dah, dah,*
13 *dah, dah*. So, I was like, *man, I said, I ain't got time*
14 *for this*. I just -- I want my weed, and I want to go
15 *back to where I come from*. And -- and you know, I kind
16 of thought about -- he -- he pulled off. He pulls off.

17 Q So, he drives off.

18 A Yes, sir.

19 Q Okay. And so, what happens?

20 A You know, I kind of just sit back, *damn*, you know,
21 *like that's -- that was my only time to get what I had,*
22 because at the time, the source that I was getting my
23 marijuana from, I couldn't get it from them at the time.
24 And this was -- and this was around Thanksgiving time.
25 Christmas was around the corner, and I really needed to

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1 get that, so I could make my money and do what I wanted
2 to do.

3 So, you know, I thought about it, and I was like,
4 *man, call him back and tell him to come back.* I went
5 against my first when I was talking to him at first.

6 Q And so, you do get in the car.

7 A Yeah, called -- we called him back, and he comes
8 back, and we get in the car with him.

9 Q Okay. And so then, where do you all go?

10 A We -- like, right around the corner, probably two
11 blocks away.

12 Q All right. And that's the blue and white house
13 that we've all been talking about, the scene?

14 A Yes, sir.

15 Q Okay. And so, you all arrived to the house in
16 Kenny's car.

17 A Yes, sir.

18 Q And you get there.

19 A Um-hmm.

20 Q And so then, what happens once you get to the
21 house?

22 A We probably sit in the car for about two minutes
23 before the -- a big truck pulls up, you know, like a
24 Excursion or something. And he said something to Kenny
25 out the window, and then the car pulls up, and he got

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DIRECT - KADRIN RAJUN SINGLETON

- 1 out -- Sharrell got out of the car.
- 2 Q Okay. Did you know him as Sharrell at the time?
- 3 A No, sir.
- 4 Q Had you ever seen him before?
- 5 A No, sir.
- 6 Q Okay. Had you ever dealt with him before at all?
- 7 A No, sir.
- 8 Q All right. And so then, what happens next?
- 9 A We go in the house.
- 10 Q How do you get into the house?
- 11 A I walked -- I walked into the house.
- 12 Q Well, I mean, who opened the door?
- 13 A Sharrell. Sharrell was like, I -- he was the first
- 14 one to the door. He had the key. He opened the door.
- 15 Kenny was behind him, you know. I didn't get out the
- 16 car exactly as Kenny got out the car, because I wanted
- 17 to say something to Chris, you know. So, I waited. He
- 18 got out the car, and I was like, *what you got -- what*
- 19 *you got me into.* You know. And he looked at me, *I*
- 20 *don't know.*
- 21 Q Okay. So, you all go into the house.
- 22 A Yes, sir.
- 23 Q And so, what happens when you get inside?
- 24 A We get in the house, and the -- nobody -- Kenny --
- 25 Kenny like telling Sharrell, *he acting scary, man; you*

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DIRECT - KADRIN RAJUN SINGLETON

1 *need to take that shit back to Summerville, duh, duh,*
2 *duh, duh, duh, duh, duh. You know, I ain't saying*
3 *nothing to him the whole time. You know, I just --*

4 Q Let me ask you this.

5 A Um-hmm.

6 Q When you walked in the house, did you see a gun on
7 the counter?

8 A No, sir. There was not a gun on the counter.

9 Q And did you bring your own gun?

10 A No, sir. I did not have a gun.

11 Q Okay. And so then, you all get in the house,
12 there's no gun on the counter.

13 A Um-hmm.

14 Q And he's, you know, Kenny and Sharrell are talking.
15 So, then what happens?

16 A Sharrell, then, he makes a phone call to somebody,
17 and he was like, *man, where the shit at?* And be like,
18 *oh, oh.* He got in the refrigerator -- he opened the
19 refrigerator, you know, *all right, all right.* Hang up
20 the phone, pulls out the weed, puts it on the counter.

21 Q Okay. So, and then, he takes the weed, and he puts
22 it up on the counter.

23 A Um-hmm.

24 THE COURT: Is that yes?

25 A Yes, yes. Sorry.

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1-8-15 STATE V. SINGLETON

DIRECT - KADRIN RAJUN SINGLETON

1 Q And does he measure it out for you?

2 A Yes, sir. He starts to put it on the -- on the
3 clock, on the scale.

4 Q Okay. And so then, what happens?

5 A While he was doing that, Kenny ends up going to the
6 bathroom, again, or whatever, and -- and I'm just
7 standing there, waiting for him to finish weighing the
8 weed out, and kind of like, all in the same motion, as
9 Kenny came out the bathroom, Chris heads for the door.

10 Q Okay.

11 A You know.

12 Q Did you tell Chris to go get money out of the car?

13 A No, sir.

14 Q What did you do with your money?

15 A My money was in my pocket.

16 Q Well, did you pay for the weed?

17 A Yes, sir.

18 Q Okay. And were you given marijuana?

19 A Yes, sir.

20 Q Okay. So, let's talk about, you know, the
21 transaction. Okay?

22 A Um-hmm.

23 Q So, how does that happen?

24 A After Chris moves outside, kind of like seem like
25 all in the same motion, Kenny comes out the bathroom.

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1-8-15 STATE V. SINGLETON

DIRECT - KADRIN RAJUN SINGLETON

- 1 Q Okay. And where does Kenny go?
- 2 A He was like -- kind of like behind me, like
- 3 diagonal to me.
- 4 Q So, just, if we say that this is -- the podium
- 5 right here is the kitchen counter.
- 6 A Um-hmm.
- 7 Q All right. And the bathroom would be -- or the
- 8 back area of the house would be back over here?
- 9 A That's the back area.
- 10 Q That's the back area. And let's assume like this
- 11 area right here is the living room. Okay? So, we go --
- 12 so, what I'm saying, this is the front door?
- 13 A Um-hmm.
- 14 Q Right?
- 15 A Oh, right, right, right.
- 16 Q And the front door opens into the living room.
- 17 A Um-hmm.
- 18 Q And then, there's the counter.
- 19 A Um-hmm.
- 20 Q The kitchen. And back to the left is the -- you
- 21 have to say yes.
- 22 A Yes, yes. I'm sorry.
- 23 Q It's okay. You have to go back to the left to get
- 24 to the bathroom in back of the house?
- 25 A Yes, sir.

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DIRECT - KADRIN RAJUN SINGLETON

1 Q Okay. And so, where are you and Sharrell standing
2 when he's weighing out the marijuana?

3 A Can I get up?

4 MR. COOPER: Your Honor, permission for the
5 witness.

6 THE COURT: You may stand.

7 A Stand?

8 THE COURT: Thank you.

9 MR. COOPER: Okay.

10 BY MR. COOPER:

11 Q So, let's assume that this is the kitchen counter.
12 Where are you?

13 A On this side.

14 Q What's this side?

15 THE COURT: Mr. Singleton, I cannot hear you.

16 A Sorry.

17 THE COURT: So, that indicates to me that my court
18 reporter is struggling, and perhaps some of the jury,
19 so. And Mr. Cooper is blocking the microphone, for one.
20 Thank you. Thank you.

21 MR. COOPER: Yes, ma'am.

22 BY MR. COOPER:

23 Q So, which side are you on?

24 A I'm on this side.

25 Q And which side is this?

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1 A This is the living room side.

2 Q Okay. And where is Sharrell?

3 A Sharrell's on the other side, which would be the
4 kitchen area, and kind of like there was a wall behind
5 him, and the bathroom was right there.

6 Q Okay. And the kitchen, where is he, in relation to
7 the kitchen counter?

8 A He's like on -- on the bar top.

9 Q Okay. On the bar top.

10 A Um-hmm.

11 THE COURT: Is that a yes?

12 A Yes, ma'am. Yes.

13 BY MR. COOPER:

14 Q And so then, walk me through what happens.

15 A He's getting the weed together or whatnot, and like
16 I said, Kenny comes out the bathroom from behind, and he
17 goes around this side of the bar, and he goes like by
18 the couch, here.

19 Q So, if I'm Kenny, I come back behind Sharrell, --

20 A Um-hmm.

21 Q -- and then, back into the living room over here.

22 A Yes, sir.

23 Q Okay. And so then, what happens?

24 A He putting the weed -- getting -- still getting the
25 weed together, and then, he takes it off the clock.

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DIRECT - KADRIN RAJUN SINGLETON

1 Q What's the clock?

2 A Clock is a slang word for a scale.

3 Q So, he takes the weed off of the scale.

4 A Right.

5 Q What happens?

6 A He takes it off the scale, and he hands it to me.

7 Q Okay.

8 A And I hand him the money.

9 Q Okay.

10 A I look at it and examine it, I smell it, and then,
11 it dawned on me that I wanted to see it on the clock, to
12 see how much -- to make sure I'm getting what I paid
13 for.

14 Q Okay. And so, what happens?

15 A So, I tell him, I said, *well, let me see that on*
16 *the clock.* And he went, *all right.* He took it back and
17 put it on there, and like I couldn't see him when he was
18 weighing it out, because I wasn't exactly to the bar,
19 you know. I was kind of a couple steps back, you know.
20 Scales was facing this way. So, I didn't see when he
21 put it on there how much it was.

22 Q Okay.

23 A So, you know, he goes back over there, and he kind
24 of turn it for me to see. But then, he kind of turn it
25 back fast, you know. So, I'm like, I look at it, and

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1 I'm like, that's only 90 grams, which --

2 Q And how much were you supposed to be purchasing?

3 A I was supposed to be getting 112 grams, so he
4 showed me 20 grams.

5 Q Okay. And so then, what happens?

6 A He like, *man, you better take that and go on ahead*
7 *about your business.*

8 Q And what does that mean?

9 A I guess he wanted me to take the 90 grams and go
10 about my merry way.

11 Q So, he was trying to short you 20 grams.

12 A Yes, sir.

13 Q How much does that cost?

14 A Gram -- gram for gram, 20 grams is like \$200.00.

15 Q Okay. So, he's basically trying to take \$200.00
16 from you.

17 A Yes, sir.

18 Q All right. And so then, what happens?

19 A I tell him, like -- I'm like, *no, I want -- I want*
20 *what I paid for.*

21 Q Okay.

22 A And --

23 Q And then, what happens?

24 A He be like, *man, you better -- man, you better take*
25 *that and go on ahead about your business.* And I'm like,

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1 *hell, no, I want what I paid for. He be like, man,*
2 *Kenny -- going to get what you paid for.*

3 MR. KIDD: Objection, Judge. Hearsay.

4 THE COURT: Sustained. Mr. Cooper, please make
5 sure your questions are not designed to elicit hearsay.

6 MR. COOPER: Yes, ma'am.

7 THE COURT: Thank you.

8 BY MR. COOPER:

9 Q Okay. And --

10 THE COURT: May your client sit down? Are you done
11 with the demonstration?

12 MR. COOPER: No, your Honor. We're -- we're just
13 getting started.

14 THE COURT: All right. I just -- we're having some
15 challenges with the voice.

16 MR. COOPER: Yes, ma'am.

17 THE COURT: Thank you.

18 BY MR. COOPER:

19 Q All right. Kadrin, just remember to speak up, so
20 that way, the Judge and the lady, the court reporter
21 behind you, can hear you. And then, even the farthest
22 juror. Okay?

23 A All right.

24 Q Because they need to hear you back there, too.
25 Okay?

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DIRECT - KADRIN RAJUN SINGLETON

1 So, all right. So, then, what's happening?

2 A He told -- he told Kenny to -- he asked Kenny,
3 like, *what's wrong with him?*

4 MR. KIDD: Same objection, Judge.

5 THE COURT: Is there an exception to that?

6 MR. COOPER: I think it's effectively on the list,
7 your Honor.

8 THE COURT: All right. Please have a seat.
9 Counsel, you may approach.

10 OFF-THE-RECORD BENCH CONFERENCE, OUT
11 OF HEARING OF JURORS. PRESENT: THE
12 COURT, MR. COOPER, MR. KIDD.
13 END BENCH CONFERENCE.

14 BY THE COURT:

15 THE COURT: Overruled. You may continue, Mr.
16 Cooper.

17 MR. COOPER: Thank you, your Honor.

18 BY MR. COOPER:

19 Q All right. Kadrin, I just want to remember --
20 remind that everybody in the courtroom needs to hear
21 you. Okay?

22 A All right.

23 Q Just make sure you speak up.

24 MR. COOPER: Your Honor, permission for Mr.
25 Singleton to stand again.

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1 THE COURT: Yes.

2 MR. COOPER: Okay.

3 THE COURT: Thank you.

4 BY MR. COOPER.

5 Q Okay. So, he says to Kenny, *man, what's wrong with*
6 *him, or something like that.*

7 A Yes, sir.

8 Q All right. And then, what happens?

9 A Kenny like, *I know.* He kind of laughed it off.

10 Q Okay. And so, what happens next?

11 A *All right, man, listen, I want -- give me my money*
12 *back. I told him, give me my money back.*

13 Q And does he give you your money back?

14 A No, sir.

15 Q What does he do?

16 A He then pulls a gun off of his waistline -- well,
17 *actually, I say, give me my money back, or, I want what*
18 *I paid for.* And he like -- he looked at me, and he put
19 the gun on the counter, and he like, *going to get what*
20 *you paid for.*

21 Q So, he takes the gun out of his waistband, and sets
22 it on the counter. And by *the counter*, you mean that
23 bar top?

24 A The bar top, yes, sir.

25 Q Okay. And he says what?

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1 A Get what you paid for.

2 Q And what does that mean to you?

3 A I guess he was like -- I take it he was trying to
4 say like, he's the king of the jungle, and I'm in his
5 jungle right now. So, I better get, you know, leave, I
6 guess.

7 Q And when he pulled the gun out, what did you think
8 might happen?

9 A When he actually -- when he pulled out the gun, I
10 saw the gun, I just thought like, if I tried to get my
11 money from him, then, he would have shot me. He pulled
12 out the gun, obviously, he'd be willing to use it.

13 Q Did you want him to use that gun on you?

14 A No, sir.

15 Q So, what do you do?

16 A I -- then, I kind of look at him, you know, and,
17 you know, like, and I grabbed the gun.

18 Q Okay. So, you grabbed his gun.

19 A Yes, sir.

20 Q And why did you grab his gun?

21 A Because I didn't want him to grab it.

22 Q And why didn't you want him to grab it?

23 A Because if he would have grabbed it, then I could
24 have possibly been the one shot and dead and laying on
25 the floor.

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DIRECT - KADRIN RAJUN SINGLETON

1 Q Okay. And so, when you pick up the gun, what
2 happens?

3 A I kind of -- I point it at him, and I said, *give me*
4 *my money back.*

5 Q Okay. And what does he say? Or what happens next?

6 A I mean, he didn't say nothing. Kenny -- Kenny
7 said, *don't do that, little bro.*

8 Q And so, what was Kenny doing?

9 A I turned around to look at him, he had a gun in his
10 hand, pointed at me.

11 Q So, so, you're standing there.

12 A Um-hmm.

13 Q And Sharrell's right here, right now.

14 A Yes, sir.

15 Q And Kenny is like, over here?

16 A Yeah, right there.

17 Q Sort of kind of behind you and to your side?

18 A Yes, sir.

19 Q And Kenny's got a gun.

20 A Yes, sir.

21 Q And what does he say again?

22 A He told me, *don't do that; don't do that, little*
23 *bro.*

24 Q At that point, did you think that you could leave?

25 A No, sir.

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1 Q What'd you think was going to happen if you turned
2 your back?

3 A I would likely got shot. I mean, at that time, I
4 didn't -- soon as I tried to look back, that's when he
5 charged me.

6 Q So, wait. As soon as you look at Kenny, Sharrell
7 charged you.

8 A Yes, sir.

9 Q So, you couldn't have gotten out.

10 A Right.

11 Q All right. And so, let's say I'm you now, for a
12 second. Okay?

13 A All right.

14 Q And so, I've got the gun. And you look off to the
15 side. And then, Sharrell rushes you.

16 A Yes, sir.

17 Q How does he do it?

18 A Well, like, when I pull out the gun, like, when I
19 grabbed the gun, he kind of like, went down and -- you
20 know?

21 Q Okay.

22 A And --

23 Q And then, what happens?

24 A He kind of like, *whoa, whoa, whoa, whoa*, you know.
25 That's when Kenny said, you know, *don't do that, little*

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1 bro.

2 Q Okay. And when Kenny says, *don't do that, little*
3 *bro*, then what happens?

4 A I looked back, kind of look at him, you know, and
5 soon as I motion and I'm looking at him, soon as I like,
6 turn my head back, he rushes me.

7 Q So, Sharrell was like this.

8 A That's right.

9 Q And then, he just --

10 MR. KIDD: Objection, Judge. Leading.

11 MR. COOPER: Sorry.

12 THE COURT: Thank you. Rephrase your question so
13 as not to be leading.

14 BY MR. COOPER:

15 Q Will you describe -- you testified that he got like
16 this.

17 A Yes, sir.

18 Q Okay. And so then, how does he rush you?

19 A It happened so fast, I just -- he kind of went
20 down, I guess, like this, you know, trying to --

21 Q Okay. So, he just came at you.

22 A Yes, sir.

23 Q And what were you thinking?

24 A It happened so fast, I really didn't have no time
25 to think. I just -- I just reacted and pulled the

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1 trigger.

2 Q Did you want to shoot him?

3 A No, sir.

4 Q Why did you do it?

5 A Because, if I didn't, then, like I said, I could
6 have been the one dead, laying on the ground.

7 Q Do you think that there was a real chance that you
8 might die in that situation?

9 A Yes, sir.

10 Q You can sit back down. So, did you want to shoot
11 Sharrell?

12 A No, sir.

13 Q Why did you do it?

14 A Because I was in fear for my life. I mean, it feel
15 like I had no other choice, and it wasn't really like I
16 -- I planned to shoot him. When it all happened, it
17 happened so fast, it was like a instinct. It was like,
18 reaction.

19 Q Okay. And just to reiterate, what did you think
20 was going to happen if you didn't pull the trigger?

21 A If I didn't, then, possibly, I could have been
22 shot. I could have been dead. I could have been where
23 he's at.

24 Q Okay. All right. Now, walk me through what
25 happens. So, after the shooting?

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DIRECT - KADRIN RAJUN SINGLETON

1 A Like, right after it happened, like -- as --

2 Q So, wait, hang on. So, let me back up. When you
3 -- when he rushes you, and you react and you shoot, --

4 A Um-hmm.

5 Q -- what does Kenny do?

6 A I guess he shot, too.

7 Q Okay. And what happens with Kenny's gun?

8 A I guess it like jammed.

9 Q How do you know that?

10 A Because I know what a gun looks like when it --
11 either when it's jammed, or it's no -- you done shot all
12 of the bullets out of it. It'll be like all the way
13 back, you know. Like, the top of the gun would be back.

14 Q Okay. And so, what did he do? What happened next?

15 A Well, after -- after the shots rang, you know, I
16 was -- I was kind of like in a zone, you know, like, I
17 didn't -- my mind wasn't there at the time, you know.
18 So, I kind of like, fell back on the couch, on the arm
19 of the couch, you know. And at the time, me not knowing
20 this house, what's behind me, I kind of thought -- I got
21 -- I kind of like was in awe of it happening. And I got
22 --

23 Q So, you thought you had gotten shot at first?

24 A Yes, sir.

25 Q Okay. And so then, what happens?

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1 A I got up. I like, kind of jumped up, and I point
2 the gun at him, and he like, *oh, oh, oh*. He throw his
3 gun down on the couch.

4 Q Where did he throw his gun?

5 A On the couch.

6 Q Okay. And then, what happens?

7 A He's like, *oh, no, no, don't shoot me; don't shoot*
8 *me; don't shoot me; don't shoot me*. And I was like, he
9 had his keys in his hand. And I just told him, give me
10 his keys, and he -- he threw the keys to me.

11 Q And why did you want his keys?

12 A So I could leave. So I could have left.

13 Q Did you have any other way to get out of there?

14 A No, sir.

15 Q And so then, what happens?

16 A I grabbed the keys from him, and then I stole a
17 stop. And then we -- in my mind -- like I say, my mind
18 wasn't really there with me, so I still kind of -- I
19 stand -- I stood there for a minute, and I looked -- I
20 saw the weed on the counter. I grabbed the weed off of
21 the counter, and I left.

22 Q And did you take anything else with you from that
23 house?

24 A No, sir.

25 Q So, you took --

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1 A The weed that he weighed out, which was the 90
2 grams.

3 Q Um-hmm.

4 A So.

5 Q And then, what else did you take?

6 A I didn't take anything else.

7 Q Did you take the gun that you shot?

8 A Oh, right. I took the gun. I took the gun that I
9 shot. That's it. And the weed.

10 Q Okay. And where did you all go next?

11 A I drove back to the car that we came in.

12 Q Okay.

13 A And I left the car there, with the keys inside the
14 ignition, and we jumped --

15 A When you say, *we left the car*, whose car is that,
16 that you left behind?

17 A Kenny's.

18 Q Okay. Were you trying to take -- were you trying
19 to steal his car?

20 A No, sir.

21 Q Did you want his car?

22 A No, sir, I didn't. I just wanted to get back to
23 Summerville. I wanted to get back to our vehicle and go
24 back to Summerville.

25 Q Okay. And so, you all get into Chris's car?

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DIRECT - KADRIN RAJUN SINGLETON

- 1 A Yes, sir.
- 2 Q And who drives to Summerville?
- 3 A Chris does.
- 4 Q And where do you all go?
- 5 A We go to my friend's house?
- 6 Q Which friend?
- 7 A Kenny B.
- 8 Q Okay?
- 9 A The one you heard me talking to on the phone call.
- 10 Q Now, I want to talk about the phone call for a
- 11 second.
- 12 A All right.
- 13 Q We heard you say, you know, talking about splitting
- 14 up the marijuana.
- 15 A Um-hmm.
- 16 Q And why is that?
- 17 A I was -- like I said, didn't have no job. That was
- 18 my only source of money, so I really wanted to get as
- 19 much money as possible together, really, you know, for
- 20 my situation.
- 21 Q Okay. And you also made some comment about your
- 22 interview with a detective.
- 23 A Yes, sir.
- 24 Q What were you -- what was that about?
- 25 A I mean, really, out of all honestly, you know, I

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1 tried to fright to him on the phone, like, I was big,
2 you know. I was like, man, the detective interrogate
3 me. I made him look stupid or whatever, you know. And
4 I tried to make it to him like, you know, I was being
5 tough, I guess, you know. But really, I was scared. I
6 just didn't want -- I was trying to act all tough in
7 front of him.

8 Q So, you were just trying to look tough in front of
9 your friend?

10 A Yes, sir.

11 Q Okay. And so, what do you end up doing with the
12 gun?

13 A That next day, you know, me and -- me and Kenny, we
14 talk -- talked about it, and the next day, you know, he
15 told me to just get rid of it. So, I called my friend
16 T.

17 Q Okay.

18 A And he stays out in Hollyville.

19 Q Who is T?

20 A He's a friend who -- not -- well, he's -- he's a
21 cousin to my -- another friend, who was locked up at the
22 time, who I usually go up there with, but he was locked
23 up, so. You know, I had T's number, so I just called T
24 myself.

25 Q Okay. Did you know his real name?

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1 A No, sir.

2 Q All right. And what do you do with the gun?

3 A When I go up there -- I go up there, and I just
4 tell him, I was like, *man, I need you to hold this for*
5 *me.*

6 Q Okay. Is T Craig Thompson?

7 A No, sir.

8 Q Do you know who Craig Thompson is?

9 A No, sir.

10 MR. COOPER: Court's indulgence, your Honor.

11 THE COURT: Take your time.

12 BY MR. COOPER:

13 Q All right. Kadrin, I just want to clarify a couple
14 things. Okay? Make sure that the jury is clear on some
15 stuff. Okay?

16 A Yes, sir.

17 Q Did Kenny get a shot off?

18 A Yes, sir.

19 Q Okay. Did you take your money with you when you
20 left?

21 A No, sir.

22 Q What happened to that?

23 A I really didn't -- I didn't see the money.

24 Q Do you have any idea?

25 A No, sir.

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1 Q Okay. And when Sharrell takes the gun out of his
2 waistband and sets it on the counter, and he says, well,
3 you better take what you came for, why did you grab the
4 gun?

5 A Because I felt like if I didn't grab it, then he
6 was going to grab it.

7 Q Did you think you could just walk out of that
8 situation?

9 MR. KIDD: Objection, Judge. Leading.

10 THE COURT: Overruled. You may answer.

11 BY MR. COOPER:

12 Q Did you think you could just walk out of that
13 situation?

14 A No, sir, I didn't -- I wouldn't feel comfortable
15 turning my back on this man who just pulled out a gun.
16 And the whole time, Kenny had a gun, so ain't no telling
17 what they -- what they had planned. I didn't feel like
18 I could turn my back and walk away, so.

19 Q All right. And just one more time. Okay? Did you
20 want for this to happen?

21 A No, sir.

22 Q Were you trying to rob anyone?

23 A No, sir.

24 Q Why did you shoot?

25 A I really had -- I really felt like I had no other

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1 choice. Like I said, it wasn't -- I didn't plan to
2 shoot no one. It was just more like instinct, you know.

3 Q And instinct because why?

4 A Because I feared for my life.

5 MR. COOPER: Court's indulgence.

6 BY MR. COOPER:

7 MR. COOPER: Kadrin, I don't have anymore questions
8 for you at this time. Will you please answer any
9 questions that Mr. Kidd has?

10 A Yes, sir.

11 KADRIN RAJUN SINGLETON

12 CROSS-EXAMINATION, BY MR. KIDD:

13 Q Now, Mr. Singleton, when your attorney first
14 started talking to you, you said you wanted to tell your
15 story, right?

16 A Yes, sir.

17 Q And that's all it is, is just a story. I'm a
18 little more interested in the facts. All right? That
19 day, your girlfriend's car was broken down; wasn't it?

20 A No, sir.

21 Q It wasn't?

22 A No, sir.

23 Q We don't hear you on that jail call --

24 A She don't -- she doesn't have a car. That's --
25 that was her grandmama car that didn't work.

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1 Q Okay. So, it was car that was broken down, right?

2 A Yes, sir.

3 Q Okay. And it needed to be fixed.

4 A Yes, sir.

5 Q So she could go to work.

6 A Yes, sir.

7 Q So, you needed money.

8 A Yes, sir.

9 Q Okay. You don't have a job.

10 A No, sir.

11 Q So, you get your money by stealing and selling
12 drugs.

13 A No, sir. I don't steal.

14 Q You don't steal? You're a burglar. You're a
15 convicted burglar, right? That's not stealing?

16 A That was seven years ago.

17 Q Okay. Well, you steal then, but sell drugs. So,
18 that's how you get money.

19 A Yes, sir.

20 Q Okay. So, you need money, you're in a pinch, and
21 you need to set up a drug deal, because you need money,
22 right? How much money were you going to pay for this
23 marijuana?

24 A Supposed to been 1,400.

25 Q 1,400. For how many grams?

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1 A 112.

2 Q 112 grams. That doesn't leave you a lot of room to
3 make much money on selling it; does it?

4 A I mean, if -- it really didn't, because I usually
5 don't pay 1,400. I usually pay 1,200. 1,200 or 1,100.

6 Q So, the more you buy, usually, you get to pay less,
7 right?

8 A The more you buy, you get to pay less?

9 Q Yeah, it's like why people shop at Sam's, you know.
10 When you buy in bulk, you get -- pay a smaller price.

11 A It just depends on who you're dealing with. You
12 know?

13 Q I'm not trying to fool you here. I'm just saying,
14 when you buy larger quantities of marijuana, per gram,
15 you pay a smaller price, right?

16 A Right.

17 Q Okay. That's all I'm trying to get. But he
18 wouldn't give you that break on the price; would he?

19 A No, sir.

20 Q And how did you feel about that?

21 A I didn't like it.

22 Q Yeah. You were mad about it, right?

23 A I wasn't really mad about it, but I had no other
24 choice, because I didn't have -- my reliable source that
25 I was getting it from, I didn't have him at the time.

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1 Q But you weren't going to make the money you needed.

2 A I could have -- I could have made the money I
3 needed.

4 Q I'm going to step back and talk about something
5 else for a second. How long ago did this happen?

6 A Two years. It was like 26 months ago.

7 Q Twenty-six months ago. Until today, have you ever
8 told law enforcement or anyone --

9 MR. COOPER: Objection.

10 BY MR. KIDD:

11 Q -- in law enforcement --

12 THE COURT: All right. Counsel?

13 OFF-THE-RECORD BENCH CONFERENCE, OUT
14 OF HEARING OF JURORS. PRESENT: THE
15 COURT, MR. COOPER, MR. KIDD.

16 END BENCH CONFERENCE.

17 BY THE COURT:

18 THE COURT: Hold up one second. I think we've got
19 a -- Mr. Kidd, if you'll just re-phrase your question
20 for me. Thank you.

21 MR. KIDD: I will change my line of questioning
22 somewhat.

23 BY MR. KIDD:

24 Q Do you recall being interviewed by North Charleston
25 Police Department?

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1 A Yes, sir.

2 Q And I believe it was Detective Holt that
3 interviewed you. Do you remember what day that was on?

4 A November the 25th --

5 Q So, is it --

6 A -- like, in the morning, probably like.

7 Q The day that you were arrested?

8 A Yeah. Yeah.

9 Q And I believe he asked you --

10 MR. KIDD: Court's indulgence.

11 BY MR. KIDD:

12 Q He asked you:

13 *Now, why it happened is something*
14 *different. That's why I have you in here*
15 *now, to give you the opportunity to tell*
16 *your side of the story.*

17 That's the question he asked you; wasn't it?

18 A Yes, I -- yes, sir.

19 Q What was your answer?

20 A I don't remember.

21 Q You told him that you didn't have anything to do
22 with it; that --

23 MR. COOPER: Object.

24 THE COURT: Note your objection. I overruled that
25 objection.

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1 BY MR. KIDD:

2 A Yes, I did tell him that I didn't have anything to
3 do with it.

4 Q Told him you weren't even there.

5 A Yes, sir.

6 Q And he said, *this is your opportunity to explain*
7 *yourself*, and you said, *I wasn't even there*.

8 A Yes, sir.

9 Q He asked you where you were, and you said you were
10 at your buddy, Kenny B's, house all day, that night.

11 A Yes, that's what I said.

12 Q You were never even there. Right?

13 A Right.

14 Q That was a lie.

15 A Yes, it was.

16 Q And the only reason you're telling this story now
17 is because you know we've proved that you were there,
18 and you did kill him, right?

19 A Just -- I'm telling the truth now.

20 Q Because if you're going to set up a drug deal or
21 you're going to set up an armed robbery, if you're going
22 to set up an armed robbery, it makes sense to set it up
23 with a drug dealer you've never met before, right?

24 Because then, he doesn't know who you are.

25 A I don't know. I don't -- I don't rob people to

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1 know how you go about the process of robbing somebody.

2 Q Well, it makes sense that a drug dealer's a good
3 target. You've heard of a lick?

4 A Yes, I have.

5 Q What's a lick?

6 A A lick is robbing somebody.

7 Q All right. So, when you set up a lick, it makes
8 sense to do it with someone who doesn't know who you
9 are. Wouldn't that make sense?

10 A It would.

11 Q And a drug dealer is a good target, right?

12 A Yes.

13 Q Because they've got a lot of money and drugs,
14 right?

15 A Right.

16 Q And the good thing about robbing drug dealers is,
17 they don't call the cops, right?

18 A That's not true.

19 Q That's not true?

20 A No, it's not.

21 Q So, you rob a drug dealer who you've never met
22 before, so they don't know who you are. He's got a lot
23 of money and drugs, and he's not going to call the cops.
24 Makes perfect sense for a good opportunity for you to
25 make money, because you needed money right then, because

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1 you don't have a job, right?

2 A I had money. I just didn't have -- I just didn't
3 have weed.

4 Q But you didn't have \$1,500.00 that night.

5 A Yes, sir.

6 Q You didn't go there with any money.

7 A Yes, I actually didn't have 1,500. I had like
8 1,800 in my pocket.

9 Q And so, your testimony is that you want this jury
10 to believe that Kenny shot Sharrell?

11 A Yes, sir. That's what happened.

12 Q Why would Kenny shoot Sharrell?

13 A Kenny was trying to shoot me, but the way it
14 happen, he end up shooting his own cousin.

15 Q And so, Kenny's in the living room, right?

16 A Right.

17 Q And this is the bar that you were talking about.

18 A Yes, sir.

19 Q You're on the living room side with Kenny, right?

20 A Yes. Yes, sir.

21 Q And Sharrell is over here.

22 A Yes, sir.

23 Q How does Kenny shoot Sharrell? You said Sharrell
24 was ducked down.

25 A Okay. Sharrell's ducked down --

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1 DEFENDANT SINGLETON: Permission to stand up, your
2 Honor.

3 THE COURT: You may stand up.

4 A Okay. Sharrell wasn't ducked down right then, at
5 that point. When I pulled the gun off of the counter,
6 that's when he like, *oh*, he kind of came off to the
7 side. Which, now he's not in front of the bar. You see
8 what I'm saying? So, Kenny's like back there, kind of
9 like diagonal to me. So, I hear Kenny say, *don't do*
10 *that, little bro*. So, at that time, like I said,
11 Sharrell's probably like right there. And as I looked
12 back to him as -- all in the same motion in me turning
13 back, he rushes me. I kind of step back and fire the
14 gun.

15 Q So, is Sharrell on the bathroom side of the bar, or
16 -- you know, there's two ways around the bar, right?

17 A Yeah. But we were never on that side. Kenny was
18 the one --

19 Q Which side is this side? Explain it.

20 A This side is the side of the bathroom that you -- I
21 mean, not the bathroom -- to the kitchen. And this side
22 we on, the bathroom's right behind us.

23 Q Let me use the photograph. Which side of the bar
24 are we talking about? This side here or the side you
25 can't see?

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1 A No, sir. No, sir. We're on, yeah, the side you
2 can't see. This is to the kitchen.

3 Q Okay. So, you're saying Sharrell is over on this
4 side.

5 A Yes. Both of us were over on this side, on the
6 side where the -- where the door is, right here.

7 Q So, you're standing -- this is you here, right?

8 A Maybe a little -- maybe a little more like up here.
9 Like this is --

10 Q More to the right?

11 A Like this is like half of the bar, so there's a
12 whole 'nother half.

13 Q All right. So, this is you right here. Better?

14 A Yes, sir.

15 Q Okay. And so, you're saying Sharrell is kind of
16 ducked down over on this side of the bar.

17 A Yes, sir.

18 Q Is that what you're saying?

19 A Yes, sir.

20 Q Okay. And you're saying Kenny is over in this
21 area?

22 A Yes, sir.

23 Q And Sharrell is ducked down.

24 A Yes, sir.

25 Q When do you first shoot Sharrell?

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1 A I don't -- I don't like really remember. Like,
2 when I -- when -- soon as he charge at me, I pulled the
3 trigger.

4 Q Well, how does he charge at you with the bar there?
5 I guess, is what I'm trying to understand.

6 A You say what? How does that what?

7 Q How does he charge at you with the bar right there?

8 A No, he's not -- all right. Like how it is right
9 here on this side, you've got the opening. There's a
10 opening on the other side of it, too. So, where he was
11 kind of like standing right there, and when I grabbed
12 the gun off of the counter, he kind of came over to the
13 side, to the opening.

14 Q I thought you said he was on the other side.

15 A On -- on the opposite side. I can't see that side,
16 so I'm using this side.

17 Q This is the side you're talking about, right?

18 A Exactly.

19 Q Okay. So, did you shoot over top of the bar?

20 A No, sir. Can you -- can you put that picture up
21 there? and I show you exactly. All right. First, he
22 was -- he was standing like right here. I'm on the
23 other side, right here, like over there. Okay. When he
24 put the gun on the counter, and I grab it off of the
25 counter, he kind of came over. So, he's ducking down

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1 like this side of the wall panel on the opposite side.
2 So, he's all the way in the clear opening now. And when
3 I grab -- when I grab the gun off of the counter, and I
4 looked back at Kenny, he charges me. See what I'm
5 saying? So, when he charged me, and the gun --

6 Permission to stand up, your Honor.

7 THE COURT: You may.

8 A -- and -- and the gun hit him, I guess, he -- he --
9 when he fell, he was like this close to me. So, it was
10 like he -- he was almost face-to-face with me, and he
11 just fell over, and he dropped. And Kenny damn-near was
12 standing in this, like -- he almost fell on Kenny.

13 Q All right. So, this is what I want -- this is my
14 point in the question. So, you were standing -- as we
15 said, you were standing in this direction here, right?
16 Generally.

17 A Correct.

18 Q So, Sharrell came at you from this direction here.

19 A Correct.

20 Q Correct?

21 A Correct.

22 Q So, you would have shot in this direction here.

23 A Correct.

24 Q So, your right side would be facing towards the
25 kitchen. Like, if you're standing in this living room,

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1 and Sharrell's coming at you, this way would be the
2 kitchen, right?

3 A Say that -- say that one more time.

4 Q If I'm you in that stick figure, --

5 A Uh-huh.

6 Q -- and I'm pointing a gun at Sharrell, --

7 A Yes, sir.

8 Q -- the right side of you would be to the kitchen,
9 right?

10 A Yes, sir.

11 Q Did you shoot him right-handed, left-handed?

12 A It was my -- actually my left hand.

13 Q It was your left hand?

14 A Yes, sir.

15 Q All right. It still doesn't make a difference.

16 The right side is still towards the kitchen, correct?

17 A Yes, sir.

18 Q So, if a shell casing were projected from that gun,
19 it would go to the right side, right?

20 MR. COOPER: Objection. He has no knowledge.

21 THE COURT: If he knows.

22 A Yes, sir. I'm guessing it would -- it would come
23 from the right side of the gun, so it would be going to
24 the right. But that wouldn't put it in the kitchen.

25 Q Wouldn't put it in the back corner of that room,

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1 either; would it?

2 A I guess not.

3 Q I guess not. Now, when Sharrell, according to your
4 story, put the gun on the counter and said, *get what you*
5 -- what did he say?

6 A *Get what you paid for.*

7 Q *Get what you --*

8 A He said, *get what you pay for.*

9 Q *Get what you paid for.* You could have just left.
10 You had the weed. You'd have been short 200 bucks.

11 A No, I did not -- I did not have the weed in my
12 hand. I already give -- I gave him back the weed to put
13 on the -- on the scale to see how much it was. So, I
14 did not have the weed in my hand.

15 Q So, you could have just --

16 A I just said I grabbed the weed when I left the
17 house, so how I have the weed in my hand?

18 Q Well, you could have just taken your 90 grams, 20
19 grams short, and walked.

20 A Who -- who's to say I could have walked out -- I
21 could have walked out then? This man had a gun behind
22 me. Who's to say I could have walked out? What did he
23 have a gun for?

24 Q On your direct testimony, you didn't know Kenny had
25 a gun at that point.

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1 A Okay. Yeah, I didn't. Okay? But I'm saying now,
2 how would I have known I could have walked out that
3 door?

4 Q Because he's saying, *get what you paid for; get the*
5 *weed and get out*, that's what he's saying. That's what
6 you said, that's what that meant to you.

7 A Okay. But like I said, who's to say I would have
8 made it out of the house? If Kenny has a gun, why he --
9 why does he have a gun? He's not the one serving me the
10 marijuana. So what is he doing behind me with a gun?

11 Q You testified on direct you didn't know he had a
12 gun at that point.

13 A Okay. I didn't know that he had a gun. But I'm
14 just saying, after the fact, how -- how do I know that I
15 would have made it out of the house? Oh, okay. I could
16 have left. I could have walked out the house and left,
17 but why do I have a right to leave out the house and
18 leave when he got my money?

19 Q You know because he put the gun on the counter, and
20 he didn't point it at you.

21 A Okay. So --

22 Q He was saying, *get what you came for and get going*.

23 A Okay. So, I'm supposed to leave?

24 Q Yeah.

25 A How am I supposed to leave when he got my money?

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1 Q Oh, so that's why you stayed. That's why you
2 grabbed the gun --

3 A He has --

4 Q -- because he had your money.

5 A He had --

6 Q Not because you were scared for your life.

7 A He has my money, but at the time, in my head, I
8 grabbed the gun, because I didn't want him to grab the
9 it. After that, it wasn't -- it wasn't even about the
10 money when he presented the gun.

11 Q So, when he put the gun on the counter, it wasn't
12 about the money. So, why didn't you leave? He said,
13 *get what you came for and go.*

14 A I just -- I just didn't feel comfortable turning my
15 back on him.

16 Q You didn't feel comfortable leaving.

17 A No, sir.

18 Q So, you felt more comfortable grabbing someone
19 else's gun and starting a gun fight. That was more
20 comfortable to you --

21 A It wasn't --

22 Q -- than leaving when he told you to leave.

23 A It wouldn't -- it wouldn't be a gun fight. A gun
24 fight is two separate guns. I didn't have a gun. He
25 was the only one with a gun.

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1 Q When you grab a gun, that's a gun fight, right?

2 A But he pulled out the gun. He initiated the
3 problem. I just wanted my weed and go back to
4 Summerville.

5 Q Right.

6 A Right. That's all I wanted.

7 Q You just wanted your weed.

8 A That's right.

9 Q And he said, *take it and go*, and you grabbed the
10 gun instead, because you didn't want to get shorted
11 \$200.00, and you were offended about how much he was
12 charging you in the first place.

13 A Like I said, when he pulled out the gun, it wasn't
14 -- it wasn't really about the money anymore. It was
15 about him grabbing the gun or me grabbing the gun.

16 Q But you could have just left.

17 A I could've just left.

18 Q You could have walked away.

19 A I could have -- right. And he could have just give
20 me what I paid for. He got a whole big bag of weed.
21 Why didn't he just give me what I paid for?

22 Q But right, you could have just walk away.

23 A Right.

24 Q But you weren't going to get what you paid for if
25 you just walked away.

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1 A Right.

2 Q But you could have walked away.

3 A I could have.

4 Q And you didn't.

5 A It's possible I could've, but who's to say I would
6 have made it out the door?

7 Q On your direct, Mr. Cooper was talking about the
8 money, that you were talking about dividing up on that
9 phone call with Kenny B.

10 A Yes, sir.

11 Q You said you weren't -- or earlier weren't saving
12 that money for an attorney.

13 A Yes, sir.

14 Q That was a lie.

15 A How was that a lie?

16 Q Because specifically in that phone call, you say,
17 give money to your girlfriend to get the car fixed --

18 A Right.

19 Q Kenny, you keep an ounce for yourself.

20 A I'm going to explain to you right now. The whole
21 purpose of me getting her with a car, I have no use for
22 that car. I'm locked up. So, my whole purpose of her
23 getting the car, so she can get back and forth to work,
24 and have a steady income to -- to be able to put money
25 aside for the lawyer.

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1 Q And putting money on phones here and phones there
2 to communicate with people.

3 A Yeah, if necessary, right.

4 Q It wasn't nothing about getting a lawyer.

5 A Okay. I'm pretty sure you done listened to my
6 phone calls, and you hear me in my phone calls saying,
7 you need to hold onto this money so you -- so I can get
8 this lawyer.

9 Q How many hours of your phone calls do you think I
10 listen to?

11 A I don't know. I don't know the process of your
12 all's listening. I don't know.

13 Q How many times, in all those hours of your phone
14 calls that I've listened to, do you say, *it was kill or*
15 *be killed*. Not once; was there?

16 MR. COOPER: Objection.

17 A I --

18 THE COURT: Overruled.

19 BY MR. KIDD:

20 A Why would I -- why would I -- I mean, I didn't -- I
21 wasn't talking about my case on the phone.

22 Q Not once did you say it was self-defense in those
23 phone calls.

24 A I did not talk about my case, period, on the phone.
25 So, why would I be saying it was self-defense or it was

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1 kill or be killed?

2 Q And then, afterwards, --

3 A Yeah.

4 Q -- what's the first thing you do the next day? You
5 go and you get rid of the evidence, right?

6 A Yes, sir.

7 Q Honest answer. And then, on the 25th, you're
8 riding around in a stolen car, right?

9 A Yes, sir.

10 Q With stolen tags, because you don't want people to
11 find you.

12 A Like I said, I didn't know the tag was stolen. I
13 didn't have a car of my own, and that was the only
14 source of, like, transportation I had, so that's -- I --
15 I got -- I took the car.

16 Q But you knew the police were looking for you,
17 right?

18 A Yes, sir.

19 Q Because you knew Chris had been arrested.

20 A Yes, sir. But I didn't know I was wanted for
21 murder. I actually told my parents I was involved in a
22 shooting, so I don't know exactly what was said.

23 Q But you didn't go turn yourself in and talk to
24 anybody.

25 A No, sir. No, sir.

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1 Q You were riding around in a stolen car with stolen
2 plates.

3 A Yes, sir.

4 Q And when you got blue-lighted, you ran, right?

5 A Yes, sir.

6 Q Because you didn't want to get caught.

7 A Yes, sir.

8 Q And the first thing you do is, you throw your cell
9 phone and the drugs as you're running, right?

10 A Yes, sir.

11 Q Because you're worried about the police finding
12 that cell phone, right?

13 A I had everything in a bag already together, so.

14 Q But you could hear on that jail call, you're
15 obviously concerned about the police finding your phone,
16 right?

17 A No, sir. You -- you hear me concerned about the
18 weed and the cocaine. I didn't say nothing about the
19 phones. When he asked me what's in it, I told him the
20 phones were in it. But you don't hear me concerned
21 about the phone.

22 Q So, the day after that first call we listened to,
23 we listened to another call that you made with Kenny B.
24 And you told him:

25 *And my phones are in there, too, man,*

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1 *both of my phones. Damn, he needs to find*
2 *that.*

3 You told him that, right?

4 A Yes, sir.

5 Q Because you're worried about the police finding
6 your phones, right?

7 A Okay. That was the day after. If I was really
8 concerned about my phone, that would have been the first
9 thing I told him, *man, you need to get those phones out*
10 *that bag.* The day after, after I sat and thought about
11 it, I, yeah, my phone's in there. Okay, I want you to
12 get my phone.

13 Q Because you're worried about your phone, because
14 you know they're going put you at the murder scene.

15 A When you -- exactly. Yeah, you right. I didn't
16 want to be put at the murder scene. That's what you
17 trying to get at. I did not want to be put at the
18 murder scene. That's why I ran from the police.

19 Q Because it's a murder scene.

20 A Right.

21 Q All right. And so, after you shoot Sharrell,
22 multiple times, you don't just run out of the house.

23 You make sure to get what you came for, right?

24 A I mean, if that's the way you want to put it in --

25 Q How do you want to put it?

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1 A -- in your words.

2 Q Put it in your words.

3 A I mean, like I say, I was -- I just shot somebody.
4 I don't just shoot people randomly. I'm not no killer.
5 I don't just go and kill nobody, you know? I may sell
6 drugs, but that don't mean I'm a killer. So, when the
7 shots rang out, it wasn't something normal to me. It
8 had me in a zone at the same time. My ears ringing. I
9 was just zoned out, you know. So, I grabbed the keys
10 from him. He threw me the keys, and you know, I was
11 still kind of like, in a zone. And I just -- I looked
12 around and I saw the weed, and yeah, I grabbed the weed.

13 Q Because that's what normal people do after they
14 kill someone is think, what else can I get out of this,
15 correct?

16 A I mean, if that's the case, I would have took the
17 money off the counter, the money on the chair, the weed
18 under the bar. I would have -- you know. Normal
19 people, yeah. Normal -- a person who robs and kills
20 somebody, if I came here to rob them, why would I just
21 take what I paid for? I didn't take anything else.

22 Q According to you.

23 A According to -- according to Kenny, too.
24 Yesterday, Kenny testified and said I just took the bags
25 of marijuana that was weighed out on the scale. Your

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1 witness, he said that hisself.

2 Q Actually, my witness said you took everything off
3 the top of the bar.

4 A No, he didn't. He said I took the bags,
5 specifically. If the jury can -- if you've got that on
6 record, the jury can listen to that. He said, I only
7 took the bags. You asked him, what did he take; what
8 did I take. And he said, the two bags that Sharrell
9 weighed out.

10 Q Where did the cocaine come from that you threw when
11 you were running that night?

12 A I -- I purchased -- I purchased that in Holly --
13 when I was in Hollyville.

14 Q Did you purchase that. Did you trade the gun or
15 something?

16 A No, sir.

17 Q No? You just gave the gun away for free, because
18 that's the kind of guy you are.

19 A I mean, I didn't -- I didn't just give it away. I
20 told him to hold onto it for me.

21 Q Well, that's what is -- that's not very smart; is
22 it?

23 A How is that? Why is that not --

24 Q You kill someone, you're trying to get rid of a
25 murder weapon, and you just say, just hold onto this for

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1 me?

2 A I mean, I -- I -- it was probably not really smart,
3 but at the time, I'm thinking, I stay in Summerville;
4 he's all the way in Hollyville. Okay? I just want to
5 really to get away from the situation. So, yeah, it
6 wasn't smart, but that's what I did.

7 Q So, you just drove all the way up to Hollywood.

8 A It's Hollyville.

9 Q Holly Hill, excuse me.

10 A No, Hollyville. I was in Hollyville.

11 Q It's actually Holly Hill, I believe. So, you drive
12 all the way up there just to give someone the gun to
13 hold for you.

14 A Yes, sir.

15 Q And nothing in return for it.

16 A No, sir. I wasn't trying to sell it. I just told
17 him to hold it.

18 Q Why didn't you toss it off a bridge, or throw it in
19 a marsh, or something like that?

20 A I don't know.

21 MR. KIDD: Court's indulgence. Judge, may we
22 approach?

23 THE COURT: You may.

24 OFF-THE-RECORD BENCH CONFERENCE, OUT

25 OF HEARING OF JURORS. PRESENT: THE

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1 COURT, MR. KIDD, MR. LIETZOW, MR. COOPER,

2 MS. EHRLICH.

3 END BENCH CONFERENCE.

4 BY MR. KIDD:

5 Q Now, I just want to touch back on something you
6 said a minute ago, because when I asked you a question,
7 you said you don't rob people; when, in fact, you've
8 been convicted of robbing people before, right?

9 A Yes, sir.

10 Q What was that conviction?

11 A I mean, from my understanding, what happened, I
12 thought the Judge said that I didn't have to -- it was a
13 felony.

14 Q Yeah, but you were convicted of strong-armed
15 robbery, right?

16 A Uh-huh. Yes, sir.

17 Q And that's taking with force, threats, and
18 intimidation, right?

19 A Yes, sir.

20 Q When was that?

21 A 2008.

22 Q I want to ask a couple more questions, and I'll be
23 done. Back when you were interviewed by Detective Holt
24 again, in that interview, you laughed.

25 A I laughed?

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1 Q You laughed. Do you recall that?

2 A No, sir, I don't.

3 Q That interview only lasted five minutes long,
4 right?

5 A I guess.

6 Q And when he was describing what happened in that
7 house that night, you laughed. Do you remember that?

8 A I actually don't. I don't remember that whole
9 interview word-for-word.

10 Q Nothing really funny about a man losing his life;
11 is it?

12 A No, sir.

13 MR. KIDD: I don't have any further questions, your
14 Honor.

15 THE COURT: Mr. Cooper.

16 MR. COOPER: Thank you, your Honor. Court's
17 indulgence.

18 THE COURT: Take your time.

19 MR. COOPER: May it please the Court?

20 THE COURT: Yes, sir.

21 COURT REPORTER: I'm sorry, I didn't hear what you
22 said.

23 MR. COOPER: May it please the Court?

24 KADRIN RAJUN SINGLETON

25 RE-DIRECT EXAMINATION, BY MR. COOPER:

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RE-DIRECT - KADRIN RAJUN SINGLETON

1 Q All right. Kadrin, the Solicitor hit on something
2 calling it a murder scene. Did you commit a murder?

3 A No, sir.

4 Q Did you plan to do any of this?

5 A No, sir.

6 Q When everything's -- starts falling apart, how
7 quickly does all that happen?

8 A It's fast. I can't give no, like, specifics. I'm
9 saying it just happened fast.

10 Q Everything's happening quickly?

11 A Quickly.

12 Q And when Sharrell takes the gun out and puts it on
13 the counter, do you have either your money or the
14 marijuana at that point?

15 A No, sir.

16 Q Who has that stuff?

17 A He does.

18 Q Okay. And where is Kenny standing, at that point?

19 A He's, like, kind of behind me.

20 Q Okay.

21 A Caddy.

22 Q So, could you really just walk away?

23 A No, sir.

24 Q When Sharrell pulls the gun out of his pocket, do
25 you think there's any question he's willing to use that?

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1 A No, sir. He pulled it out, and, you know, in the
2 -- in the midst of that situation, most likely, he
3 willing going to use it, because he's mad that I'm not
4 leaving, I guess, from, you know, leaving when he wants
5 me to, so.

6 Q He was basically trying to take your money and keep
7 the marijuana.

8 A And keep the marijuana, yes. So, he was actually
9 trying to rob me -- strong-arm rob me.

10 Q Okay. Now, I just want to clarify for the jury
11 about some of the positioning and all, and how it all
12 went down, so, that way, it's clear. And we'll imagine
13 that this is the gap. So, this is the bar top. Okay?

14 A Yes, sir.

15 Q And the podium is the edge of the bar. And this is
16 the gap that goes back to the bathroom, where you all
17 are standing.

18 A Yes, sir.

19 Q And initially, the drug transaction's happening on
20 top of the counter?

21 A Yes, sir.

22 Q Okay. And so then, you said that Sharrell comes
23 around through the side, through this opening?

24 A After I grabbed -- after I grabbed the gun off the
25 counter?

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1 Q Right.

2 A Yes, sir. Like, he -- you mean, after -- after he
3 put it on the scale and I looked at it, he was -- we
4 were kind of like almost face-to-face. Like, both of us
5 were kind of at the edge -- at the edge of the bar.
6 Like, where you standing, I was on the opposite side.

7 Q Okay.

8 A Um-hmm. Yes, sir.

9 Q So, you're here?

10 A Yes, sir.

11 Q He's here.

12 A Yes, sir.

13 Q Okay. And when he's coming at you, where is he
14 coming from?

15 A He's coming from more of over from the wall. Like,
16 when I grabbed the gun -- when I grabbed the gun off of
17 the counter, he kind of stepped to the side. So,
18 clearing his way straight to me.

19 Q So, he comes over here.

20 A Yes, sir.

21 Q Okay. And then, when he is here, what happens?

22 A Like I say, I turned around. I heard Kenny say,
23 *don't do that, little bro.*

24 Q And what's Kenny got in his hand?

25 A A gun.

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1 Q Okay. Did you think that Kenny may use the gun at
2 that point?

3 A Yes, sir.

4 Q Did he, in fact, use the gun?

5 A Yes, sir.

6 Q And what was he trying to do with it?

7 A He was trying to shoot -- most -- I'm guessing,
8 most likely, he's -- he see -- you know, I grabbed the
9 gun and pointed it at his cousin, so he's going to pull
10 out a gun, you know, so -- for me not to shoot his
11 little cousin. He was trying to shoot me, but I just,
12 you know, by God's grace, I stepped back, and I missed
13 the bullet, and it hit his own cousin.

14 Q And so, you're here, and how does Sharrell come?
15 From through here?

16 A Yes, sir.

17 Q All right. He's not behind the bar when it
18 happens.

19 A No, sir.

20 Q The Solicitor went through some questions about
21 drug dealers being good targets and things like that.
22 Did you know at all what was going to be in that house
23 at all?

24 A No, sir. Like I said, I thought everything was
25 going down at Pizza Hut.

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1 Q Did you know Sharrell at all?

2 A No, sir.

3 Q Did you know if he would have anything?

4 A No, sir.

5 Q Your assumption was, the deal was going down at
6 Pizza Hut. .

7 A Yes, sir.

8 Q Did you bring a gun?

9 A No, sir.

10 MR. COOPER: Court's indulgence, your Honor.

11 THE COURT: Yes, sir.

12 MR. COOPER: Thank you, your Honor.

13 THE COURT: Mr. Kidd.

14 KADRIN RAJUN SINGLETON

15 RE-CROSS-EXAMINATION, BY MR. KIDD:

16 Q So, just so I get this straight. That's Exhibit 8.
17 So, you were standing where? About right here?
18 According to your testimony a minute ago?

19 A No.

20 Q Well, here. Let me clear -- indicate where you
21 were standing.

22 A It was more of, I mean, in front of this picture,
23 looking at the picture, that would be like half of the
24 bar. So, I wasn't really like, right there. I was
25 probably like --

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- 1 Q About right there?
- 2 A Yes, sir.
- 3 Q Okay. And indicate where Kenny was.
- 4 A Kenny was standing like in this region right here.
- 5 Q Kenny's right there.
- 6 A Yes, sir.
- 7 Q So, you're saying Sharrell would have come around
- 8 this way?
- 9 A Yes, sir.
- 10 Q Okay. And so, Sharrell -- I mean, Kenny would have
- 11 also been pointing the gun in the same direction that
- 12 you were.
- 13 A Yes, sir.
- 14 Q Which also would mean the shells would eject to the
- 15 right.
- 16 A Yes, sir. That would explain why there's a shell
- 17 casing under him, because Kenny was standing right
- 18 there. He shot the gun, and which was a .9 millimeter.
- 19 That explains why there's a shell casing under him.
- 20 Q Well, the gun you grabbed off the counter, though
- 21 --
- 22 A Was a .40.
- 23 Q Was a .40, right?
- 24 A Yes, sir.
- 25 Q And the shell casing under the body was a .40, and

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1 that was this gun right here, right?

2 A Yes. Yes, sir.

3 COURT REPORTER: I'm sorry, I didn't hear.

4 A I said, yes, sir.

5 Q And you just testified a minute ago, you didn't
6 know what he had, what the victim would have had, but
7 you knew you were going to buy drugs, so you knew he had
8 drugs.

9 A Yeah, I knew he had it. Yeah, I knew he had a
10 quarter-pound, at least.

11 Q At least.

12 A Yes, sir.

13 Q Right? Which is, you know, fourteen, fifteen
14 hundred dollars' worth of marijuana, significant. So,
15 you knew he had something, right?

16 A Yes. Yes, sir.

17 Q Okay. All right. So, when Sharrell rounds this
18 corner, and you're standing where that X is, right?

19 A Yes, sir.

20 Q How close is he -- how close is he to you when he
21 gets shot, when you shoot him?

22 A I don't -- I don't -- I don't remember, sir. Like,
23 how close was he when I pulled the trigger?

24 Q Yeah.

25 A He was -- he was, I don't know, I guess, like,

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1 three -- two, three feet away.

2 Q Two or three feet away. All right. So, when he
3 rounds this corner, okay?

4 A Yes, sir.

5 Q So, he's coming around this bar. You're standing
6 right here.

7 A Well, can you use that side, cause --

8 Q Yeah, sure.

9 A -- that's more -- yeah.

10 Q Yeah, you're correct. So, you're standing here,
11 right?

12 A Yes, sir.

13 Q And he's coming around this corner, coming at you,
14 right?

15 A Like, he's -- I said he wasn't -- he wasn't around
16 the corner. He was already right there. He was already
17 -- because it's way -- to me, he was already clear. He
18 didn't have to come around the corner.

19 Q At some point, he comes around the corner. I'm not
20 trying to --

21 A When I grabbed the gun off the counter, that when
22 he -- yeah, he --

23 Q So, he ducks down like this.

24 A He kind of ducks.

25 Q And he's coming around the corner, right? Like

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1 this?

2 A He -- like I say, we were -- we were already almost
3 face-to-face. So, he didn't really have to come around
4 the corner. He just had to step to the side. You know?

5 Q So, he was already like this?

6 A Like, if you were standing on the other side of the
7 podium, like, half --

8 Q Right. So, this is him weighing out the marijuana.
9 Okay?

10 A Yeah, he come over just --

11 Q Puts the gun on the counter, right?

12 A Yes.

13 Q You grab it, right? He ducks down --

14 A No.

15 Q -- and starts coming around the corner.

16 A No. I mean, --

17 Q No? Well, tell me.

18 A He's not directly behind the bar. Like, he's like,
19 this is the bar. He's -- half his body may be like kind
20 of half behind the bar, and the other half --

21 Q So, like this right here.

22 A He's about just like that.

23 Q Okay.

24 A And I'm like that on the other side.

25 Q And you're like that on the other side.

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- 1 A Yes, sir.
- 2 Q All right. The gun's on the counter.
- 3 A Yes, sir.
- 4 Q You grab it..
- 5 A Yes, sir.
- 6 Q He ducks down, starts coming around the bar.
- 7 A Yes, sir.
- 8 Q Right?
- 9 A Yeah, I mean, you keep saying coming around the
- 10 bar. He didn't have to --
- 11 Q Well, tell me.
- 12 A He just stepped to the side. He was already --
- 13 Q Just like this?
- 14 A Yeah, it was just like, you know, he didn't have to
- 15 come around no corner.
- 16 Q Okay. So, when did you start shooting? About
- 17 right here?
- 18 A When he rushed me, he came to me. When he -- when
- 19 he --
- 20 Q So, when he came into the living room?
- 21 A I mean, the house is but so big, like.
- 22 Q Well, I know we're talking about a series of maybe
- 23 two steps here. I'm just trying to get where he was, in
- 24 relation to this bar when you pulled the trigger. Was
- 25 he --

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1 A When I pulled the trigger --

2 Q Was he stepped back? Was he even with it? Was he
3 turning the corner facing you?

4 A You keep saying -- he was already facing. When he
5 stepped to the side, he was already facing me.

6 Q And that's when you started shooting?

7 A No, sir. That's not when I started shooting.

8 Q Well, when did you start?

9 A I didn't shoot until I turned around, and I looked,
10 and, you know, I -- I kind of -- I hear him coming at me
11 at the same time. Like, soon as I turned around, he's
12 like, he's charging at me. I pull the trigger. He's
13 damn near face-to-face with me when he drops, and he
14 just dropped. Turned to the side and dropped.

15 Q And here's my point. How, when he's rounding this
16 corner and coming at you, is he shot in his right side?

17 A Because I had the gun in my left hand.

18 Q So, he was still two or three feet away from you at
19 the time.

20 A I don't -- I don't -- I guess he was like, two,
21 three feet. I don't recall exactly how far we were from
22 each other, you know. It was -- he wasn't that far from
23 me, though.

24 Q How does he end up like that, on his back?

25 A Like I say, he -- he -- if I'm like, right here,

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1 you know, approximately, probably over a little bit
2 more, he was like, facing -- he's coming at me like
3 this. And when he gets damn near face-to-face with me,
4 he just kind of like, twirls over and drops, and he
5 ended up like that.

6 Q So, how would that explain, though, how he got shot
7 through the back of his left arm?

8 A When Kenny -- must -- had to have been Kenny then.
9 If he's coming at me, --

10 MR. COOPER: Objection. Lack of personal
11 knowledge.

12 THE COURT: If he knows, he can answer.

13 MR. COOPER: Asked and answered, as well.

14 A Can I --

15 THE COURT: If he knows, he can answer it. I'll
16 let him answer it.

17 BY MR. KIDD:

18 A If he's coming -- if he got a bullet wound in his
19 left arm, which would be on this side, I shot him on
20 this side of his body. Then, if Kenny shoots him,
21 thinking, you know, I was standing, like, right here,
22 but I kind of backed up. So, he shot trying to hit me,
23 and end up hitting him in his arm.

24 Q You were here for the pathologist's testimony,
25 right?

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1 A Right. Right, I was.

2 Q And she testified that the bullet went in the back
3 of the left arm and out the biceps.

4 A Right.

5 Q I'm wondering how that makes sense with what you're
6 testifying to right now.

7 A I don't know. I mean, what are you saying? Like,
8 how does it make sense?

9 Q Well, --

10 MR. COOPER: Your Honor, he's not an expert.

11 A That's not my call. I mean, if he's coming at me
12 --

13 BY THE COURT:

14 THE COURT: Hold on. There's an objection. I need
15 to rule.

16 A Oh, I'm sorry, I'm sorry, I'm sorry, your Honor.

17 THE COURT: Thank you.

18 MR. COOPER: He's not an expert.

19 THE COURT: I've got it, Mr. Cooper. Mr. Kidd, I'm
20 sustaining that objection. Ask another question.

21 MR. KIDD: I'll move on, your Honor.

22 BY MR. KIDD:

23 Q Do you know where you shot Sharrell?

24 A I mean, --

25 Q Do you know which of those bullet wounds were

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1 caused by you?

2 A Like, from looking -- looking at the, you know, the
3 autopsy and the pictures, I'm -- I'm guessing I -- I do
4 know.

5 Q Which ones?

6 A It would be the ones in his left side, and probably
7 in his left -- well, that would be his right side, his
8 right side is my -- on his right side. If he got hit in
9 his right -- I had the gun in my left hand. He got hit
10 in his right side, in the right side of his mouth. So,
11 it was probably the two bullets in the side, and the one
12 in his mouth. And the one that hit him on his left side
13 his arm was the one that Kenny shot.

14 Q Okay. So, when you fired those shots, was there a
15 pause in between, or were they in quick succession?
16 How'd that go?

17 A Yes, it was like -- I mean, I don't specifically
18 don't remember, but I had -- I mean, it wasn't no pause.
19 It was kind of like, pow. Pow, pow. Pow, pow. Like,
20 you know I don't -- I don't remember.

21 Q I don't know how you forget a moment like that.

22 A I mean, it happened so fast. I'm supposed to
23 remember exactly, like, how the shots -- they weren't in
24 no -- how you try to say I shot him, and then, I went
25 and grabbed the weed, and then I shot him. It wasn't

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1 like that. It was all at one time.

2 Q Well, and that's, I guess, my point. So, you're
3 saying that you shot -- all the shots you fired were at
4 roughly the same time? It was like, pow, pow, pow.

5 A Right.

6 Q And how many times did you shoot?

7 A I'm guessing, I mean, at the time, I did not know
8 how many times I pulled the trigger. I just pulled it.
9 But I'm guessing three -- guessing three shots.

10 Q Did your gun jam?

11 A No, sir. No, it didn't. I mean, it wasn't my gun,
12 but it was the gun that I grabbed. His gun I grabbed
13 off the counter. I don't remember -- it didn't jam.
14 Kenny's gun the one that jammed.

15 Q You remember Kenny's gun jamming, but you don't
16 know how many times you shot.

17 A Yes, sir.

18 Q So, you don't know T's name, who lives in
19 Hollyville?

20 A No, sir. God bless the days he passed away.

21 Q But you don't know his name?

22 A No, sir. I don't know his -- his government name.

23 Q What's your non-government name?

24 A Shine G.

25 Q Does that stand for something?

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1 MR. COOPER: Objection.

2 THE COURT: What's the basis?

3 MR. COOPER: May we approach?

4 THE COURT: You may.

5 OFF-THE-RECORD BENCH CONFERENCE, OUT

6 OF HEARING OF JURORS. PRESENT: THE

7 COURT, MR. KIDD, MR. LIETZOW, MR. COOPER,

8 MS. EHRLICH.

9 END BENCH CONFERENCE.

10 THE COURT: Mr. Kidd, move on.

11 MR. KIDD: Court's indulgence. Let me make sure I

12 --

13 THE COURT: Take your time.

14 BY MR. KIDD:

15 Q You stated on, I guess, re-direct, that they were
16 trying to strong-arm rob you.

17 A Yes, sir.

18 Q If they were going to rob you, why would they bring
19 the marijuana in the first place?

20 A That's a question you got to ask him.

21 Q It doesn't make sense, does it?

22 A It doesn't. I mean, he wasn't -- he wasn't trying
23 to -- I mean, I don't know what he was trying to do, but
24 he wasn't trying to give me what I paid for.

25 Q So, you were going to take it.

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1 A I was going to take it? How do you mean, I was
2 going to take it?

3 Q So, you were going to take it.

4 A I wanted what I paid for, like any reasonable
5 person would want what they paid for.

6 Q And when he wasn't going to give it to you, you
7 were going to take it. That's your story.

8 A I mean, that's your -- that's your wording of it.

9 MR. KIDD: I have no further questions, your Honor.

10 BY THE COURT:

11 THE COURT: You may step down. Do you all need a
12 break?

13 THE FOREPERSON NODDED.

14 THE COURT: All right. We'll take a comfort break.
15 Please let the bailiffs know when you're ready to
16 continue. Please remember all my admonition. Please
17 rise for the jury.

18 JURORS LEAVE COURTROOM 12:57 P.M.

19 THE COURT: Please be seated. How many witnesses
20 do you have?

21 MR. COOPER: Your Honor, I have two other
22 witnesses, a chain witness, and then the gunshot residue
23 expert.

24 THE COURT: How long do you anticipate those
25 witnesses taking?

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1 MR. COOPER: The gunshot residue will take -- I
2 tend to run long, so I don't know. I think twenty to
3 thirty minutes, she should take.

4 THE COURT: Okay. And is she here right now?

5 MR. COOPER: Yes, your Honor.

6 THE COURT: Okay. And who else?

7 MR. COOPER: That'll be all.

8 THE COURT: The gunshot. How long will the chain
9 be?

10 MR. COOPER: Oh, the chain is one witness. State
11 has stipulated to the middle of chain.

12 MR. KIDD: And I'll be extremely brief with both of
13 them.

14 THE COURT: All right. Let's articulate, on the
15 record, your, you know, the issue with the strong-armed
16 robbery that the defendant opened the door, and I
17 allowed inquiry into that charge. Do you wish any
18 further -- do you wish to place anything on the record
19 regarding that?

20 MR. COOPER: Your Honor, just as I argued at the
21 Bench, my understanding of the line of questioning was,
22 he was responding in terms -- as my memory, he was
23 responding to reflect the line of questioning in terms
24 of the incident that night and what happened that night.
25 And Mr. Singleton said, *I don't rob people*, in reply to

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1 the State's directly implying you went there just to rob
2 these guys, and that was your plan and you intended to
3 do a murder. And I think he was specifically speaking
4 about the incident that happened that night and the
5 circumstances that occurred then, instead of generally
6 speaking he doesn't rob people.

7 THE COURT: I found that he opened the door, and
8 allowed the State further examination on the applicable
9 charge. Note your exception to that ruling. I believe
10 you did object in a timely fashion.

11 The next issue that I wrote down that we needed to
12 place on the record, if you wish to articulate anything
13 on the record, that I did not allow you to go any
14 further into Shine G.

15 MR. KIDD: No, ma'am.

16 THE COURT: All right. Thank you. Is there
17 anything else we need to place on the record?

18 MR. COOPER: Not at this moment, your Honor.

19 THE COURT: All right. Please, the Court we'll
20 take ten minutes. Let me just see you all for
21 scheduling, this way. Thank you.

22 MR. COOPER: Thank you.

23 OFF THE RECORD 12:59 P.M.

24 BACK ON THE RECORD 1:11 P.M.

25 BY THE COURT:

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1 BAILIFF: Order in the Court. All rise.

2 MR. COOPER: Your Honor, the State and I discussed
3 this. The State has no objection to me leading
4 Detective DeSheers through the chain dates and time.

5 THE COURT: Perfect. All right. Let's bring in
6 the jury.

7 JURORS ENTER COURTROOM 1:12 P.M.

8 BAILIFF: All jurors present, your Honor.

9 THE COURT: Thank you. Please be seated. Ladies
10 and gentlemen, the plan at this time is, there are two
11 witnesses that should take less than 45 minutes, and
12 then we are going to break for lunch. And at that
13 point, the two witnesses will be the last of the
14 testimony that you would hear. And then, we will be in
15 a position to hear closing arguments and charge you the
16 law applicable to this case. So, that is the plan at
17 this time. Please call your next witness.

18 MR. COOPER: Thank you, your Honor. May it please
19 the Court? Michael Cooper. We call Detective Jerome
20 DeSheers.

21 THE COURT: Sir, please come forward and be sworn.

22 COURT CLERK: Sir, if you would, please place your
23 left hand here. Raise your right. Do you swear or
24 affirm the testimony you will give the Court and the
25 jury in the trial of this case be the truth, the whole

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DIRECT - DETECTIVE DESHEERS

1 truth, and nothing but the truth, so help you God?

2 DETECTIVE JEROME DESHEERS: Yes, sir.

3 COURT CLERK: You may be seated.

4 DETECTIVE JEROME DESHEERS: Thank you.

5 COURT CLERK: Sir, once seated, if you would,
6 please state your first and last name, and spell your
7 last loud and clearly into the microphone, for the
8 record.

9 DETECTIVE JEROME DESHEERS: Jerome DeSheers,
10 D/e/s/h/e/e/r/s.

11 THE COURT: Mr. Cooper, your witness.

12 MR. COOPER: Thank you.

13 DETECTIVE JEROME DESHEERS

14 DIRECT EXAMINATION, BY MR. COOPER:

15 Q Detective DeSheers, good afternoon.

16 A Good afternoon.

17 Q Do this is a little bit unorthodox, and try to get
18 through it quickly. Okay?

19 A Yes, sir.

20 Q You work at North Charleston Police Department as a
21 detective?

22 A Yes, sir.

23 Q And you were involved with the investigation
24 regarding the shooting incident at Cambridge
25 Avenue?

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DIRECT - DETECTIVE DESHEERS

- 1 A Yes, sir.
- 2 Q And one of your duties in regards to that
- 3 investigation was collecting gunshot residue?
- 4 A Correct.
- 5 Q And you collected gunshot residue from an
- 6 individual named Natassia or Tasha Nelson?
- 7 A Yes, sir.
- 8 Q And you did that at the scene?
- 9 A Yes, sir.
- 10 Q And that was at, in your report, 2257.
- 11 Q Approximately. Yes, sir.
- 12 Q And what time is that in layman's terms?
- 13 A It would be 10:57. Between -- well, can you give
- 14 me the hour again, please.
- 15 Q It's 2257.
- 16 A It would be 10:57 p.m.
- 17 Q Okay. And Ms. Nelson had been in the residence.
- 18 A Yes, at one point.
- 19 Q Okay.
- 20 A From her statement, yes.
- 21 Q After the shooting.
- 22 A After -- yes, after the shooting.
- 23 Q After the shooting, she was in the residence.
- 24 A Yes, sir.
- 25 Q Okay. And that was collected, I guess,

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DIRECT - DETECTIVE DESHEERS

1 approximately ten minutes after the shooting happened.

2 A It'd be safe to say. Yes, sir.

3 Q Approximately.

4 A Approximately, yes, sir.

5 Q Okay. And then, you also had an occasion to obtain
6 gunshot residue -- and just real quick, when you test
7 for gunshot residue, basically, you swab, in terms of
8 their hands, at least, you swab the palm the back -- of
9 the left -- the palm and the back of the left hand, the
10 palm and the back of the right hand, correct?

11 A Correct. With -- at the time we were doing the
12 swabs, and it's a separate swab for each side of the
13 hand, and each hand.

14 Q Correct.

15 A Yes.

16 Q So, this is your -- that hand is one swab. The
17 palm of your left is one swab, the back of the left is
18 one swab, and so on?

19 A Correct.

20 Q And they're all kept separate.

21 A Correct.

22 Q Because you don't want one swab to contaminate the
23 other.

24 A Correct.

25 Q All right. Then, you obtained -- you did gunshot

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DIRECT - DETECTIVE DESHEERS

1 residue swabs on an individual named Kenneth Fludd.

2 A Correct.

3 Q And that was done at North Charleston Headquarters.

4 A Yes.

5 Q And Kenneth Fludd was in an interview room at that
6 time.

7 A Yes, sir.

8 Q And that was done at 0323 hours.

9 A Yes.

10 Q What time is that in layman's terms?

11 A 3:23 a.m.

12 Q So, 3:23 in the morning.

13 A Yes, sir.

14 Q Okay. And so, that's approximately just shy of
15 five hours after the shooting.

16 A Correct.

17 Q Okay. And with Mr. Fludd, you tested standard to
18 protocol.

19 A Correct.

20 Q Okay. I'm going to show you what has been
21 previously marked as State's Exhibit 50, which I have
22 now marked as State's Exhibit 13.

23 THE COURT: Defense Exhibit 13?

24 MR. COOPER: Yes, ma'am.

25 THE COURT: Thank you.

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DIRECT - DETECTIVE DESHEERS

1 MR. COOPER: Defense Exhibit 13.

2 BY MR. COOPER:

3 Q Do you recognize that package, Detective?

4 A Not this actual package, but the contents, I would
5 have to look at the contents in it.

6 Q Is there a label on the package?

7 A Yes.

8 Q Okay. And is the -- does the label specify?

9 A Yeah, it does have my name as the -- one of the
10 officers on it, yes.

11 Q Okay. And from whom did you obtain gunshot residue
12 on there?

13 A This one has -- contains Natsha's and Kenneth's.

14 Q Okay. And if you need to open it to identify, but
15 is that what you collected?

16 A Yes, the gunshot residue kits, yes.

17 Q Those are the gunshot residue kits.

18 A Yes.

19 Q Okay.

20 MR. COOPER: Your Honor, at this time, Defense
21 moves to admit Defendant's Exhibit 13 into evidence.

22 THE COURT: Any objection?

23 MR. KIDD: I'm sorry. Repeat it.

24 MR. COOPER: We request to move Defendant's 13.

25 MR. KIDD: Okay. No objection.

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CROSS - DETECTIVE DESHEERS

1 THE COURT: Defendant's 13 into evidence without
2 objection.

3 ITEMS IDENTIFIED AS GUNSHOT RESIDUE
4 KITS MARKED DEFENDANT'S EXHIBIT NUMBER 13,
5 ADMITTED AS EVIDENCE.

6 BY MR. COOPER:

7 Q And Detective, just to reiterate the times,
8 Natassia Nelson was at 10:57 p.m.

9 A Approximately.

10 Q And if Kenneth Fludd was at 3:28 a.m.

11 A Correct.

12 MR. COOPER: Court's indulgence.

13 BY MR. COOPER:

14 Q Detective, will you answer any questions the State
15 has?

16 A Yes, sir.

17 DETECTIVE JEROME DESHEERS

18 CROSS-EXAMINATION, BY MR. KIDD:

19 Q Very briefly, Detective DeSheers. Where were you
20 when you swabbed Mr. Fludd?

21 A In -- in one of the interview rooms inside the
22 bureau at City Hall.

23 Q Do you remember what time it was?

24 A From my notes, it was 3:23 a.m.

25 Q All right. So, this is in City Hall?

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RE-DIRECT - DETECTIVE DESHEERS

1 A Yes, sir.

2 Q A lot of police officers up there?

3 A Yes, sir.

4 Q You carry a gun?

5 A I do.

6 Q Other police officers carry a gun?

7 A Yes, sir.

8 Q How often do you all do training with your gun,
9 firearms?

10 A We qualify once a year, and then we shoot on our
11 own during out -- throughout the year.

12 Q Okay. So, it's safe to say that a lot of officers
13 firing guns relatively --

14 A Frequently?

15 Q Frequently?

16 A Yes, sir.

17 Q And then, you go into those rooms throughout City
18 Hall?

19 A Correct.

20 Q All right.

21 MR. COOPER: No further questions.

22 THE COURT: Re-direct?

23 MR. COOPER: Follow-up.

24 DETECTIVE JEROME DESHEERS

25 RE-DIRECT EXAMINATION, BY MR. COOPER:

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RE-DIRECT - DETECTIVE DESHEERS

1 Q Detective, when you were doing the gunshot residue
2 swabs, you wear gloves.

3 A Correct.

4 Q Because it's important not to contaminate those
5 tests.

6 A Correct.

7 Q You want those tests as accurate as possible.

8 A Correct.

9 Q Does anybody shoot guns in the detectives'
10 interview rooms?

11 A No.

12 MR. COOPER: Okay. Thank you.

13 A You're welcome.

14 MR. KIDD: One or two.

15 DETECTIVE JEROME DESHEERS

16 RE-CROSS EXAMINATION, BY MR. KIDD:

17 Q But a lot of detectives go in those interview rooms
18 on a regular basis, right?

19 A Correct.

20 Q And they touch the different surfaces in there, the
21 tables, the chairs, and things like that.

22 A Yes.

23 Q Okay. And then, when a suspect goes in there, you
24 all sit them -- sit them in those chairs?

25 A Correct.

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RE-DIRECT - DETECTIVE DESHEERS

1 Q Are they in handcuffs sometimes?

2 A Sometimes.

3 Q And they're sitting at that table?

4 A Correct.

5 Q In an interview room?

6 A Yes.

7 Q And they touch those things?

8 A Yes.

9 Q And presumably, he would have touched those things
10 before you swabbed them?

11 A Correct.

12 MR. COOPER: All right. No further questions.

13 THE COURT: You may step down. Thank you.

14 A Thank you.

15 THE COURT: Call your next witness.

16 MR. COOPER: Thank you, your Honor. The Defense
17 calls Whitney Berry from South Carolina Law Enforcement
18 Division.

19 THE COURT: Please come forward and be sworn.

20 COURT CLERK: If you would please, place your left
21 hand here, and raise your right. Do you swear or affirm
22 the testimony you will give the Court and the jury in
23 the trial of this case will be the truth, the whole
24 truth, and nothing but the truth, so help you God?

25 WHITNEY BERRY: I do.

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DIRECT - WHITNEY BERRY

1 MADAM CLERK: You may be seated. Ma'am, once
2 seated, if you could, please, state your first and last
3 name, and spell your last loudly and clearly into the
4 microphone, for the record.

5 WHITNEY BERRY: My name is Whitney Berry,
6 B/e/r/r/y.

7 WHITNEY BERRY

8 DIRECT EXAMINATION, BY MR. COOPER:

9 Q Thank you. Do you have a title, Ms. Berry?

10 A I'm a forensic scientist.

11 Q And where do you work?

12 A I work for the South Carolina Law Enforcement
13 Division. We're commonly referred to as SLED.

14 Q And do you work in a specific division within
15 there?

16 A Yes, I work in the trace evidence department, which
17 is part of the forensic services area.

18 Q And do you ever work with trace evidence and
19 gunshot residue testing?

20 A Yes, I do.

21 Q And what is your training and background in that?

22 A Well, I have a bachelor's of chemistry -- a
23 bachelor's of science and chemistry from the University
24 of South Carolina. When I started at SLED, I began the
25 in-house training program that the trace evidence

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DIRECT - WHITNEY BERRY

1 department offers for gunshot residue analysis training.
2 That is a nine-month-long program that consists of
3 written and practical exams. I work in case work under
4 the supervision of a qualified analyst, testimony
5 observation, and as well, in a mock court. So, mock
6 testimony.

7 Q And does your training sort of, as a -- do you have
8 ongoing training and certifications that you do?

9 A We're not required to. However, we do read up on
10 current journal articles and forensics, as far as
11 whatever disciplines we're qualified in. For me, that
12 would be gunshot residue.

13 I've also taken some training courses at the Hooke
14 College of Microscopy, up in Illinois, to learn some
15 more methods for using the instrument that we use to
16 analyze gunshot residue.

17 Q Okay.

18 MR. COOPER: Your Honor, at this time, the Defense
19 seeks to have Ms. Berry qualified as an expert in trace
20 evidence, specifically gunshot residue.

21 MR. KIDD: No objection.

22 THE COURT: She will be so qualified.

23 BY MR. COOPER:

24 Q Thank you, Ms. Berry. Were you asked to do any
25 gunshot residue testing in reference to a shooting

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DIRECT - WHITNEY BERRY

1 incident from November of 2012?

2 A Yes, I was.

3 Q In regards to the decedent, Sharrell Williams?

4 A Yes, I was.

5 Q Okay. And I'm just using that as sort of like --
6 this case, you did gunshot residue testing in regards to
7 this case that's at trial today.

8 A Yes, I did.

9 Q Okay. And before we get into the test results,
10 okay, would you explain a little bit to the jury about
11 what gunshot residue is and how it comes about?

12 A Sure. Gunshot residue is a broad term that refers
13 to all of the microscopic particles that come out of the
14 barrel end of a gun whenever it's discharged. What
15 we're looking for specifically is primer residue.

16 Primer residue is composed of three metal
17 components: lead, barium, and antimony. They're
18 normally molten or rounded in shape whenever they come
19 out of the gun, because of the high pressure and the
20 high temperature that they go through when they're
21 discharged. That's how they typically come about.
22 That's normally where it comes from.

23 If we find a single particle containing lead,
24 barium, and antimony, and it is molten, the likelihood
25 of it being from gunshot or gun primer residue is very

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DIRECT - WHITNEY BERRY

1 high, and the likelihood of it coming from another
2 source is very, very low.

3 Q Okay. And there is a possibility that like, when
4 you have -- gunshot residue is those three particles
5 that are molten.

6 A Yes.

7 Q And sometimes, you see things that are consistent
8 with gunshot residue that are not gunshot residue?

9 A What you're referring to are consistent particles.
10 So, we have gunshot residue, and we can say that's at
11 the top of the pyramid. That's the most definitive.

12 And then, you take a step down, and you would have
13 consistent particles. These particles would be molten
14 particles, or round particles that contain two of those
15 three elements I mentioned. So, they could be lead and
16 antimony, or barium and antimony, but they wouldn't
17 necessarily have all three together.

18 And then, if you take a step further down, we have
19 associated particles. And associated particles are
20 single element, so they are round particles of just
21 lead, or just barium, or just antimony. And the reason
22 those are called associated and they're kind of at the
23 bottom, is because they can come from many other sources
24 in the environment. A lot of different products have
25 round lead particles on them.

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DIRECT - WHITNEY BERRY

1 We did a in-house study, and found that some
2 extension cords from China, you buy them from the store,
3 they have the potential to have round lead particles on
4 them. Round barium particles can come from different
5 sources, as well, as can antimony.

6 Q But gunshot residue is its own specific highest
7 level.

8 A Yes. When we're saying something is positive for
9 gunshot residue, what we mean is, we've found a three-
10 component particle.

11 Q And that is created when you shoot a gun.

12 A Yes.

13 Q Okay. What is the -- and you and I have talked
14 before. What is, sort of, if we're explaining to the
15 jury a similar substance, what would be something that's
16 similar to gunshot residue?

17 A Okay. Well, gunshot residue particles are very
18 small. They're microscopic. If you pull one of your
19 hairs out of your head, about one hundred GSR particles
20 can fit across the diameter of your hair. So, they're
21 that small, very fine.

22 So, if you think about the idea of having flour on
23 your hands, like you're in the kitchen, you have flour
24 on your hands, you can see the flour on your hands. And
25 every time you move, you clap your hands together, you

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1 wipe it off, you can see the flour come out in the air;
2 you can see it come off your hands; but you don't
3 necessarily know how much came off. And that's the same
4 idea behind gunshot residue. You can't see it, but as
5 you move, as you do normal, daily activities, it will
6 come off in different quantities. So, that could
7 include rubbing your hands together, washing your hands,
8 putting your hands in your pocket, sweating. All of
9 these things have the potential to remove gunshot
10 residue from the hands.

11 Q Is it safe to say that gunshot residue is fairly a
12 fragile item?

13 A Yeah.

14 Q And so, as you described, if you, you know -- or,
15 let me ask you this. What is sort of the typical time
16 frame that you would like to test for gunshot residue on
17 a potential individual?

18 A The scientific working group on gunshot residue has
19 determined that we would expect to find gunshot residue
20 on a living person between four to six -- up to four to
21 six hours after the incident occurred. So, that means
22 up to four to six hours after the shooting, we could
23 expect to maybe still find some gunshot residue. It may
24 not a large quantity, but it could still be there.
25 After six hours, we don't test for it anymore. If

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DIRECT - WHITNEY BERRY

1 anything's collected after six hours and submitted to
2 us, we don't test it, because we don't expect to find
3 anything, so.

4 Q So, you want -- the goal is to test for gunshot
5 residue as close in time to the shooting.

6 A Yes.

7 Q And at South Carolina Law Enforcement Division,
8 your all's maximum window is six hours.

9 A Yes.

10 Q Are there some labs that have a smaller window?

11 A Some labs will test up to four hours. Like, they
12 won't test after four hours. There's a large population
13 of labs in the country that don't do gunshot residue at
14 all, so.

15 Q Okay. And as you said, the reason you want to test
16 quickly is because, as we move about in our daily life,
17 we put our hands in our pockets, fold our arms, you
18 know, touching things, the gunshot residue will come off
19 of our hands.

20 A Yes, it always has the potential to come off.

21 Q Okay. Okay. Now, you generated a report in
22 regards to this case, correct?

23 A Yes.

24 Q Okay. I'm handing you what has been previously
25 marked as Defendant -- Defense Exhibit 12.

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DIRECT - WHITNEY BERRY

1 A Okay.

2 Q Can you tell me what that is.

3 A This is an electronic copy of my report that I
4 issued in this case.

5 Q Okay. And is that your report?

6 A It is a copy of it, yes.

7 Q Okay. And that report includes your findings.

8 A Yes.

9 MR. COOPER: Your Honor, at this time, Defense
10 seeks to admit what has been previously marked as
11 Exhibit 12.

12 MR. KIDD: That's the report?

13 MR. COOPER: Yes.

14 MR. KIDD: No objection.

15 THE COURT: Defendant's 12 into evidence without
16 objection.

17 ITEM IDENTIFIED AS GUNSHOT RESIDUE
18 REPORT MARKED DEFENDANT'S EXHIBIT
19 NUMBER 12, ADMITTED AS EVIDENCE.

20 BY MR. COOPER:

21 Q Okay. So, turning to your report, you performed
22 trace or gunshot residue analysis on an individual named
23 Kenneth Fludd.

24 A Yes.

25 Q On Page 3 of your report. And can you please tell

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DIRECT - WHITNEY BERRY

1 the jury, what are your findings in regards to Kenneth
2 Fludd.

3 A Okay. When we -- or, when an officer samples for
4 gunshot residue, they're sampling for four areas of the
5 hands. So, they would sample the palm area, which would
6 include from here, all the way around the fingers, the
7 back of the hand on both hands. So, we would have four
8 particle lifts that we would analyze.

9 On the GSR kit that I received that was labeled as
10 Kenneth Fludd, on the right palm, I found one particle
11 of gunshot residue. On the right back, there was no
12 gunshot residue. On the left palm, round particles that
13 were associated with gunshot residue were found. And on
14 the left-back, I found one particle of gunshot residue,
15 and one round particle that was associated with gunshot
16 residue.

17 Q Okay. So, we found particles of gunshot residue on
18 Kenneth Fludd's hands.

19 A Yes.

20 Q And I want to talk to you a little bit about sort
21 of population density.

22 A Okay.

23 Q When I fire a gun, and the explosion expels gunshot
24 residue, it will create a population of gunshot residue
25 on my hands.

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DIRECT - WHITNEY BERRY

1 A Yes.

2 Q And that population would be higher if you shoot a
3 gun than as if you're a witness. Or you're within a
4 room with someone who shot a gun.

5 A It would really depend on the vicinity to which you
6 were standing next to the person who was shooting the
7 gun.

8 Q Well, let me ask you this. Would it affect the
9 population if there's a barrier between the firearm
10 that's being discharged and the other individual?

11 A Yes. If you have a barrier or an intervening
12 object in between the barrel of the gun or the muzzle
13 end of the gun and a witness, that could potentially
14 limit the amount of gunshot residue that could land on
15 that witness.

16 Q And so, if somebody is, for instance, like,
17 crouching behind a wall or a barrier, you would expect
18 them to have less gunshot residue than if they were sort
19 of in the room. On their hands, at least.

20 A It would really depend on how far away the gun was
21 from them, and how tucked away they were, how hidden
22 they were. I mean, if the gun was three or four feet
23 away, and they were very much behind the wall, and the
24 gun was pointed this way, and the wall's over here, and
25 they're behind it, I probably wouldn't expect to find

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DIRECT - WHITNEY BERRY

1 anything on their hands.

2 Q So, you may not find anything.

3 A That's a possibility, in that case.

4 Q And that would be if you tested within a close
5 period of time to the discharge of the firearm.

6 A Well, I mean, if nothing was deposited on their
7 hands, it really wouldn't matter as much, but yeah.
8 Ideally, you want to test it or sample as close to the
9 shooting as possible.

10 Q Right. And so, the longer the time period, the
11 lower the density, or the lower the population of
12 gunshot residue will be on the hands.

13 A Potentially, yes.

14 Q Unless they're otherwise preserved.

15 A Yeah.

16 Q With your findings, in terms of Kenneth Fludd --

17 A Okay.

18 Q -- is it possible that you found the gunshot
19 residue amount on his hands after a period of waiting
20 almost five hours or so, is it possible that he
21 discharged a firearm?

22 A I can't rule that out.

23 Q So, it is possible.

24 A It is possible. I can't rule that out.

25 Q And you don't know, because of the -- really, the

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DIRECT - WHITNEY BERRY

1 amount of time.

2 A I mean, I can't testify to whether or not somebody
3 definitively fired a gun, regardless of the amount of
4 time, so.

5 Q Okay. You just know whether or not there's gunshot
6 residue on the hands.

7 A Yes.

8 Q So, just as if you can wipe off gunshot residue,
9 it's possible to pick up gunshot residue from someplace?

10 A Yes. If there's an object for -- we'll go back to
11 your example of the wall. If somebody were to fire a
12 gun near the wall, and then later, another person walked
13 by and put their hand on it, they could have the
14 potential for picking up gunshot residue. That would be
15 called transfer.

16 Q So, if somebody touches somebody who's been a
17 victim of a shooting, they're -- it's not surprising
18 that they would have gunshot residue on their hands.

19 A It would not be surprising, no.

20 Q But they won't have as high of a population,
21 typically, than someone who discharged the firearm.

22 A Most likely not.

23 Q And so, it would be easier to get that population
24 down to zero, then, -- so, if your population is
25 smaller, or your density is smaller, --

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1 A Um-hmm.

2 Q -- it's easier to get it -- get rid of all of it
3 than it is if your population is higher or your density
4 is higher.

5 A I mean, it could be. It would depend, I suppose,
6 on, if you were intentionally trying to get rid of it or
7 not. But just throughout normal actions, it would be
8 easier.

9 Q Okay. Because if you only have one particle or
10 very few particles, then, over time, it's more likely
11 that those will go away than if you had several
12 particles. And then, it will diminish over time.

13 A Yes.

14 MR. COOPER: Court's indulgence, your Honor.

15 THE COURT: Yes, sir.

16 MR. COOPER: Thank you, Ms. Berry. Will you answer
17 any questions the State would have?

18 WHITNEY BERRY: Okay.

19 THE COURT: Mr. Kidd.

20 MR. KIDD: Thank you, your Honor. I'll be as brief
21 as I can.

22 WHITNEY BERRY

23 CROSS-EXAMINATION, BY MR. KIDD:

24 Q Good afternoon, Ms. Berry.

25 A Good afternoon.

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CROSS - WHITNEY BERRY

1 Q Appreciate you being here. So, Defense Exhibit 13,
2 I believe, was entered. Is that correct? How many GSR
3 kits did you analyze in relation to this report?

4 A Four GSR kits were submitted, and I analyzed four
5 GSR kits.

6 Q Okay. Can you -- well, I forget, when I get to
7 cross-examine, I get to lead. So, you analyzed a kit on
8 Sharrell Williams, correct?

9 A Yes.

10 Q You analyzed a kit on an individual by the name of
11 Joshua Porshay (phonetic spell), correct?

12 A Yes.

13 Q You analyzed a kit on a Natassia Nelson?

14 A Yes.

15 Q And you analyzed a kit on Kenneth Fludd, right?

16 A Yes, I did.

17 Q And you found gunshot residue on all four of those
18 individuals; didn't you?

19 A I would have to review my report.

20 Q Take your time.

21 A Quickly. I found three-component gunshot residue
22 particles on all of the kits submitted, with the
23 exception of Joshua Porcher, on which I found associated
24 particles on his hands.

25 Q Okay. So, the three component particles you found

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1 on Kenny Fludd, Tasha Nelson, and Sharrell Williams, and
2 then you found associated particles with gunshot residue
3 on Joshua Porcher.

4 A Yes, sir.

5 Q Fair to say? Okay. I want to talk a little bit
6 about gunshot residue real quick. So, like, let's say,
7 for instance, I handled this firearm, assuming it's been
8 fired before. And I just did that, and say my hands
9 were crystal-clean before. Would you expect me to have
10 gunshot residue on this hand now?

11 A Yes. It would have the potential of gunshot
12 residue on it.

13 Q Okay. And when you fire -- when you fire a gun,
14 there's almost like a cloud of gunshot residue that kind
15 of travels with the projectile?

16 A Yes. If you think about an Old West movie where
17 they fire the revolver, and you see the smoke come out
18 of the gun, that's the gunshot residue. So, you have
19 the cloud that comes out around the hands, and then you
20 have the cloud that comes out the end of the gun. And
21 normally, it's a conical pattern, so it goes like a V,
22 straight out from the gun.

23 Q And even when you can no longer see it with the
24 naked eye, though, that cloud is still sort of traveling
25 with that projectile.

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1 A Yes, it does.

2 Q All right. So, if I were standing right here, and
3 I fired a gun at you, it'd be safe to say there's
4 probably gunshot residue all the way down this bar right
5 here.

6 A It would not be surprising at all if there was.

7 Q Okay. So, if someone -- after I fired that gun at
8 you, walked in this courtroom five minutes later, okay,
9 and they came, and they ran their hand down this podium,
10 would you expect gunshot residue to be on their hand?

11 A It would definitely have the potential to be on
12 their hand, yes.

13 Q I mean, you never know for sure, but --

14 A Yeah.

15 Q -- you wouldn't -- it wouldn't surprise you; would
16 it?

17 A It wouldn't surprise me, given that scenario, no.

18 Q Okay. So, okay. And then, I want to talk about
19 how you say it's fragile and it deteriorates over time.
20 That's kind of like, you know, how you said you have
21 flour on your hands, clap a couple times, you still have
22 flour on your hands, but not as much. Do it more, --

23 A Um-hmm.

24 Q -- it deteriorates less and less. But in the same
25 sort of theory, though, you could also pick up more and

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1 more and more by touching more things that might have
2 gunshot residue on it, right?

3 A Yes.

4 Q All right. Would you expect to find gunshot
5 residue in a police station?

6 A I would say that there would probably be some in
7 certain parts, yes.

8 Q Like, places that a lot of police officers are,
9 where their guns and -- their guns are located. And if
10 they've been firing their guns and touching things,
11 then, gunshot residue transfers.

12 A Yes.

13 Q And gunshot residue never really disappears, does
14 it?

15 A It can. It can be removed. If, in your situation
16 with the podium there, if it was wiped down with any
17 kind of wipe, preferably something damp, that could
18 remove the gunshot residue from that area.

19 Q Right. You can remove it from an area. I agree
20 with that. But it never disappears, because then, the
21 gunshot residue is on that rag that you wiped with.
22 Right? I mean, I guess it would break down over time in
23 like a thousand years and deteriorate. But lead isn't
24 just going to disappear. Is that fair to say?

25 A Lead is not going to disappear. However, with

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1 gunshot residue, I mentioned before, we're looking for
2 rounded or molten particles. And what would happen,
3 eventually, is, the morphology or the shape of these
4 particles would change as things happen to it. So, if
5 you wiped it up with a bleach wipe, that bleach could
6 potentially alter the morphology. So, then, we wouldn't
7 necessarily call it gunshot residue anymore.

8 Q Okay. So --

9 A It would be a three-component particle, but it
10 wouldn't necessarily be gunshot residue anymore.

11 Q Okay. So, you could combine it with different
12 substances and things like that, and it could break
13 down?

14 A Yes.

15 Q But short of that, it's not just going to vanish, I
16 guess.

17 A It can absorb into the skin, but I don't think just
18 vanish, no.

19 Q I guess is what I'm saying is, when you have an
20 area where there is a lot of gunshot residue that is
21 coming back there over and over, it can build up there
22 over time.

23 A Yes, it can.

24 Q So, like a firing range, for instance.

25 A Yes.

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1 Q Like, it's going to have gunshot residue all over
2 it, right?

3 A Yes.

4 Q Thick as can be. And so, I guess what I'm saying
5 is, maybe one step away from that would be a place that,
6 if I had -- say everyone in this courtroom had flour on
7 their hands before they walked in. Well, everything
8 they touch, there's going to be little white spots
9 wherever they touch, right?

10 A Yes.

11 Q And that's kind of similar to gunshot -- what would
12 happen if everyone in this courtroom fired a gun before
13 they walked in.

14 A Yes.

15 Q Everywhere they touched would leave a little bit of
16 gunshot residue, right?

17 A Yes.

18 Q So, then, if someone in here with clean -- walked
19 in here with clean hands and began touching things like
20 chairs and pews and bars and things like that, they
21 could gather gunshot residue.

22 A Yes, they could.

23 Q Okay. And that's all I'm getting at. And as you
24 were talking about a minute ago, gunshot residue kind of
25 travels with a projectile, right?

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CROSS - WHITNEY BERRY

1 A Yes, it does.

2 Q So, is it common that a shooting victim would have
3 sort of gunshot residue on their clothing near around
4 where they're -- theoretically?

5 A It is expected that the victim of a gunshot wound
6 will have gunshot residue on their clothing, their
7 hands. It is expected, yes.

8 Q Okay. Because, in close vicinity, gunshot residue
9 is going to be propelled towards that person.

10 A Yes.

11 Q And the further away they are, sort of the wider
12 that cone of gunshot residue gets.

13 A It does, and depending on the caliber of gun and
14 the ammunition, eventually. It doesn't go on forever.

15 Q Right.

16 A It's not something that's going to go on forever.
17 So, there is a distance that, at some point, if they're
18 past that distance, they may not have gunshot residue on
19 them.

20 Q So, say, let's put ourselves in a small, contained
21 environment.

22 A Yes.

23 Q Say, a ten-by-ten room.

24 A Okay.

25 Q And say, we have a medium-caliber firearm, maybe a

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1 .40 caliber firearm.

2 A Okay.

3 Q And it's fired four times in a ten-by-ten room.

4 A Okay.

5 Q And there's three people in there. Would you be
6 surprised to see gunshot residue on all three of those
7 peoples' hands?

8 A Not really, no.

9 Q Not at all?

10 A No.

11 Q Because, in a room that size, gunshot residue would
12 almost fill most of that room.

13 A It would really depend on the condition of the gun,
14 but yeah, it -- it could.

15 Q And so, really, finding gunshot residue on
16 someone's hands really doesn't mean they fired a gun.

17 A No, it -- it doesn't. We even have, in our report,
18 that it could also mean they were in the vicinity to the
19 discharge of a firearm, meaning exactly what you just
20 suggested, they were in the room when it happened.

21 We also have in our report that it can come from
22 coming into contact with something that was in the
23 vicinity to the discharge of a firearm, which would be
24 the table or anything like that.

25 MR. KIDD: No further questions.

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RE-DIRECT - WHITNEY BERRY

1 THE COURT: Mr. Cooper?

2 WHITNEY BERRY

3 RE-DIRECT EXAMINATION, BY MR. COOPER:

4 Q Just one question, Ms. Berry. Would you be more
5 likely to find gunshot residue on the back of someone's
6 hand by touching something or by firing a weapon? I
7 think it's a pretty logical question, right?

8 A Is there any way you can rephrase that?

9 Q I mean, if I touch something with the palm of my
10 hand, right?

11 A Um-hmm.

12 Q Okay? And I'm touching things, and I'm touching
13 things with the palm of my hand, not the back of my
14 hand, would you be more likely to find gunshot residue
15 on the back of my hand if I shot some -- shot a gun or
16 was touching things?

17 A Unfortunately, that's not really a clean-cut
18 answer. If you just touched straight down and back up,
19 then, no, I would not expect to find anything on the
20 back of your hands.

21 MR. COOPER: Right. Thank you.

22 MR. KIDD: Extremely briefly.

23 WHITNEY BERRY

24 RE-CROSS EXAMINATION, BY MR. KIDD:

25 Q But once again, we're talking about a fine

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1 substance that's almost like a cloud, right? So, if you
2 touch something with gunshot residue on it, it can cloud
3 up. Potentially.

4 A Potentially.

5 Q And also, say I touch something with the palm of
6 this hand.

7 A That would definitely have the potential to
8 transfer anything off your palms to the back of your
9 hands.

10 MR. KIDD: Thank you.

11 THE COURT: All right. You may step down. Thank
12 you.

13 WHITNEY BERRY: All right. Thank you.

14 THE COURT: Call your next witness.

15 DEFENSE RESTS.

16 MR. COOPER: Your Honor, the Defense rests.

17 BY THE COURT:

18 THE COURT: All right. Reserving all motions and
19 matters, any rebuttal?

20 MR. KIDD: No, ma'am.

21 THE COURT: All right. Ladies and gentlemen, you
22 have heard all of the testimony that you have heard --
23 will hear in this case, received into evidence all the
24 exhibits that are being made part of the record in this
25 case, and that will go back with you.

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1 Ladies and gentlemen, we will take a lunch break.
2 When you come back, we'll hear closing arguments on
3 behalf of Counsel, and then, I will instruct you on the
4 law applicable to this case.

5 Please remember all of my admonitions. Do not
6 discuss this case. Do not begin deciding any issue in
7 this case. I have not instructed you on the law
8 applicable to this case. Please be back in your jury
9 room, ready to begin, promptly at 3:00 p.m. 3:00 p.m.
10 Please rise for the jury.

11 JURORS LEAVE COURTROOM 1:51 P.M.

12 MOTIONS:

13 THE COURT: Thank you. Be seated. Any motions or
14 matters before we break for lunch?

15 MR. COOPER: Your Honor, if I may renew my directed
16 verdict motion and I'll articulate that when we come
17 back for -- briefly, or would you like me to go ahead
18 and do that now?

19 THE COURT: Let's go ahead and do it now, Mr.
20 Cooper.

21 MR. COOPER: Yes, your Honor. At this time, the
22 defendant renews his motion for a directed verdict. And
23 we also renew all of our pretrial objections made,
24 including, but not limited to, our objection against the
25 -- our push for bifurcation, our *Fourth Amendment*

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1 argument regarding the cell phone records, our motions
2 regarding any of Mr. Singleton's statements, our motion
3 under *Lyle* and 404(b), in addition to the bifurcation or
4 severance issue that we argued pretrial, and all other
5 objections made throughout the course of the trial.

6 Your Honor, at this time, we move for a directed
7 verdict, based on self-defense. There is no -- at this
8 point, Mr. Singleton has testified that he acted in
9 self-defense, and there's no evidence in the record that
10 shows that he did not act in self-defense.

11 He testified -- he laid the foundation, said that
12 he was -- he feared for his life; that when he was
13 presented with another gun, and he was charged, and that
14 fear is reason. It's a reasonable fear that he could
15 not leave the scene. Another individual did have a
16 weapon. They had his belongings at the time, and he did
17 not use the weapon when he first obtained it, but only
18 once Mr. Williams rushed him, and Mr. Fludd also
19 presented a weapon. So, he could not avoid the
20 confrontation, as well.

21 He did not bring a gun to the altercation. Mr.
22 Williams inserted a gun into the situation, and Mr.
23 Singleton is without fault in bringing about this
24 incident. He only acted once Mr. Williams charged him,
25 and he did so, and he did so reasonably. And there's

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1 nothing in the record to rebut the same.

2 THE COURT: Mr. Kidd.

3 MR. KIDD: Thank you, your Honor. I mean, I don't
4 think we have to rule out anything other than Mr.
5 Fludd's testimony. I think it is sufficient to send it
6 to a jury. There was evidence that he was, you know, he
7 brought the gun, he pulled it out of his pants. He
8 fired it without any provocation. That alone is enough
9 to defeat self-defense.

10 But I mean, if you need more, even on my cross of
11 the defendant, he admitted that he could have walked
12 out, and the -- even if you believe his theory of the
13 case, that the victim put the gun on the counter and
14 said, you know, *get what you came for*, he testified he
15 could have walked away. And you know, you have a duty
16 to retreat in self-defense. So, even if you buy into
17 his theory of the case, he still done it in self-
18 defense, so it still goes to the jury.

19 RULING:

20 THE COURT: Okay. I haven't heard anything since
21 my initial ruling at the close of the State's case that
22 would cause me to change my ruling as to your request
23 for a directed verdict. I note your exception. I stand
24 by all of my rulings as to all previous -- all of our
25 pretrial conferences, all of the pretrial hearings,

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1 pretrial matters.

2 MR. COOPER: Thank you, your Honor.

3 THE COURT: Anything else, Mr. Cooper?

4 MR. COOPER: Your Honor, would the Court allow us
5 to review the Court's charge before we break for lunch,
6 so we can --

7 THE COURT: We're getting ready to do that right
8 now.

9 MR. COOPER: Thank you, ma'am.

10 THE COURT: Here's the verdict form in order. All
11 right.

12 MR. COOPER: Yes, ma'am.

13 THE COURT: And what, specifically, are you
14 inquiring about, Mr. Cooper?

15 MR. COOPER: Yes, ma'am. Specifically, I don't
16 know if, in the Court's standard self-defense charge --
17 I beg the Court's indulgence, your Honor.

18 Specifically, the element of without fault in
19 bringing about the transaction, whether the Court has
20 the language from Wrye, that states that, without fault
21 means that it's reasonable calculated to bring about,
22 and did bring about -- reasonably calculated to and did
23 provoke a deadly assault. So, without thought means
24 that the defendant's conduct was the element, which
25 reasonably calculated to and did provoke deadly assault.

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1 The defendant would be at fault in bringing about
2 difficulty would not be entitled to an acquittal based
3 on self-defense. So, without fault is reasonably
4 calculated to and did provoke the deadly assault.

5 THE COURT: Mr. Kidd?

6 MR. KIDD: I'm just having trouble following that
7 language. I mean, I would ask for your standard self-
8 defense charge.

9 MR. COOPER: I think that, your Honor, that is an
10 appropriate charge under the law. It's a standard
11 charge.

12 THE COURT: Do you agree, Mr. Kidd, that -- and I
13 know you disagree -- but you agree that there has been
14 sufficient testimony to present self-defense to the
15 jury?

16 MR. KIDD: Well, there's -- I would like -- I mean,
17 I understand the Court's ruling.

18 THE COURT: I haven't ruled yet. We had a
19 discussion in chambers.

20 MR. KIDD: Okay. Well, --

21 THE COURT: I haven't ruled yet.

22 MR. KIDD: I would disagree that he is entitled to
23 a self-defense charge, on two grounds, the first being
24 that -- and I kind of probably prematurely argued a
25 little bit earlier, that, in *State v. Smith*, and the

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1 concurring opinion by Judge Lockemy much more
2 articulately than I could ever do, indicates why he
3 believed that one who is armed at a felony drug deal
4 should not be entitled to self-defense.

5 Now, I agree, maybe there's a question of fact now,
6 because the defendant indicated that he did not bring a
7 gun. But I still don't think it matters, because I
8 think, when you're engaging in a felony drug
9 transaction, that, as a matter of law, you have
10 voluntarily interjected yourself into a dangerous and
11 violent situation. And by doing so, you should not then
12 be allowed to assert self-defense, in which one of the
13 elements is without fault in bringing on the difficulty.

14 So, it is my opinion that engaging in a drug
15 transaction for thousands of dollars' worth of marijuana
16 or cocaine or whatever, that that conduct should
17 preclude, as a matter of law, self-defense. And that's
18 my first argument for why self-defense shouldn't be
19 charged.

20 My follow-up to that is, as I said, I think the
21 defendant, in his cross, admitted he could have left.
22 And as a matter of law, he has a duty to retreat. And
23 if I can prove any one of the elements of self-defense
24 is not applicable, then, as a matter of law, he
25 shouldn't get the charge, and he's admitted that he

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1 could have left. And I think, as a matter of law, for
2 that reason, as well, he shouldn't get the self-defense
3 charge.

4 THE COURT: I think there was some testimony he
5 said that, if he had left, he was concerned that he may
6 have been shot.

7 MR. KIDD: I mean, at one point, there was. You're
8 correct, your Honor.

9 THE COURT: Okay. Noting your objection, I am
10 going to charge self-defense, and my -- but I'm charging
11 very standard self-defense charge. The defendant -- and
12 just the pertinent part:

13 *The defendant must be without fault*
14 *in bringing on the difficulty. If the*
15 *defendant's conduct was the type which*
16 *was reasonably calculated to and did*
17 *provoke a deadly assault, the defendant*
18 *would be at fault in bringing on the*
19 *difficulty, and would not be entitled to*
20 *an acquittal based on self-defense.*

21 MR. COOPER: Thank you, your Honor. That's a
22 mistake in your charge. Thank you. I appreciate it.

23 THE COURT: Thank you.

24 MR. COOPER: Your Honor, I also request the charge
25 that the defendant does not have to wait until the

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1 assailant gets the drop on him in order --

2 THE COURT: Say that one more time. I'm sorry.

3 MR. COOPER: The charge that the defendant does not
4 have to wait until the assailant gets the drop on him in
5 order --

6 THE COURT: The defendant does not actually have to
7 show he was actually in danger? Is that what you want
8 me to charge?

9 MR. COOPER: Yes, ma'am, that he does not have to
10 wait 'til he's actually --

11 THE COURT: It's enough that the defendant believed
12 he was in imminent danger, and a reasonably prudent
13 person of ordinary firmness and courage would have had
14 the same belief.

15 MR. COOPER: Well, I think there's a separate
16 charge that he does not have to wait until he gets the
17 drop on him. He doesn't wait -- have to wait until --
18 he's allowed to act.

19 THE COURT: I'm not aware of waiting until you get
20 the drop on. I'm going to write -- I'm charging right
21 to act on --

22 COURT REPORTER: I'm sorry, I'm charging?

23 THE COURT: I'm sorry?

24 COURT REPORTER: I'm sorry, I'm charging?

25 THE COURT: I don't remember what I said. Just

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1 blah, blah, blah.

2 MR. COOPER: Your Honor, we'd also request -- I
3 apologize -- a charge on that the jury should consider
4 the circumstances facing Mr. Singleton at the time, and
5 take into consideration the person who he is dealing
6 with, and all the facts surrounding the situation, as
7 near as you can, to view the situation from Mr.
8 Singleton's standpoint.

9 And I cite for the Court *State v. Day*, 341 S.C. 10;
10 and *State v. Fuller*, 297 S.C. 2nd 440, is the
11 appropriate charge of the law.

12 THE COURT: I don't know if it's Mr. Singleton's
13 perspective. I thought it was a person of ordinary
14 reason and firmness.

15 MR. COOPER: Under *Rash*, your Honor, the Court
16 instructs the jury to, as closely as they can, to put
17 themselves in the defendant's shoes.

18 THE COURT: All right. I'll review that. But as
19 of now, it is ordinary person.

20 MR. COOPER: Yes, your Honor.

21 THE COURT: If you'll send me an email, bring me a
22 copy over the lunch hour.

23 MR. COOPER: Yes, your Honor.

24 THE COURT: All right. Anything else?

25 MR. COOPER: Court's indulgence, your Honor. Does

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1 the Court charge on acting on appearances? Under *State*
2 *v. Jackson*, 277 S.C. 271?

3 THE COURT: I just read that to you.

4 MR. COOPER: I apologize, your Honor.

5 THE COURT: Yes, I do.

6 MR. COOPER: And does the Court charge that the
7 defendant is not required to make the best choice, but a
8 reasonable choice?

9 THE COURT: *A person cannot be required to*
10 *make an exact calculation as to the degree*
11 *or amount of force which may be needed.*
12 *Therefore, in self-defense, the defendant*
13 *has the right to use the force needed to*
14 *avoid death or serious bodily harm. The*
15 *force used in self-defense does not have*
16 *to be limited to the degree or amount of*
17 *force used by the victim. The defendant*
18 *has the right to use so much force as*
19 *appeared to be necessary for complete*
20 *self-protection, in which a person of*
21 *ordinary reason and firmness would have*
22 *believed to be needed in order to prevent*
23 *death or serious bodily harm.*

24 MR. COOPER: Yes, your Honor. And I'm requesting a
25 separate charge that the defendant need not require he

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1 make the best choice.

2 You are to -- in determining that
3 the State has failed to negate self
4 defense, you are to consider -- you are
5 to consider whether the defendant has made
6 a choice a person of ordinary prudence
7 placed in a like position would have made.
8 If -- you are not to consider whether the
9 defendant made the wisest or best choice,
10 but a reasonable one under the circumstances,
11 is my request to charge, your Honor.

12 THE COURT: And what case is that? Again, if
13 you'll provide me the citations over the lunch hour.
14 But as of now, my charge stands as stated.

15 MR. COOPER: Your Honor, if I may send the case law
16 and request over the lunch hour. I know I'm forgetting
17 something as I stand here now.

18 THE COURT: All right. Be back at 3:00. Thank
19 you.

20 MR. KIDD: Thank you, your Honor.

21 MR. COOPER: Thank you, your Honor.

22 MR. KIDD: Just one quick follow-up, Judge.

23 THE COURT: You may.

24 MR. KIDD: Are you charging any act of the accused
25 in violation of the law?

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1 THE COURT: If you want it on the record, you need
2 to slow down.

3 MR. KIDD: Oh, sorry.

4 *Any act of the accused in violation*
5 *of the law and reasonably calculated to*
6 *produce the occasion amounts to bringing*
7 *on the difficulty.*

8 Is that --

9 THE COURT: Bring me what you have, Mr. Kidd.

10 MR. KIDD: This is a --

11 THE COURT: We'll just do it this way, so that I
12 can put it in the record. We can mark it for whatever
13 purposes it needs to be marked for. Send me that self-
14 defense charge that you wish me to charge. You send me
15 the one you wish for me to charge. All right? Before
16 3:00 o'clock. Thank you.

17 MR. KIDD: Thank you, your Honor.

18 MR. COOPER: Thank you, Judge.

19 OFF THE RECORD 2:07 P.M.

20 BACK ON THE RECORD 3:03 P.M.

21 BY THE COURT:

22 THE COURT: Are we ready to bring in the jury?

23 MR. KIDD: I am, your Honor. Just for a side note,
24 I didn't send you any case law. I figured I'd reserve
25 my time in my closing. So, I would just ask that your

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1 standard self-defense charge would be enough.

2 THE COURT: All right. Thank you.

3 MR. COOPER: Your Honor, is the Court charging my
4 submitted charge?

5 THE COURT: I didn't get -- I don't have a copy of
6 it, so.

7 MR. COOPER: Yes, ma'am. May I approach, your
8 Honor?

9 THE COURT: You may.

10 MR. COOPER: My apologies. I emailed them to --

11 THE COURT: All right. Thank you. Go ahead and
12 mark these as Court's.

13 COURT REPORTER: Looks like Number 7 will be next.

14 ITEM IDENTIFIED AS SUBMITTED CHARGE,
15 BY MR. COOPER, MARKED COURT'S EXHIBIT
16 NUMBER 7.

17 THE COURT: All right. Court's 7. And some, not
18 word-for-word, but these are what I am charging. As I
19 indicated to you before, I am not charging the wait
20 until you get the drop on.

21 MR. COOPER: Yes, ma'am.

22 THE COURT: Thank you.

23 MR. COOPER: Is the Court charging reasonably
24 calculating to provoke?

25 THE COURT: Yes.

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1 MR. COOPER: Yes, ma'am. Thank you. The assault.

2 THE COURT: Yes.

3 MR. COOPER: Thank you.

4 THE COURT: All right. Ready?

5 MR. KIDD: State's ready, your Honor.

6 MR. COOPER: Defense is ready, your Honor.

7 THE COURT: All right. I do not see -- the
8 audience is not as full.

9 UNIDENTIFIED PERSON: I'll go check the -- I'll
10 check the lobby, your Honor.

11 MR. COOPER: Are we locking the courtroom, your
12 Honor?

13 THE COURT: I am not going to lock the courtroom,
14 but I'm not going to tolerate distractions. So, it may
15 be that they just do not need to come in.

16 BAILIFF: So, you don't want us to lock it?

17 BAILIFF: They usually lock it.

18 THE COURT: Are they out there?

19 BAILIFF: You usually lock it when -- before you
20 charge?

21 THE COURT: Before I charge.

22 BAILIFF: It's locked.

23 THE COURT: All right. Before I charge. All
24 right. Thank you.

25 THE COURT: All right. Let's bring in the jury.

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1 And same, any distractions coming in and out, they are
2 just to be escorted out, and we'll deal with them later.
3 Cell phones included. Cell phones included. There are
4 no -- cell phones that go off. Cell phones are in --
5 taken possession of by personnel.

6 Please rise for the jury.

7 JURY ENTERS COURTROOM 3:07 P.M.

8 BAILIFF: All jurors present, your Honor.

9 THE COURT: Thank you. Please be seated. Ladies
10 and gentlemen, did all members of the jury panel comply
11 with my instructions over the lunch break? If you did,
12 please raise your right hand. Thank you. All fourteen
13 jurors have complied with the Court's instruction.

14 Ladies and gentlemen, as I indicated to you, we've
15 reached the stage of the trial where you will hear
16 closing arguments on behalf of Counsel.

17 In this particular case, Mr. Kidd will go first.
18 He will give his closing on the law. Then, Mr. Cooper
19 will have his opportunity for a closing argument. And
20 then, Mr. Kidd has the opportunity for rebuttal.

21 Ladies and gentlemen, as I indicated to you, what
22 is contained in their closing arguments is not evidence
23 in this case. It is merely their contention as to what
24 the evidence has shown you. After Mr. Kidd has given
25 his second close, I will instruct you on the law

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1 applicable to this case, and you will then retire to
2 consider your verdict.

3 At that time, we will be gathering the evidence
4 that will go back with you into your jury room. So,
5 again, as I indicated to you, do not be concerned.
6 Sometimes, the attorneys will be showing some of the
7 evidence to you during their closing. Do not be
8 concerned if you haven't seen all of that evidence. It
9 does go back with you. Please give your strict
10 attention.

11 Mr. Kidd?

12 MR. KIDD: Thank you, your Honor. May it please
13 the Court?

14 CLOSING ARGUMENT ON BEHALF OF THE
15 STATE, BY MR. KIDD:

16 MR. KIDD: Ladies and gentlemen, this is, as the
17 Judge just explained to you, this is my opportunity to
18 address you about the law that governs the case. Okay?
19 So, I'm not here to talk to you about the facts right
20 now, just the law.

21 But before I really get into that, I want to talk
22 about something else that Judge Harrington just
23 mentioned, and that's that, things that I say, things
24 that Mr. Cooper says, that's not evidence. That's
25 argument. Okay? So, that's not really proper

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1 consideration, really, when you're deliberating.

2 Proper consideration is things that come from the
3 witness stand, exhibits that have been entered into
4 evidence. That is facts. That is things for you to
5 consider. What we say -- we talk a lot. That's what
6 lawyers do. But that's not evidence. That's just sort
7 of argument about what the evidence means, what it
8 shows, what it says. So, for your deliberation, for
9 your consideration it's testimony that came from that
10 box and it's evidence to be entered into -- or exhibits
11 that have been entered into evidence.

12 As a prosecutor, as a state prosecutor, it's my
13 burden of proof to prove the defendant guilty, and that
14 burden is beyond a reasonable doubt. So, if you ask
15 twenty lawyers, you'll probably get twenty definitions
16 of what beyond a reasonable doubt means. I'm going to
17 try to keep my definition as close to the way the Judge
18 describes it, and that is that, beyond a reasonable
19 doubt does not mean beyond all doubt.

20 There are very few things in this world that are
21 absolute certainties, and absolute certainty is not what
22 is required of you. Beyond a reasonable doubt is that
23 which leaves you firmly convinced of the defendant's
24 guilt, firmly convinced. And so, in order for me to
25 prove to you beyond a reasonable doubt that he's guilty,

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1 I must firmly convince you that he has committed each of
2 the elements of the offenses as charged, and he's
3 charged with murder. And I'm going to go through those
4 elements with you in a second. So, I just have to prove
5 that he has checked each of those element boxes, and
6 I've proven to you that he's guilty.

7 Now, it goes kind of one step further here, because
8 he's asserted his defense of self-defense. Okay? And
9 in order for me to -- then, the burden shifts back on me
10 to disprove self-defense beyond a reasonable doubt. So,
11 that's still my burden. I have to prove that he was not
12 acting in self-defense. And there's four elements of
13 self-defense that I'm going to go over with you in just
14 a moment.

15 And so, in order for self-defense not to be
16 applicable, I just have to disprove one of those
17 elements beyond a reasonable doubt, because self-defense
18 requires all four of those elements to be present in
19 order for that to work for his defense. So, if I can
20 just disprove one of them beyond a reasonable doubt,
21 then self-defense is no longer applicable.

22 Okay. So, obviously, you all know why we're here.
23 It's a murder trial. So, you ask, what is murder?
24 South Carolina is not like other states. We don't have
25 different degrees of murder, like first degree, second

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1 degree, third degree. We have murder. There's other
2 things, but we have murder.

3 So, what is murder? Murder is the killing of any
4 person with malice aforethought, either expressed or
5 implied. And if you're like me, you look at that, and
6 you say, well, okay, what does that mean? Malice
7 aforethought -- I'm going to have to get back to that
8 previous thought. But malice aforethought, it's the
9 mental state necessary for someone to be convicted of
10 murder. Okay? Malice aforethought is kind of what's
11 going on inside you, and it encompasses both specific
12 and general intent.

13 So, specific intent would be like that top bullet
14 point in green, a specific intent to kill. Like, I am
15 going to -- I go out to kill this person. That would be
16 specific intent.

17 But general intent is a little bit more further
18 removed, but still accounts for malice aforethought.
19 And that can be from an intent to inflict grievous
20 bodily injury, reckless indifference to the value of
21 human life, and even intent to commit a felony can
22 satisfy malice aforethought. And aforethought is really
23 just a moment in time, and it can be a split second.
24 So, it doesn't have to be like, premeditated, although
25 you often hear about premeditated murder, where

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1 someone's lying in wait. That's not what's necessary.
2 The amount of time it takes to pull a trigger is
3 sufficient for aforethought. And it's just -- it can
4 happen in a split second.

5 The next slide, please. As I said, intent may be
6 formed in an instant. It's no specific period of time.
7 It can be formed in an instant.

8 One more. Keep going. One more. As I stated to
9 you a minute ago, he's asserted the defense of self-
10 defense. And self-defense, as it says up here, a person
11 is justified in using self-defense or using deadly force
12 in self-defense. And these are the elements that I was
13 talking about. These are those four elements.

14 So, first, in order for him to assert that self-
15 defense, he has to be without fault in bringing on the
16 difficulty.

17 Second, he must actually believe he's in imminent
18 danger of losing life or sustaining serious bodily
19 injury, or he was actually in such danger. So, that's
20 the second.

21 The third one, if it's based on his actual belief
22 of imminent danger that a reasonable person in his shoes
23 would have -- of ordinary firmness and courage, would
24 have entertained that same belief.

25 And then, finally, the defendant had no other

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1 probable means of being able to avoid that danger. So,
2 those are the four elements of self-defense, which I
3 must disprove beyond a reasonable doubt, but I don't
4 have to disprove all four of them. If I disprove any
5 one of those, then self-defense is not applicable.

6 And this is kind of re-stating what I just said.
7 And self-defense is an absolute defense. So, if I fail
8 to disprove one of those elements, then self-defense is
9 out. And this is just bringing attention to the duty to
10 retreat. The defendant has to retreat if he has no
11 other probable means of avoiding the danger of losing
12 his own life or sustaining bodily injury than to act as
13 he did in the particular instance.

14 Ladies and gentlemen, that is the law, I guess, in
15 a nutshell. It covers -- I know it's not incredibly
16 clear, but I also want to say that, if my description or
17 the way that I describe the law in this case is ever
18 different from the Judge, we always defer to her. She's
19 the authority on the law. So, if she charges the law
20 any different than I've just described it, then defer to
21 her. But that should be a very accurate description of
22 very two -- the two real issues that we have before us.
23 And that is, you know, what is murder, and is self-
24 defense applicable?

25 And then, in a moment, after Mr. Cooper's able to

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1 address you on the facts, I will have the opportunity to
2 address you again, and talk more clearly, I guess, about
3 how the facts can interplay with that law that I just
4 described. So, please give Mr. Cooper your attention.
5 Thank you.

6 THE COURT: Mr. Cooper.

7 MR. COOPER: Thank you, your Honor. May it please
8 the Court? Solicitor.

9 CLOSING ARGUMENT ON BEHALF OF THE
10 DEFENSE, BY MR. COOPER:

11 MR. COOPER: Good afternoon. Kadrin Singleton did
12 not want to kill Sharrell Williams. As you heard, and
13 as I've already said, it was kill or be killed; shoot or
14 be shot. And Kadrin Singleton reacted just like any of
15 us would, and he preserved his own life. You can't make
16 him -- he does not have to wait until he's harmed. He
17 doesn't have to wait until he's shot at to act. He is
18 allowed to preserve his own life.

19 THE COURT: Mr. Cooper, I'm going to need you to
20 speak a little more loudly for the court reporter.

21 MR. COOPER: Thank you, ma'am.

22 BY MR. COOPER:

23 MR. COOPER: But throughout your deliberations, I
24 want you to think about what makes sense, and use your
25 common sense, and think about what really happened that

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1 night.

2 The State's story, as I told you, is Kenny Boss
3 Hogg Fludd's story. Their account is Boss Hogg's
4 account. And the State wants you to believe that Kadrin
5 secretly planned to rob Sharrell Williams and Kenneth
6 Fludd under the guise of doing a marijuana deal. But
7 the robbery scenario, it just doesn't make any sense.
8 Kadrin never met these guys before. He didn't know who
9 he was dealing with. He didn't know if they would have
10 anything at all. He'd never been to that house. He
11 didn't know what was in there. You don't randomly pick
12 people who commit -- there's -- you're going to know
13 what you're going after if you're going to do a robbery.
14 You don't just go and hope to find something, like with
15 a metal detector. You have a goal, and he had no idea
16 what was there.

17 If Kadrin was planning to rob them, why would he
18 arrive with Kenny to the house? The guy that's planning
19 the robbery isn't the guy that's going to give up his
20 getaway car. Kadrin's from Summerville. He doesn't
21 live in the area. He doesn't drive around over there.
22 As you heard from him, he doesn't even have his own car.

23 They rode down in Chris's car, and they met at
24 Pizza Hut. And they met up at Pizza Hut, because Kenny
25 told him to. And they met up at Pizza Hut to do the

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1 drug deal. Kadrin went to Pizza Hut to buy marijuana.
2 Kadrin didn't go to Sharrell Williams' house to buy
3 marijuana. He went to Pizza Hut. And he didn't bring a
4 gun with him.

5 As you heard, the Pizza Hut -- and I'm sure you all
6 have all driven past it, or some of you might know where
7 it is, right there at the corner of Leeds and Dorchester
8 Road. There's the Bi-Lo, the Checkers, the Pizza Hut.
9 This is -- it's a shopping center, and it's a busy
10 intersection. Why would he go there to do a robbery if,
11 in his heart, was a robbery? It doesn't make any sense.

12
13 Did you notice that, even though Kenny was hanging
14 out with Chris and Kadrin for an hour and a half,
15 together in the car, Kenny never says he saw Kadrin with
16 a gun before they go in the house. Of all that time
17 they spent together, getting in and out of the car and,
18 you know, and turning around and backing up, wouldn't he
19 have seen the gun? Wouldn't he have had a hint of it at
20 all? And you didn't hear it, because Kadrin didn't have
21 a gun at that point, because he didn't bring it with
22 him.

23 And they're there, they met at Pizza Hut at 9:00
24 p.m. This isn't like, nefarious 2:00 a.m. meeting in
25 the dark, abandoned alley. It's Pizza Hut at 9:00 p.m.,

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1 and it's a busy intersection. There are families there
2 still having dinner. It just doesn't make sense.

3 The other thing is, they follow Kenny from the
4 Pizza Hut, then drop off the car. And you all saw, on
5 State's 3, they come down Azalea, and they go past
6 Cambridge Avenue, right here. So, they're following
7 Kenny, and they drive past the house, following Kenny.
8 And then, they turned down this dark road, right here,
9 one road off from Cosgrove, and parked behind this
10 random place, next to a dumpster, because Kenny wanted
11 to leave the car there. He's the one in control.
12 Kenny's the one driving, but Boss Hogg's the one in
13 control.

14 And this is the stuff that doesn't make sense, the
15 stuff in the pictures, the crime scene. It's a robbery,
16 right? Kenny said he grabbed everything off the
17 counter. If it's a robbery, why is there cash left on
18 the counter, in plain view? That's another picture.
19 It's just a closer-up image of the cash. And if they're
20 coming to steal drugs, why not take all the drugs that
21 are in the refrigerator?

22 Or what about the giant bag of marijuana right
23 behind the kitchen counter that Sharrell pulls the
24 marijuana that he weighs out. If it's a robbery, why is
25 this still there? If it's motivated by money, by greed,

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1 this wouldn't be there.

2 Or the crack cocaine on the other kitchen counter,
3 in plain view. If it's a robbery, why is this it there?
4 This is cash. Drugs are money. This is cash,
5 essentially. This is cash. And all this cash, these
6 drugs, are left behind. And they're left behind because
7 it's not a robbery.

8 And I don't know where it is, but you have it in
9 evidence -- oh, here we go. More cash in the chair.
10 And as the law enforcement testified, the chair's in the
11 living room. If it's a robbery, why not grab that cash?
12 It's in plain sight.

13 The robbery story doesn't make sense, because it's
14 a lie, because it's not what really happened. And you
15 know where that lie begins? The robbery story begins
16 when Boss Hogg calls 911. He lied to them. Just about
17 everything he said to the 911 operator was a lie. *Two*
18 *guys just walked in.* That's a lie. *I don't know what*
19 *race they were.* That's a lie. I mean, really? He
20 spent an hour and a half with these guys in a car, and
21 he wouldn't tell 911 even their race? He's lying. And
22 the race thing isn't something you're going to forget
23 because you're in distress. That's just something he's
24 making up while he's up here. He's sitting up there
25 lying to you guys.

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1 The 911 call wasn't about Sharrell. It was about
2 Kenny Fludd, because Boss Hogg was trying to buy himself
3 time. He had just shot his own cousin, and he knew
4 Darnell was right there, a few houses down, and he's
5 afraid of Darnell, and he's afraid of going to jail. As
6 much as he wouldn't admit it, he's afraid of going to
7 jail, because we're all afraid of going to jail. I
8 don't want to go to jail. I'm sure none of those folks
9 in the audience want to go to jail. That's natural
10 human behavior. We don't want to go to jail. It's not
11 a pleasant place. And he couldn't even admit that to
12 you all.

13 But so, he can't just walk away from the scene
14 then. He's called -- he was calling his cousin. They
15 know -- people know they're meeting up, and Tasha saw
16 them together. When he walks out, his car's gone, too.
17 So, the emotion you hear is the adrenaline running
18 through him. *Oh, shit. Oh, shit. Oh, shit. I just*
19 *shot my own cousin. What am I going to do?*

20 And he never went back to check on Sharrell. He
21 got as far away from the scene as he could. He
22 distanced himself in space, and he distanced himself in
23 responsibility.

24 The police met up with him on Azalea. So, when he
25 left out of the residence, he walked all the way down

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1 the street. And I think you have to compare Boss Hogg's
2 reactions and his actions to Natassia Nelson.

3 Natassia Nelson reacted like a person who lost a
4 loved one, and she did so naturally. She cared for the
5 man, and when she went into the house, she was grieving,
6 and she grabbed him, and she shook him, trying to wake
7 him up. This can't be real. Her reaction is a natural
8 reaction of a loved on.

9 Kenny's reaction is a man covering himself, and
10 covering something up, distancing himself from his
11 actions. And you heard Kenny say he didn't even touch
12 him. He didn't even touch his cousin, and he wouldn't
13 go back there. On the 911 call, you hear her ask, *can*
14 *you go back there?* *No, no, no.* He's distancing himself
15 from what he really did.

16 Another thing about Natassia's reaction is that
17 when she's shaking Sharrell, and she's moving around,
18 and there are other women inside the living room,
19 they're not concerned with preserving a crime scene.
20 They are concerned with their loved one. And so, they
21 don't pay attention to things that are on the ground.
22 They're trying to get to him. They're moving around.

23 So, when the Solicitor's Office, and I anticipate
24 they will, will ask you to read the tea leaves of the
25 crime scene and say, well, shell casings mean something.

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1 This means something. In a crime scene, everything can
2 move. It wasn't preserved.

3 Kenny was in there by himself for a period of time,
4 and Kenny's the only one who was alone in the crime
5 scene, by himself. And then, you had the loved ones,
6 all in the crime scene, and police had to pull them out.
7 So, don't let them say, oh, shell casing here means
8 this, because it doesn't add up. It's not one plus two
9 equals. It's a plus zebra equals something, whatever
10 that would be.

11 And so, Kenny's lies don't end with 911. He lies
12 to the officers on the scene to protect himself, and he
13 wrote some of those lies down with the detective. And
14 when he was asked where Sharrell lives, Kenny wrote
15 down, *your guess is as good as mine*. That's not the
16 response of someone worried about his cousin. That's a
17 man lying to cover for his own rear end.

18 And there are different kinds of lies, too, right?
19 There's flat-out lies -- *two guys just walked in and*
20 *robbed us*. Flat-out lie. And then, there are lies of
21 omission. Boss Hogg didn't tell the police on the scene
22 that Chris was his cousin and Chris was involved. Boss
23 Hogg didn't tell them it was a drug deal. Boss Hogg
24 doesn't tell them that he's the one that set everything
25 up, because he's lying to protect himself. As you heard

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1 him say, *I'm worried about me.* That's his number one
2 concern, not his cousin. And the thing is, it's almost
3 like Kenny can't help himself. He just starts talking,
4 and new lies come out.

5 I asked him some questions that he may not have
6 remembered, and I offered to play the video for him.
7 And he said watching the video wouldn't refresh his
8 memory. What is that about, right? If I spoke to
9 somebody and it was video-recorded, and I saw what I
10 said, I might remember it, or I might give it a shot.
11 But he doesn't, because he wants to cover up as much as
12 he can.

13 And does he really want us to believe that he's
14 never watched that video in the two-and-a-half years
15 that this case has been pending? That his lawyer, my
16 friend and mentor, committed malpractice?

17 Kenny wouldn't even admit he didn't want to go to
18 jail, and he refused to answer that question. I don't
19 know if you all remember that.

20 *Do you want to go to jail for the*
21 *conspiracy? Oh, I don't know. I haven't*
22 *been to court yet. Well, no, that's not*
23 *what I'm asking you. Do you want to go*
24 *to jail? I don't know. I haven't been*
25 *to court yet.*

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1 Four times, five times, we went back and forth
2 about it. And it's an -- it's an easy answer, no, I
3 don't want to go to jail; of course, I don't want to go
4 to jail. It's completely natural, but he can't even
5 admit to that.

6 And after he already admitted that he lied to 911,
7 he later tried to back up and say, no, no, no, he was
8 just under distress.

9 And the thing about the B.B. gun is that it's
10 completely new. He testified that, when he saw the B.B.
11 gun on the counter, he joked, *what are you doing with*
12 *that B.B. gun, Cuz?* But Detective Hughes testified that
13 Kenny told him the gun on the counter was like an
14 elephant in the room, and no one commented on it. Those
15 are two very different scenarios, the joke about the
16 B.B. gun versus the elephant in the room. And they're
17 both lies, because there was no gun on the counter when
18 everyone walked in the house. It's like Detective
19 Hughes said, not everyone's as good at lying as they
20 think they are, but -- excuse me. Excuse me.

21 But Kenny's story does have shreds of the truth,
22 small pieces of the truth. Kenny did go back to the
23 bathroom, but he also went into the closet by the
24 bathroom, and he got the .9 millimeter out of the nylon
25 holster, and he armed himself. There was a gun on the

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1 counter or bar, whatever we've been calling it, at some
2 point. But the truth is, the gun was brought to the
3 counter by Sharrell in an act of aggression. It wasn't
4 out there the whole time.

5 But the biggest and most important shred of the
6 truth is that there was a tussle. Do you all remember
7 that? He's on video saying, *it's like a tussle*. Right?
8 And then, we all watched the video of him saying that to
9 the detective. And so then, he admitted, *it's like a*
10 *tussle*. But to Kenny, a tussle and like a tussle are
11 completely different things. You remember that?

12 To Kenny, like a tussle means that two men are just
13 standing, facing one another, because that's how he said
14 it went down originally, on the record. That they're
15 just facing one another, and that Kadrin pulls out the
16 gun and says, *give it up*. And when Sharrell laughs at
17 him, Kadrin just shoots, right? That's not like a
18 tussle. That's not a tussle. The tussle's what really
19 happened, and the tussle that he says is when Sharrell
20 rushed him, when Sharrell rushed Kadrin, and Kadrin was
21 forced to act to protect himself. There are shreds of
22 the truth, but only shreds of the truth in Kenny's
23 statement.

24 And you know how you know that the standing face-
25 to-face like a tussle is a lie? The medical examiner

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1 tells you so. The State's expert witness, who went to
2 Columbia University, studied at Johns Hopkins, who
3 teaches at the Medical University of South Carolina, one
4 of the most premier learning hospitals in the country,
5 she testified, Dr. Reimer testified, that it was not
6 possible, that it was not possible that the two men were
7 standing, facing each other, when shots were fired.

8 What is possible, according to the State's medical
9 examiner is the truth, and it's what Kadrin told you
10 happened. That Sharrell made a rush, and Kadrin fired
11 three shots in quick succession, creating those three
12 wounds -- one to the face, puts a bruise on his shoulder
13 or chest, or whatever you want to call it, the one to
14 the side that ends up in his back, and the one that goes
15 through his arm and through his armpit. That's
16 possible.

17 And you know why I asked her if that's possible?
18 Because that's what my client told me what happened. He
19 didn't just watch that in here today, and then come up
20 with it in front of you. I ran through the scenarios
21 with her to determine, is my client telling me the
22 truth? Is what my clients says happened really
23 possible? And it is, including the other gunshot by
24 Kenneth Fludd from a different angle. The wound to the
25 left arm, all right, it's possible that when he was

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1 going, and he was shot from a different angle, that
2 other wound, the left arm, is Kenneth Fludd's .9
3 millimeter.

4 And we don't know exactly how the arms are when the
5 shooting happened, because they move, right? Not like
6 our body. Our body doesn't move. That's how she was
7 able to tell you that it was not possible that they were
8 standing face-to-face, because the angle going in from
9 up here in his armpit to his back puts Sharrell like
10 this, coming at Kadrin.

11 The other thing that the medical witness, the
12 medical examiner, expert witness, said that I think is
13 really important, is that there were four gunshots.
14 There were four distinct and separate gunshots. Four
15 gunshot wounds, and there were only three shell casings
16 found at the scene. To me, that's really interesting,
17 because, if there was a fourth shell casing in the
18 living room, the detectives sure would have found it.
19 It's not like they didn't do a good job searching the
20 house. Right? They found these shell casings up in the
21 attic. If they're going to find those in the attic,
22 they're going to find the fourth shell casing in the
23 living room, and they did a thorough search of the
24 house.

25 They looked in the back closet, and they found the

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1 bloody shorts. Now, I'm not saying that the bloody
2 shorts happened that day. Okay? Let's not be
3 ridiculous. The bloody shorts have been in the closet.
4 But what the bloody shorts tell you is that this is a
5 house of violence, that whoever bled in those shorts
6 balled them up and threw them in the corner. That this
7 is a house that has experienced violence, and in such a
8 way that it just balls it up and throws it in the
9 corner.

10 Also, in the closet in the bedroom, they found that
11 .9 millimeter bullet in the box, the unspent .9
12 millimeter. And with that .9 millimeter, or near the .9
13 millimeter, in the closet, in that bedroom, near the
14 bathroom where Kenny Fludd walked back to, they had an
15 empty nylon gun holster. To me, that speaks a lot.
16 Where is the gun and gun holster? And you know what?
17 Kenny Fludd got rid of it. Boss Hogg got rid of that
18 gun.

19 As Officer Woods testified, it's important for
20 police to secure a crime scene as soon as possible.
21 They want to preserve it. And as I said a minute ago,
22 you know who the only person who was alone in the crime
23 scene at all? Boss Hogg Fludd. I wonder where that
24 shell casing went? It walked away with Boss Hogg Fludd,
25 and that's the only thing he carried away. He carried

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1 away the cash that Kadrin paid for the marijuana.
2 Kadrin didn't get his money back. Boss Hogg took it and
3 walked away. And when Boss Hogg's gun jammed, and he
4 was put in a position and threw it down, Kadrin didn't
5 take Boss Hogg's gun. Boss Hogg took the gun, wiped the
6 shell casing, wiped the cash, and he walked.

7 And he walked from the house to Azalea Drive. Look
8 at all these woods, all this place that he could have
9 stashed that. And unfortunately, as good of a job as
10 the detectives did on the crime scene, they didn't
11 search anything else, and I wish they had. Where's the
12 K-9 track, looking and seeing where everybody went to?
13 All right. Where is the testimony about them following
14 Kenneth Fludd's path? I wish that you could have that
15 evidence.

16 MR. KIDD: Objection, your Honor.

17 THE COURT: What's your basis?

18 MR. KIDD: It's the Golden Rule.

19 MR. COOPER: I'm not asking them to put themselves
20 in the shoes of --

21 THE COURT: That wasn't what I --

22 MR. KIDD: May we approach?

23 THE COURT: You may.

24 OFF-THE-RECORD BENCH CONFERENCE, OUT

25 OF HEARING OF JURORS. PRESENT: THE

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1 COURT, MR. KIDD, MR. LIETZOW, MR. COOPER,
2 MS. EHRLICH.

3 END BENCH CONFERENCE.

4 THE COURT: You may continue, Mr. Cooper.

5 BY MR. COOPER:

6 MR. COOPER: I think it would be easier to figure
7 out what really happened if we knew what was in that
8 wood line.

9 Now, Boss Hogg testified that he called 911 almost
10 immediately. But he also said that he waited in the
11 house for approximately ten minutes before leaving. And
12 we won't -- we can't ever know exactly how long he
13 waited to call 911. But if you watch the video, you'll
14 be able to see him walk out and down the street. And
15 the times don't match up, but it's approximately 57-
16 minutes' difference. But there's a gap between when
17 Boss Hogg walks out of the house and out of the camera,
18 and when he calls 911. And we don't know exactly how
19 long that is, but he had time, and he took the time.
20 It's not a long time, but he didn't call 911
21 immediately.

22 Where was Chris Felder, right? Well, Ted Pugh said
23 his murder charge was dismissed. Remember, it's the
24 State's -- well, remember in their opening, the State
25 didn't even want you to know Chris Felder's name. He

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1 was the other person, the other individual. And you
2 also have to remember, it's their burden to prove to you
3 that Kadrin did not act in self-defense. And you know
4 why Chris isn't here? You want to know why you didn't
5 hear from Chris? Because it doesn't help their case.
6 Because Chris contradicts Kenny. Because, if he helped
7 their case, you would have heard from him.

8 And I just want to point out, Detective Hughes
9 testified that Chris received a phone call around 10:43
10 p.m., and that's right before the shooting, or
11 approximately. We don't know exactly. And you'll have
12 the videos in evidence, but I just want to show you.
13 Looks to me like Chris Felder's on the phone. I don't
14 know why else you do this if you're not on the phone,
15 but looks to me like he's on the phone. And what it
16 tells me, though, and why it's important, is because
17 Kenny said Kadrin told him to go get the change out of
18 the car, right? But that never happened. Chris Felder
19 just got a phone call and walked out, leaving Kadrin
20 alone in the house, without his friend and with two
21 strangers.

22 Boss Hogg, who you saw, stood up. He's the muscle.
23 He's the big man. And Sharrell, the man with keys to
24 that house of violence and that house of trafficking in
25 drugs, that's so important that the Federal Bureau of

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1 Investigation is watching that house. And while they
2 might not know who Sharrell is, he had the keys, and
3 that place was important enough for the United States
4 Government to be involved.

5 Now, I want to talk a little bit -- I've been
6 talking for awhile about lies. Now, I want to talk a
7 little bit about the truth. It's not ELMO, but you all
8 can still read that, right? Okay. The truth is, and
9 what the evidence shows, is that Kadrin acted in self-
10 defense. Self-defense is a complete defense to
11 homicide. That means Kadrin Singleton is not guilty of
12 the murder.

13 And I just want to point out, as the Solicitor
14 said, if they don't disprove self-defense beyond a
15 reasonable doubt, then you must find Kadrin not guilty.
16 That's your oath. That's the oath that you took, is to
17 weigh this case beyond a reasonable doubt. And if you
18 have a reasonable doubt, then you must find him not
19 guilty. And I just point that out, because that's the
20 standard. I'm not trying to say that there's any doubt
21 about what happened. We know what happened, and it's
22 the truth, and it's Kadrin's account of the events,
23 because that's what the evidence shows is true. That's
24 not what's contradicted by the evidence. Kenneth
25 Fludd's account is contradicted by the evidence, and I

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1 want -- like the Solicitor said -- I want you to look at
2 the evidence, because it helps explain what really
3 happened. All right.

4 As they said, the elements are, he's without -- it
5 has to be without fault. Okay? What they leave out,
6 and what they will leave out, I predict, is that,
7 without fault doesn't mean you go to a drug deal, and it
8 goes sideways, you're at fault, right? Without fault
9 means that Kadrin's conduct was the type which was
10 reasonably calculated to, and did provoke a deadly
11 assault. Okay? That's what fault means. Reasonably
12 calculated to provoke a deadly assault.

13 And my best example that I always think of is, I
14 don't know how many people, you've seen Harry -- or not
15 Harry Potter -- Dirty Harry. And in the opening scene
16 of Dirty Harry, you know, there's the chase, and Clint
17 Eastwood gets to the bad guy, and he's out on the pier,
18 and Clint Eastwood tosses him the gun and says, *make my*
19 *day*, right? That Clint Eastwood's action was reasonably
20 calculated to provoke a deadly assault, to put the gun
21 into play. That's what that means.

22 And the thing is, that's exactly what Sharrell
23 Williams did. Sharrell Williams is Dirty Harry. *Go on*
24 *and get what you came for*. He, Sharrell Williams,
25 reasonably calculated to provoke the assault, not

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1 Kadrin. Kadrin didn't insert a gun into the situation.
2 It's Mr. Williams that did. And then, Kadrin's forced
3 to react in that situation.

4 And I know they're probably going to make a big
5 deal about how, at some point during his cross, in the
6 five minutes about whether or not he could walk away, at
7 some point, it came out of Kadrin's mouth that it's, you
8 know, conceivable that he could have walked away. But
9 he didn't feel like he could. And you have to think
10 about what he did, was it reasonable at the time, not
11 what's conceivably possible. And as he told you, he
12 didn't feel comfortable turning his back on these men
13 when Mr. Williams, Sharrell, put the gun out on the
14 counter and inserted violence in the situation.

15 It's not our -- it's not our culture, right? It's
16 not our world. In their world, when a man does that, he
17 is -- there's no doubt that he is willing to use that
18 weapon, and you cannot require Kadrin to have risked
19 that. He couldn't walk out of the situation, and the
20 other guys had all of his stuff, too. They had all of
21 his money. They had all of his drugs, and Kenny's
22 standing behind him. He can't risk walking away. He
23 doesn't know what would happen, and you cannot require
24 that of him, because he acted reasonably in the
25 situation that he faced.

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1 Now, the other elements of self-defense are that
2 he's actually -- he's in belief that he was in imminent
3 danger or actually was in such imminent danger. And you
4 heard from him. He did believe that he was in imminent
5 danger. And I think that he was in actual imminent
6 danger, because, as he testified, Kenneth Fludd fired
7 off a round at him. He was actually in danger of losing
8 his life. But for Kenneth Fludd's poor aim, it could be
9 a double homicide.

10 You have to analyze, was his belief reasonable?
11 Would a reasonable, prudent person of ordinary firmness
12 and courage entertain the same belief? When he's in
13 that situation, he doesn't shoot the gun immediately.
14 He waits until Sharrell rushes him, comes at him,
15 attacks him. And when he does that, Kenneth Fludd's got
16 a gun, too, aimed at him. Kadrin's belief was
17 completely reasonable, that he could die in that
18 situation.

19 And just like I said before, if he hadn't acted the
20 way he did, all those people sitting in the back, behind
21 Kadrin, who love him, could be sitting on that side of
22 the courtroom. And those people who loved Mr. Williams
23 could be sitting on this side of the courtroom. Just as
24 easily, that could be the scenario.

25 And I think I just said this, but Kadrin acted

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1 reasonably, and he actually was in peril. Kenny aimed
2 his gun at Kadrin, and he could have -- Kadrin could
3 have turned it back on him. When he even glanced over
4 at Kenny, when Kenny says, *I wouldn't do that, boy* --
5 Kenny's left-handed -- *I wouldn't do that, boy*, and
6 Kadrin glances over at him, Sharrell takes his chance
7 and rushes at him, and Kadrin was forced to react. He
8 was actually in danger, and Kenneth Fludd fired his
9 weapon.

10 I'm sure you noticed that I had to call the gunshot
11 residue expert, right? Who works at SLED, the South
12 Carolina Law Enforcement Division. She's their expert,
13 their witness. I didn't have that report done. They
14 didn't want you to hear that testimony, because it
15 doesn't help their case, doesn't fit with Kenneth
16 Fludd's account.

17 And they want you to believe some ridiculous theory
18 that Kenneth Fludd got gunshot residue on the back of
19 his left hand, which he fired the weapon from, touching
20 the witness table at the detective's bureau, or from the
21 cop car that he rode over there in, or something like
22 that. I don't even understand. It shows Kenneth Fludd
23 fired a weapon, and if he had just picked up -- he
24 didn't pick up -- it sort of just makes sense. If he
25 had just picked up, like, some gunshot residue from the

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1 counter, or something like that at the residence, all
2 right? just some small amount, after five hours of him
3 sitting in the interview room, doing this, messing with
4 his clothes, putting his hands in his pockets, folding
5 his arms, after five hours of that stuff, if there was
6 just a small amount, would you expect to see any at all?

7 The fact that there is gunshot residue shows you
8 that, at one point in time, Kenneth Fludd had a lot on
9 his hands. And he did so, because he was the one that
10 shot, or he did shoot. And as they said, you know, if
11 he's crouching behind the counter when the gun was
12 fired, he's likely not to have any gunshot residue on
13 his hands. He could if he touched the counter, and the
14 counter had gunshot residue, he would have some amount
15 on there. But after five hours of doing this, coming in
16 and out of cars, waiting, being interviewed, would you
17 expect to see any at all? Some labs only test after
18 four hours. He's at the very end of when you would not
19 expect to see any gunshot residue at all.

20 Now, I may be wrong, and if I am, I'm happy to
21 admit it, but I predict that the State's going to try to
22 tell you that Kadrin is guilty because he ran from the
23 police. Okay? And by watching the news, we know that
24 all sorts of people will run from police, including
25 other law enforcement. So, just because you run from

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1 police doesn't make you guilty of a murder. And he
2 admitted it. Right? He admitted on the stand things
3 that didn't help him. He ran because he didn't want to
4 go to jail. That is a true and honest human answer.

5 Not Kenny Fludd. *I don't know when I'm going to go*
6 *to court.* That is a real answer, and it doesn't make
7 him look good. And the Solicitor is going to argue he
8 knew he was going to go to jail, and that's why he ran.
9 And he did everything he could to prevent being caught,
10 and he owned up to that stuff. And he owned up to it
11 because it's true. He didn't want to get caught. He
12 didn't know what was going to happen. He was afraid of
13 going to jail. He knew he killed a man, and he didn't
14 believe that the police would believe him. And I'm
15 asking you to believe him. And I think you have to,
16 because the evidence bears out his story. The evidence
17 shows that he's telling the truth. The evidence shows
18 that Kenneth Fludd is lying. But the evidence shows
19 that Kadrin is truthful.

20 I will leave you with this... Reasonable doubt is,
21 the Judge is going to tell you, the doubt that would
22 cause you to hesitate to act. And if you hesitate to
23 believe Kenneth Fludd, right? if you hesitate and you
24 think, I don't know which one's telling the truth; if
25 you think to yourself, I can't tell whose story is

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1 telling -- whose story is true, then you must find
2 Kadrin Singleton not guilty, because that's --

3 MR. KIDD: Objection, Judge.

4 THE COURT: What's your basis?

5 MR. KIDD: Statement of law.

6 THE COURT: Ladies and gentlemen, as I indicated to
7 you, what is contained in closing arguments is merely
8 the attorneys' contention as to what the evidence will
9 show you. I will instruct you on the law applicable to
10 this case. The law as given by this court is the only
11 law that you may consider.

12 Mr. Cooper.

13 MR. COOPER: Thank you, your Honor.

14 BY MR. COOPER:

15 MR. COOPER: The Judge is going to instruct you
16 that reasonable doubt is hesitating to act. Okay? And
17 if you hesitate to believe Kenneth Fludd's story, you
18 cannot find Kadrin Singleton guilty of murder, because
19 that's --

20 MR. KIDD: Same objection, your Honor.

21 THE COURT: Same words of instruction.

22 Mr. Cooper.

23 MR. COOPER: Yes, ma'am.

24 BY MR. COOPER:

25 MR. COOPER: And the thing is, okay? it's not

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1 Kenneth Fludd's word against Kadrin Singleton's word.
2 All right? That's a tough enough choice as it is. What
3 it is, is, it's Kenneth Fludd's word versus Kadrin
4 Singleton's word, with the medical examiner, with the
5 gunshot residue expert, with all the evidence that
6 speaks for Kadrin. So, it is everything together and
7 Kenneth Fludd's word.

8 That night, in that house, Kadrin Singleton did not
9 commit murder. It was shoot or be shot; kill or be
10 killed; and he reacted to save his life. And he did so,
11 just like any person in this gallery would. Just like I
12 would, and just like any reasonable person would, and he
13 is not guilty of a murder.

14 Thank you.

15 MR. KIDD: Please the Court?

16 THE COURT: Mr. Kidd.

17 CLOSING ARGUMENT IN REBUTTAL ON

18 BEHALF OF THE STATE, BY MR. KIDD:

19 MR. KIDD: I've got a lot to address on that. I'll
20 start with a quote. Voltaire once said that:

21 *We owe respect to the living. To the*
22 *dead, we owe only the truth.*

23 *We owe respect to the living. To the*
24 *dead, we owe only the truth.*

25 That really encompasses what this process is about.

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1 In this courtroom, when the Judge enters, we stand.
2 It's a sign of respect. When the jury panel enters and
3 exits, we stand. It's a sign of respect. We show
4 respect to the victim's family though sympathy. We show
5 respect to the defendant by honoring his constitutional
6 rights in giving him a fair trial. We show the living
7 respect, but what this process is about is finding the
8 truth for the deceased.

9 MR. COOPER: Objection. That's also a mis-
10 statement of the law.

11 THE COURT: Ladies and gentlemen, I will instruct
12 you on the law applicable to this case. Please remember
13 that what the attorneys have indicated to you in their
14 closing statements is not evidence in this case. It is
15 merely their contention as to what the evidence has
16 shown you. I will instruct you on the law that is
17 applicable to this case. Thank you.

18 BY MR. KIDD:

19 MR. KIDD: So, I want to talk about a lot of mis-
20 characterizations that have gone on, attempts to cast a
21 different shade on the truth. And a lot of that's going
22 to have to do with Kenny. And I would say, eighty
23 percent of the Defense attorney's closing argument
24 attacked Kenny's credibility.

25 You heard how long he had been interviewed by

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1 police, how many hours he'd been on video. You saw a
2 three-second clip. That's what they impeached him with,
3 a three-second clip. Like a tussle. That's what they
4 have.

5 Now, was Kenny honest from the go? No. In the
6 first twenty minutes from when the shooting happened, he
7 made a couple lies. He did, because he was scared,
8 because he didn't want to get in trouble. So, he lied.
9 He didn't admit that he'd set up the drug deal. He
10 didn't identify who was involved right away, for twenty
11 minutes. Then, he gets back to the station, and he's
12 interviewed for hours and hours and hours, and he tells
13 them everything. He tells them everything.

14 So, I want to talk to you about why you can believe
15 Kenny Fludd. And the reason is, is unlike the
16 defendant, Kenny Fludd, when he made these statements,
17 he didn't have the benefit of analyzing and seeing all
18 this. You see, the way the criminal process works is,
19 before we get to this point in trial, there's a
20 discovery period. Everything that I have, they have.
21 That's the way it works. There's no hiding the ball.
22 There's no surprising with some secret piece of
23 evidence. It's discovery. It's how the criminal
24 process works. So, all the evidence I collect, all the
25 reports that are generated, that's all turned over to

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1 them. They have it, too. There's no hiding anything.

2 But Kenny Fludd, when he was interviewed for hours
3 and hours and hours, he didn't know about cell phone
4 records. He didn't know about tracking from cell
5 towers. He didn't know about surveillance videos across
6 the street. He didn't know what other people were going
7 to say. He didn't know what a forensic pathologist was
8 going to say when they came in here. He didn't know
9 about bullet trajectory. He didn't know where shell
10 casings were going to be recovered. He didn't know
11 about GSR. He didn't know about blood spatter. He
12 didn't know about anything. He just told the truth.

13 So, let's talk about how you know who told the
14 truth, specifics. He talks about Christopher Felder
15 calling him to set up a drug deal. How do you know it's
16 true? Verified by the records, by the phone records.
17 You have them. Tells everyone they meet at Pizza Hut.
18 How do you know it's true? Well, the phone records
19 track right to Pizza Hut, and Kenny's telling the truth.

20 What's he tell you next? Drop off the car at
21 Cosgrove. Sure enough, Kenny's telling the truth again.
22 What's he tell you next? I got frustrated with them.
23 They were acting sketchy. Wanted to park near the
24 interstate. So, he got frustrated and left them there.
25 How do you know that's true? The phone records. They

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1 called him to come back. It's verified.

2 They arrive at the house on Cambridge. Kenny
3 describes how they go inside. How do you know it's
4 true? It's on video, surveillance video he didn't know
5 existed. Exactly how he described it happening, that's
6 how it happened, because it's on video.

7 Now, what about inside the house? How do you know
8 it's true? It's harder. But the evidence, you know
9 it's true from the evidence. You know it's Occam's
10 razor that says among competing hypotheses, the one
11 which requires the fewest assumptions should be
12 selected. Basically, over-simplify. What that means
13 is, all things being equal, the simplest explanation is
14 the correct one.

15 So, what happened inside the house? How does Kenny
16 describe it? Let's walk through it real quick. Let's
17 walk through it with an idea now about forensics. So,
18 let's talk about where Kenny describes everyone was, and
19 how it makes perfect sense.

20 So, when they arrive, Kenny tells you that
21 Christopher Felder, himself, and the defendant are all
22 in the living room, and Sharrell goes in the kitchen and
23 gets the marijuana. He comes to the bar side in the
24 kitchen, and is weighing it out.

25 He then says that Sharrell walks around the bar to

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1 hand the marijuana to the defendant. And he says, *oh,*
2 *damn, I almost gave you the weed without getting the*
3 *money.* And the defendant tells Christopher Felder to go
4 outside and get the change. Go outside and get the
5 money from the car. Christopher Felder goes outside;
6 Kenny goes to the bathroom.

7 When he comes out of the bathroom, he tells you how
8 they're standing. He tells you that Sharrell's right
9 here, the defendant's right there. He says, *give it up,*
10 and as he says, *give it up,* he pulls the gun from the
11 back of his waistband. And this is important, because
12 how does he describe those guns? Once again, how can
13 you verify he's telling the truth? He said, *well,*
14 *there's a gun on the counter, but it has a brown handle.*
15 The defendant pulled an all-black gun from his
16 waistband. An all-black gun. Kenny's telling the truth
17 again.

18 He says when -- when he says, *give it up,* they
19 don't even take him seriously. That's a pretty
20 believable reaction. Says they laugh, and almost
21 immediately, gunshots.

22 Now, let's think about that in relation to where
23 the wounds that Sharrell Williams suffered and
24 trajectory. If Sharrell is on the right X, -- here, let
25 me try this again. So, we have Sharrell. Then we have

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1 Kadrin. And Kadrin pulls out a gun and puts it on
2 Sharrell, and says, *give it up*. Natural response.
3 Bang, bang. One, two. Falls. Third shot, back of the
4 left tricep. Goes down. Leans over the bar, puts the
5 gun on Kenny, *give me the keys*. Grabs the weed off the
6 counter. But he's right, his gun jammed. And the lack
7 of the fourth shell casing, it didn't eject. While he
8 grabs the weed, he grabs the pistol with the brown
9 handle off the counter. Now, why didn't he grab
10 everything else? His hands are probably pretty full at
11 this point. He's got two firearms and a big bag of
12 marijuana. And as he's leaving, --

13 MR. COOPER: Objection, your Honor.

14 THE COURT: What's your basis?

15 MR. COOPER: The State is arguing facts that are
16 not in evidence.

17 THE COURT: Ladies and gentlemen, please remember,
18 what the attorneys are telling you in their closing
19 arguments is not evidence in this case. It is their
20 contention as to what the evidence has shown you.

21 BY MR. KIDD:

22 MR. KIDD: As he's leaving, Sharrell's trying to
23 get up off the floor. He just suffered three gunshot
24 wounds. He's trying to get off the floor. And what
25 does Kadrin do? He takes the other gun, and he shoots

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1 him in the face, hence the trajectory. Steep, downward
2 trajectory.

3 It makes sense, because that's how Kenny Fludd
4 describes it, and that's how it fits the evidence.
5 And you know how else it makes sense? Where the shell
6 casings are located. Let's talk about that. The .40
7 caliber, the first gun to fire, you have one shell
8 casing underneath the body, and one over here in this
9 area. And then, the .9 millimeter shell casing would be
10 in that area right there. All on the right. All on the
11 right side, as if the shooter was standing where Kadrin
12 Singleton was standing. Because, as you heard, shell
13 casings eject to the right.

14 And you know, and despite what you might think,
15 shell casings actually eject forward and to the right,
16 because as a firearm operates, when a bullet goes off,
17 it causes the slide to go back, and that's what loads
18 another bullet. And then, when the slide goes forward,
19 that's what ejects the cartridge. Forward and to the
20 right. And that's how that shell casing got underneath
21 him. The .40 shot, the .40 shot, the .40 shot. He's
22 getting up, the .9 millimeter shot, and he's on top of
23 the .40 caliber shell casing then. It fits the evidence
24 to a tee.

25 And the Defense wants to talk about why I didn't

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1 call Chris Felder. Why I didn't call him. That's his
2 boy. You heard. He pled guilty to accessory to murder.
3 It's not my witness. They called witnesses.

4 MR. COOPER: Objection. Burden shifting.

5 THE COURT: Overruled.

6 BY MR. KIDD:

7 MR. KIDD: Is he on the phone? Maybe. Probably
8 so. You have the records. But what's he doing? He's a
9 lookout. He's making sure no one else comes in the
10 house while they do this robbery. Defense wants to tell
11 you that Kenny stole the cash. There was no cash,
12 ladies and gentlemen. There was no cash. This was a
13 robbery from the rip.

14 Now, let's talk about that light tussle. You see
15 how they backed off with that after the forensic
16 testimony? Uh-oh, there's no stippling. Uh-oh. We're
17 a little further away than we needed to be for a tussle.
18 No soot, no stippling. It's a problem, because it fits
19 Kenny's facts. It doesn't fit nicely for their lies.

20 You heard the 911 call. He's trying to argue that
21 it happened some long period of time afterwards. Judge
22 for yourself. Compare the video and then when the 911
23 call happened, the time that police arrived. The 911
24 call happened immediately, when Kenny walked outside.
25 Immediately. Kenny walked down the street. Yeah, to

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1 flag down the police. You hear him on that -- you hear
2 him on the 911 call.

3 You know, he wants to sit here and call Kenny Fludd
4 Boss Hogg a million times. That's fine. Wants to make
5 it look like he's the muscle, that's fine. Let him do
6 that. You know, he tried to make it look like he'd
7 spent some long time in prison. He's a 37-year-old man
8 with one misdemeanor conviction. Thirty-seven years
9 old. Now, I don't mean to speak negatively, but I'm
10 going to tell you something.⁵ People in this
11 neighborhood who are 37 years old with one misdemeanor
12 conviction, that's not bad.

13 And remember the defendant's response when he was
14 questioned by the police for the first time?

15 *This is your chance to tell us what*
16 *happened. It's not like we see. This is*
17 *your chance; tell us what happened.*

18 *I wasn't even there. I don't know*
19 *what you're talking about. I was at my*
20 *buddy's house all day, all night. Wasn't*
21 *even there. I don't know what you're*
22 *talking about.*

23 So, they want to say Kenny's lying.

24 Now, does running from the police automatically
25 mean you're guilty of murder? No, it does not.

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1 Absolutely, it does not. Does it indicate you have
2 something to hide? Yes. Yes, it does. Does riding
3 around in a stolen car with a stolen license plate
4 indicate you have something to hide? Yes, it does.
5 Does wrapping your cell phone up in a bag and throwing
6 it over a fence while you're being chased by the police
7 indicate you have something to hide? Absolutely. It's
8 common sense. It's not a stretch.

9 A stretch is that, somehow, he disarmed two
10 individuals and came out on top without a scratch, on
11 their own turf is a stretch. A stretch is that Kenny
12 misses and shoots his cousin. It's a stretch.

13 I'm asking you to use common sense. No leaps. But
14 ladies and gentlemen, even if you don't believe a word
15 that Kenny told you, even if you believe every word that
16 came out of his mouth, he is still guilty of murder.
17 Now, that's very important. Even if you believe every
18 word that came out of his mouth, he's still guilty of
19 murder. You don't get to go to felony drug deals and
20 claim self-defense. You don't get to arm yourself and
21 claim self-defense.

22 You heard, even according to his theory of the
23 case, gun on the counter, he's standing there. He wants
24 his money or his drugs, according to his theory of the
25 case, and he's not leaving without them. He could walk

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1 away. Under the law of self-defense, he has a duty to
2 walk away. A duty. You have a duty to retreat. But he
3 doesn't.

4 According to his theory of the case, if you believe
5 it, he grabs the gun. He is at fault for bringing on
6 the difficulty. You go to a drug deal, you grab the
7 drug dealer's gun, you are at fault for bringing on the
8 difficulty. You don't get self-defense.

9 And then, they want you to believe that that is a
10 reasonable course of action, that a reasonably prudent
11 person in his shoes would have done the same thing.
12 That that's reasonable. That, if you believe his story,
13 his theory of the case, that grabbing a gun dealer's gun
14 off of a counter because he wants to short you two
15 hundred bucks is reasonable. No, ma'am. No, sir. Not
16 in South Carolina. That is not reasonable.

17 I know it's been a long week. I know you're all
18 tired. I know I am, too. What I ask is that you be
19 thorough, that you look at the evidence, that you look
20 at the law, and that you apply the law to those charges.
21 And by doing so, the defendant is not entitled to self-
22 defense. He brought on the difficulty. He didn't
23 retreat, nor did he act reasonably. And that's if you
24 just believe his theory of the case, although, what the
25 facts tell you, what competent testimony tells you, what

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1 the evidence tells you, that this was a robbery.

2 You know, I always hear people talk about drug
3 deals gone wrong. Drug deal gone wrong for who?

4 And I know it was kind of disjointed when we talked
5 to you about it in trial, so I just want to make sure
6 that the dots are connected. When you heard from Willis
7 Walker, and we talked about this map right here, on
8 November 21, 2012, between 3:19 and 3:32 p.m., ping
9 off this tower in Hollyville. Then, you have a GPS map
10 -- I mean, a satellite image showing you just how
11 sparsely populated this part is.

12 And the reason that's so important is because --
13 well, it might not be important now, I guess, but the
14 reason it's so important is because, when you heard
15 Officer Brian George testify about when he made the
16 arrest with the firearm, and the person he arrested,
17 what his address was, was Thornburg Street.
18 Thornburg Street.

19 So, the person he arrested with the firearm almost
20 a year later, his address, mere yards away from where
21 the defendant's cell phone was pinged the day after the
22 murder.

23 So, it's those steps that we take to prove our
24 case. And it's those steps that kind of dot the I's and
25 cross the T's to get us to where we are. And it's

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1 really those steps that turn this into a self-defense
2 case, because, up until the point that we could prove
3 with absolute certainty that he was there, that he did
4 the shooting, that he dumped the murder weapon, that he
5 threw his cell phones, up until that point, this was a
6 whodunit.

7 MR. COOPER: Objection. Commenting on his right to
8 silence.

9 THE COURT: Ladies and gentlemen, please remember
10 that I will instruct you on the law that is applicable
11 to this case. Thank you.

12 BY MR. KIDD:

13 MR. KIDD: And you can see that from his interview
14 with the police, where he said, *I wasn't there. I don't*
15 *know anything about it.* But as the evidence mounts
16 today, *I did it, but I had to.*

17 Let me make one more brief comment about Kenny.
18 And you know, I know maybe he didn't come off very
19 likeable. Maybe he did, maybe he didn't. But he got
20 really frustrated with Defense attorney's questions.
21 Maybe didn't answer them as straightforwardly as he
22 could have or should have at times, because, for
23 whatever reason. But hours and hours of interviewing
24 and testimony on the important things, they're all
25 supported by the evidence, and that's what's so

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1 important. That's how you know you can believe him.
2 Don't take his word for it. Don't take his word for it.
3 Use the evidence to verify the things that he says. And
4 that's the way you know he's telling the truth.

5 So, I'm going to leave it at that, and you can
6 begin your deliberation, once the Judge charges you on
7 the law.

8 I just want to remind you that, even if you don't
9 believe Kenny, even if you don't like him, if you don't
10 believe a word he says, if you believe every word that
11 comes out of the defendant's mouth, he's still guilty of
12 murder.

13 Thank you.

14 BY THE COURT:

15 THE COURT: All right. Ladies and gentlemen, when
16 we began the closings, I estimated a certain amount of
17 time in order to present this to you. So, I think it's
18 an appropriate time to take a break. While you are
19 conducting your break, Mr. Foreman, I need for you to
20 inquire -- my charge is about 30 to 40 minutes. And
21 then, it takes about ten minutes for us to gather. So,
22 it would not be presented to you until, more or less,
23 6:00 p.m. this evening. At that point, you would need
24 to begin your deliberations. It would be an appropriate
25 time for us to break, and then come back in the morning

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1 for me to charge you on the law, and then continue --
2 and then, for you to deliberate at that time.

3 Please retire, and let me know. Take a coffee
4 break, and we'll be addressing some matters of law. And
5 just let the bailiffs know when you have reached your
6 decision, and you're ready to come back in the
7 courtroom, one way or the other. All right?

8 Please rise for the jury.

9 JURORS LEAVE COURTROOM 4:43 P.M.

10 THE COURT: Thank you. Be seated. That took
11 significantly longer than I anticipated. I'm inclined
12 -- my concern would be, given what has gone on
13 throughout this week, my concern would be that, if I
14 give it to the jury tonight, and they cannot come to a
15 verdict, then, we run the risk of letting the alternates
16 go, and it is so late by the time they get it.

17 Mr. Kidd, I know that both of you had commitments
18 and conflicts for tomorrow. I just think we're running
19 a very dangerous risk.

20 MR. KIDD: I defer to your Honor, but I would
21 prefer them to start deliberating. But that's, you know
22 -- but I defer to you, so, whatever you decide.

23 THE COURT: Okay.

24 MR. COOPER: Your Honor, I agree with the State. I
25 would rather they begin deliberations, as well. I think

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1 we haven't had any issues with any of the jurors
2 throughout the week.

3 THE COURT: That's about the only thing we haven't
4 had issues with throughout this trial. Let's see what
5 the jury says. Take about five minutes.

6 OFF THE RECORD 4:44 P.M.

7 BACK ON THE RECORD 4:51 P.M.

8 JURORS ENTER COURTROOM 4:52 P.M.

9 BY THE COURT:

10 THE COURT: Thank you. Please be seated. Mr.
11 Foreman, you have indicated that you all would wish to
12 come back and begin fresh in the morning. It has been a
13 very long day, I agree. And I think that is probably,
14 considering the lateness of the hour, probably the
15 better decision.

16 Ladies and gentlemen, this is likely the last time
17 I will say this over the evening hour. Please remember
18 all of my admonitions. You have heard all the evidence
19 and you have heard closing arguments, but you have not
20 heard the law as I have given it to you that is
21 applicable to this case. So, please do not be deciding
22 any issue in this case, as well as all of my other
23 admonitions.

24 Again, please be -- we'll start at 9:00 a.m. At
25 9:00 a.m. It is -- Madam Court Reporter, are you with

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1 me tomorrow?

2 COURT REPORTER: I do not believe so.

3 THE COURT: Okay.

4 COURT REPORTER: I believe Ms. Perron will be back.

5 THE COURT: All right. Thank you. We will begin
6 9:00 a.m., in the morning. So, please report back, and
7 I will instruct you on the law applicable to this case.
8 At that time, over the evening hour, we're going to have
9 all the exhibits that will go back to you already boxed
10 up and ready to go back to you.

11 All right. Please have a wonderful evening. Get
12 some rest. I'll see you back in the morning.

13 Please rise for the jury.

14 JURORS LEAVE COURTROOM 4:53 P.M.

15 MOTIONS:

16 THE COURT: Thank you. Be seated. Any motions or
17 matters? Mr. Kidd?

18 MR. KIDD: No, ma'am.

19 MR. COOPER: I don't think so, but out of an
20 abundance of caution, I'll just renew all of my
21 previously stated motions.

22 THE COURT: I think you can, but I don't know that
23 that's necessary, and I think it's after my charge, and
24 it's not going to hurt to do it.

25 MR. COOPER: No, I'll just -- I'll just --

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1 THE COURT: Let me see you all just briefly just to
2 make sure. I'm going to go get your charge from Mr.
3 Cooper, and just make sure that you all are -- have gone
4 over the verdict form with me.

5 MR. COOPER: Yes, your Honor. May I approach?

6 THE COURT: We'll do it in chambers.

7 MR. COOPER: yes, ma'am.

8 THE COURT: All right. I'll see you tomorrow, Mr.
9 Singleton. 9:00 a.m.

END DAY FOUR, THURSDAY,

JANUARY 8, 2014, 4:44 P.M.

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CERTIFICATE OF REPORTER

DAY FOUR, THURSDAY, JANUARY 8, 2015

TRANSCRIPT OF TRIAL

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

I, Wanda H. Rowe, CVR-M, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing Day Four, Thursday, January 8, 2015, Transcript of Trial is a true, accurate, and complete record of the proceedings had and exhibits admitted on said date, in the case of State of South Carolina versus Kadrin Rajun Singleton, Charleston County, Court of General Sessions, Case Number 2013-GS-10-01153; that I am of neither kin, counsel, nor interest to any party hereto.

A CERTIFICATE OF REPORTER IS ATTACHED TO THE ORIGINAL OF THIS TRANSCRIPT AND CONTAINS MY DIGITAL SIGNATURE. PURSUANT TO SCACR 607, REQUESTS FOR COPIES OF THIS TRANSCRIPT MUST BE MADE TO THE COURT REPORTER. UNAUTHORIZED COPYING OF THIS TRANSCRIPT IS PROHIBITED.

Witness my signature April 25, 2015.

S/Wanda H. Rowe
Wanda H. Rowe, CVR-M
Official Court Reporter

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STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
) NINTH JUDICIAL CIRCUIT
 COUNTY OF CHARLESTON) CASE NO.: 2013-GS-10-01153

STATE OF SOUTH CAROLINA)
)
 VS.)
)
 KADRIN SINGLETON,)
)
 DEFENDANT.)
 _____)

JURY TRIAL

VOLUME 5 of 6

held before the Honorable Kristi L. Harrington
 Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
 in the Charleston County Courthouse
 Charleston, South Carolina
 on Friday, January 9, 2015, Commencing at 8:56 a.m.

SUSAN "MIA" PERRON, CVR-CM-M
 Circuit Court Reporter - 9th Judicial Circuit
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Proceedings
January 9, 2015

PROCEEDINGS

[Whereupon, Court's Exhibit Number 9 is marked
by the court reporter]

THE COURT: Mr. Cooper, I just need to address
Mr. Kidd's e-mail. Can we go ahead and do that while
we're waiting on the defendant?

MR. COOPER: Yes, ma'am.

THE COURT: I received Mr. Kidd's e-mail over
the evening hour. I've marked it as Court's 9 for
record purposes.

Mr. Kidd, this contains basically what we
discussed in chambers, and I think it's -- while it is
a very accurate statement of the law, I am going --
based upon the facts as presented in this case, I am
not changing my instructions to the jury. Note your
exception.

Unless, Mr. Cooper, you want this added.

MR. COOPER: No, ma'am.

THE COURT: All right. Thank you.

MR. KIDD: Thank you, Your Honor.

MR. COOPER: And, Your Honor, as a procedural
purpose, after the Court charges the jury or before we
start the bonds, let me just place the objection on
the record and then I will be able to articulate in
terms of the imperfect self-defense charge that we

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1 requested.

2 THE COURT: I'm going to let you do that.
3 Please let me do bonds.

4 MR. COOPER: Yes, ma'am.

5 THE COURT: I'm a judge short, so please let me
6 do bonds so we can kind of get back on track.

7 MR. COOPER: Yes, ma'am.

8 THE COURT: Even after the jury returns, I can
9 allow you to do that. If we're done -- I'm going to
10 give -- I want to give you as much time to articulate
11 your position --

12 MR. COOPER: Yes, ma'am. I understand.

13 THE COURT: -- without being rushed.

14 MR. COOPER: Yes, ma'am. I just want to make
15 sure that the objection is basically temporaneously
16 [phonetic].

17 THE COURT: It is.

18 MR. COOPER: Thank you.

19 THE COURT: It will be on the record, and that
20 we are having scheduling issues, and that I am
21 allowing you to articulate it, you've objected, and
22 you will articulate it later.

23 MR. COOPER: Thank you, Your Honor.

24 THE COURT: All right. Thank you.

25 [Whereupon, the defendant enters the courtroom

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1 at 9:01 a.m.]

2 THE COURT: All the jurors are now here.

3 Anything before we bring in the jury?

4 MR. KIDD: No, ma'am.

5 MR. COOPER: No, ma'am.

6 THE COURT: All right.

7 [Whereupon, the jury enters the courtroom at

8 9:01 a.m.]

9 THE BAILIFF: All jurors are present, Your
10 Honor.

11 THE COURT: Thank you. Please be seated.

12 Good morning, ladies and gentlemen. Did every
13 member of the jury panel comply with my instructions
14 over the evening hour? If you complied with my
15 instructions, please raise your right hand.

16 Thank you. All fourteen jurors complied with
17 the Court's instructions over the evening hour.

18

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State vs. Kadrin Singleton
Charge of The Court
January 9, 2015

CHARGE OF THE COURT

1
2 THE COURT: Ladies and gentlemen, as I instructed you last
3 evening, we've reached the stage of the trial where I will
4 instruct you on the law applicable to this case. Ladies
5 and gentlemen, I do not give a copy of my charge, I read
6 it to you, so please pay close attention.

7 Ladies and gentlemen, I remind you that during
8 this trial, you and I have had certain duties to perform.
9 As the trial judge, it is my responsibility to preside
10 over the trial of this case and I have the duty to rule on
11 the admissibility of the evidence offered during this
12 trial. You are to consider only the evidence before you.
13 If there was any testimony ordered stricken from the
14 record, you must disregard that testimony. You are to
15 consider only the testimony that you heard from the
16 witness stand, the exhibits that have been made part of
17 the record of this case, as well as any stipulations of
18 counsel. I have the additional duty to charge you the law
19 applicable to this case. As the presiding judge, I am the
20 sole judge of the law in this case. It is your duty to
21 accept the law and apply the law exactly as I state it to
22 you now. If you have any idea as to what the law is or
23 what the law ought to be and it does not agree with what I
24 am about to tell you, you must abandon your own ideas,
25 because you were sworn to accept the law and apply the law

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State vs. Kadrin Singleton
Charge of The Court
January 9, 2015

1 exactly as I state it to you now.

2 In every case tried in this court before a jury,
3 a jury becomes the sole and exclusive judges of the facts.
4 A trial judge may not make any comment regarding the facts
5 in this case. You are not to infer from anything that I
6 have said or done throughout the progress of this trial
7 that I have any opinion about the facts in this case. The
8 law does not allow me to have an opinion about the facts
9 in this case. This is solely a matter for you, the jury,
10 to determine.

11 The indictment in this case charges Mr.
12 Singleton with one count of murder. I remind you the fact
13 that Mr. Singleton was arrested, charged, and indicted in
14 this case is not evidence and cannot be considered by you
15 as evidence of guilt, nor does it create any presumption
16 or inference of guilt. An indictment is simply the formal
17 written instrument which contains the charge made against
18 the defendant. It is the formal document by which this
19 case is brought into court. Just as the indictment in
20 this case is not evidence, any terminology or labels used
21 to refer to the individuals involved in this case cannot
22 be considered as evidence. For example, the use of the
23 words defendant and victim are merely formal labels and
24 may not be considered by you as evidence.

25 Mr. Singleton has pled not guilty to the

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Charge of The Court
January 9, 2015

1 indictment. A person charged with committing a criminal
2 offense in South Carolina is never required to prove
3 himself innocent. I charge you it is an important rule of
4 law that the defendant in a criminal trial, no matter what
5 the seriousness of the charge may be, will always be
6 presumed to be innocent of the crime for which the
7 defendant was indicted unless guilt has been proven to you
8 by evidence satisfying you of that guilt beyond a
9 reasonable doubt.

10 The presumption does not end when you begin your
11 deliberation, but it accompanies the defendant throughout
12 the trial until you reach a verdict of guilt based upon
13 evidence satisfying the standard of guilt beyond a
14 reasonable doubt. The presumption of innocence is not
15 mere legal theory. It is not just a legal phrase. It is
16 a substantial right to which every defendant is entitled
17 unless you, the jury, are satisfied from the evidence of
18 the defendant's guilt beyond a reasonable doubt. The
19 State has the burden of proving Mr. Singleton guilty
20 beyond a reasonable doubt. Some of you may have served as
21 jurors before in civil cases where you were told it is
22 only necessary to prove that a fact is more likely true
23 than not true, such as by a greater weight or
24 preponderance of the evidence. Proof beyond a reasonable
25 doubt is proof that leaves you firmly convinced of the

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January 9, 2015

1 defendant's guilt. There are very few things in this
2 world that we do know with absolute certainty and in
3 criminal cases the law does not require that the burden of
4 proof that overcomes every possible doubt. If, based upon
5 your consideration of the evidence, you are firmly
6 convinced that Mr. Singleton is guilty of the crime
7 charged, you must find Mr. Singleton guilty. If, on the
8 other hand, you think there is a real possibility that
9 Mr. Singleton is not guilty, you must give Mr. Singleton
10 the benefit of the doubt and find him not guilty.

11 There are two types of evidence that are
12 generally presented throughout a trial: direct evidence
13 and circumstantial evidence. Direct evidence directly
14 proves the existence of a fact and does not require
15 deduction. Circumstantial evidence is proof of a chain of
16 facts and circumstances indicating the existence of a
17 fact. Crimes may be proven by circumstantial evidence.
18 The law makes no distinction between the weight or value
19 to be given to either direct or circumstantial evidence.
20 However, to the extent the State relies on circumstantial
21 evidence, all of the circumstances must be consistent with
22 each other and when taken together point conclusively to
23 the guilt of Mr. Singleton beyond a reasonable doubt. If
24 these circumstances merely portray Mr. Singleton's
25 behavior as suspicious, the proof has failed. The State

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1 has the burden of proving Mr. Singleton guilty beyond a
2 reasonable doubt. This burden rests with the State,
3 regardless of whether the State relies on direct evidence,
4 circumstantial evidence, or a combination of both.

5 Necessarily, you must determine the credibility
6 of the witnesses who have testified in this case.
7 Credibility simply means believability. It becomes your
8 duty as jurors to analyze the facts and determine which
9 evidence convinces you of its truth. In determining the
10 believability of the witnesses who have testified in this
11 case, you may believe one witness over several witnesses,
12 or several witnesses over one witness. You may believe a
13 part of the testimony of one witness and reject the
14 remaining part of the testimony of that same witness. You
15 may believe the testimony of a witness in it's entirety or
16 reject the testimony of a witness in its entirety. You
17 may consider whether the witness has exhibited to you any
18 interest, bias, prejudice, or other motive in this case
19 and you may also consider the manner and appearance of a
20 witness while on the witness stand.

21 A person who has a past criminal record is
22 competent to testify during a trial. A past record does
23 not affect the ability of that witness to testify. The
24 past record may be considered by you, if at all, in
25 determining the witness' believability. Remember, you are

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1 the sole judges of the facts in this case and of the
2 believability of any and all of the witness. You have
3 heard evidence that the defendant was convicted of a crime
4 other than the one for which the defendant is now on
5 trial. The evidence may be considered by you, if you
6 conclude it is true, only in deciding whether the
7 defendant's testimony is believable and for no other
8 purpose. You must not consider the defendant's prior
9 record as any evidence of the defendant's guilt of the
10 charge we are trying today.

11 There has been evidence presented that witnesses
12 have made prior statements which are not consistent with
13 the witness' present testimony. You may use this evidence
14 to decide whether to believe the witness. You may also
15 use evidence of the earlier contradictory statements to
16 determine the truth of those statements. It is up to you
17 to decide whether to believe the earlier statements or to
18 believe the testimony given at trial. If a witness is
19 shown to have knowingly testified untruthfully concerning
20 any material matter, you may consider this in determining
21 whether to trust the witness' testimony as to other
22 matters. You may reject all testimony of that witness, or
23 give all or part of the testimony the weight that you
24 think it deserves.

25 The rules of evidence ordinarily do not permit

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1 witnesses to testify to opinions or to conclusions. An
2 exception to this rule exists for the witnesses we call
3 expert witnesses, a witness who by education and
4 experience has become expert in some art, science,
5 profession, or calling may state an opinion as to relevant
6 and material matter in which the witness claims to be an
7 expert and may also state the reasons for that opinion.
8 You should consider any expert opinion received into
9 evidence in this case and, like any other evidence, give
10 it the weight you think it deserves. If you decide that
11 the opinion of an expert witness is not based on
12 sufficient education and experience or if you conclude
13 that the reasons given in support of the opinion are not
14 sound or that the opinion is outweighed by other evidence,
15 you may disregard the opinion entirely. An expert
16 witness' testimony is to be given no greater weight than
17 that of other witnesses simply because the witness is an
18 expert. Further, you are not required to accept an expert
19 opinion, even though it is not contradicted.

20 In order to establish criminal liability,
21 criminal intent is required. For example, the mental
22 state required to be proven by the State for a particular
23 crime might be purpose, intent, knowledge, recklessness,
24 or criminal negligence. Criminal intent must be proven by
25 the State beyond a reasonable doubt. Criminal intent is

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1 always a matter that must be determined by the jury from
2 the circumstances surrounding the situation. There is no
3 way to prove intent to mathematical certainty because
4 there is no way to tell with exact certainty what the
5 person had in mind. The law says that criminal intent may
6 be inferred from the circumstances shown to have existed.
7 This is how you make a determination of whether or not the
8 element requiring intent was present. It is not necessary
9 to establish intent by direct and positive evidence but
10 intent may be established by inference in the same way as
11 any other fact: by taking into consideration the acts of
12 the parties and all facts and circumstances of the case.
13 Criminal intent is a mental state. It is a conscious
14 wrongdoing. It is up to you to determine what the
15 defendant intended to do based upon the circumstances
16 shown to have existed.

17 Mr. Singleton is charged with murder. The State
18 must prove beyond a reasonable doubt that Mr. Singleton
19 killed another person with malice aforethought. Malice is
20 hatred, ill will, or hostility towards another person. It
21 is the intentional doing of a wrongful act without just
22 cause or excuse and with an intent to inflict an injury or
23 under circumstances that the law will infer an evil
24 intent. Malice aforethought does not require that malice
25 exist for any particular time before the act is committed,

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1 but malice must exist in the mind of the defendant just
2 before and at the time the act is committed; therefore,
3 there must be a combination of the previous evil intent
4 and the act. Malice aforethought may be express or
5 inferred. These terms express and inferred do not mean
6 different kinds of malice but merely mean the manner in
7 which the malice may be shown to exist. That is either by
8 direct evidence or by inference from the facts and
9 circumstances which are proved.

10 Express malice is shown when a person speaks
11 words which express hatred or ill will for another or when
12 the person prepared beforehand to do the act which was
13 later accomplished. For example, acts of preparation
14 going to show that the deed was within the defendant's
15 mind would be express malice. Malice may be inferred from
16 conduct showing a total disregard for human life.

17 Mr. Singleton has raised the defense of self-
18 defense. Self-defense is a complete defense and if it is
19 established, you must find Mr. Singleton not guilty. The
20 State has the burden of disproving self-defense by proof
21 beyond a reasonable doubt. If you have a reasonable doubt
22 of the defendant's guilt after considering all the
23 evidence, including the evidence of self-defense, then you
24 must find the defendant not guilty. On the other hand, if
25 you have no reasonable doubt of the defendant's guilt

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1 after considering all the evidence, including the evidence
2 of self-defense, then you must find the defendant guilty.

3 The following elements are required to establish
4 self-defense. First, the defendant must be without fault
5 in bringing on the difficulty. If the defendant's conduct
6 was the type which was reasonably calculated to and did
7 provoke a deadly assault, the defendant would be at fault
8 in bringing on the difficulty and would not be entitled to
9 an acquittal based on self-defense. The second element of
10 self-defense is that the defendant was actually in
11 imminent danger of death or serious bodily injury, or that
12 the defendant actually believed that he was in imminent
13 danger of death or serious bodily injury. If the
14 defendant was actually in imminent danger, it must be
15 shown that the circumstances would have warranted a person
16 of ordinary firmness and courage to strike the fatal blow
17 to prevent death or serious bodily injury. If the
18 defendant believed he was in imminent danger of death or
19 serious bodily injury, it must be shown that a reasonably
20 prudent person of ordinary firmness and courage would have
21 had the same belief. In deciding whether the defendant
22 was actually or believed he was in imminent danger of
23 death or serious bodily injury, you should consider all
24 the facts and circumstances surrounding the crime,
25 including the physical condition and characteristics of

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1 the defendant and the victim.

2 The defendant does not have to show that he was
3 actually in danger. It is enough if the defendant
4 believed he was in imminent danger and a reasonably
5 prudent person of ordinary firmness and courage would have
6 had the same belief. The defendant has the right to act
7 on appearances, even though the defendant's belief may
8 have been mistaken. It is for you to determine whether
9 the defendant's fear of imminent danger of death or
10 serious bodily injury was reasonable and would have been
11 felt by an ordinary person in the same situation. Words
12 accompanied by hostile acts may, depending on the
13 circumstances, establish self-defense.

14 Threats made by the victim may be considered in
15 determining whether the defendant actually was or believed
16 he was in imminent danger. The final element of self-
17 defense is that the defendant had no other probable way to
18 avoid the danger of death or serious bodily injury than to
19 act as the defendant did in this particular instance. A
20 person cannot be required to make an exact calculation as
21 to the degree or amount of force which may be needed to
22 avoid death or serious bodily harm. Therefore, in self-
23 defense the defendant has the right to use the force
24 needed to avoid death or serious bodily harm. The force
25 used in self-defense does not have to be limited to the

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1 degree or amount of force used by the victim. The
2 defendant has the right to use so much force as appeared
3 to be necessary for the complete self-protection in which
4 a person of ordinary reason and firmness would have
5 believed to be needed to prevent death or serious bodily
6 harm.

7 Ladies and gentlemen, I am now going to go over
8 the verdict form with you. Please remember there is
9 absolutely no significance in the way that I read the
10 verdict form. It's simply I have to put something on the
11 paper first.

12 In the State of South Carolina, County of
13 Charleston, State of South Carolina versus Kadrin
14 Singleton, Court of General Sessions for the Ninth
15 Judicial Circuit, indictment number 2013-GS-10-1153, we,
16 the jury, find the defendant, Kadrin Singleton, not guilty
17 of murder, or, we, the jury, find the defendant, Kadrin
18 Singleton, guilty of murder.

19 Once you have reached a unanimous decision,
20 Mr. Foreman, you will sign the verdict form and date it,
21 indicating that you have reached a unanimous decision.
22 That means all twelve of you must agree.

23 Once you have reached your verdict, you will
24 knock on the jury door. The bailiffs will receive you
25 back in here.

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1 Mr. Foreman, I will review the verdict form
2 before it is published, so you do not need to worry about
3 reading the verdict form. I will have the clerk do that
4 once I have reviewed it and made sure it is appropriate
5 and completed correctly. Some of my forepeople want to
6 know if they're actually going to be the ones to read it,
7 and you will not be.

8 To my alternates, this completes your service to
9 this case, but I have -- I ask that you remain with us
10 until the twelve have indicated to me that they are
11 beginning their deliberations.

12 To my twelve, is there any member of the first
13 twelve that feels, for whatever reason, you would be
14 unable to complete your deliberations at this time? If
15 so, please stand.

16 All twelve jurors have indicated they will be
17 able to complete deliberations.

18 Ladies and gentlemen, this is actually the last
19 time I will say this to all of you. Do not begin your
20 deliberations. Do not discuss this case amongst
21 yourselves. We will be gathering the evidence box to come
22 back to you, with the verdict form, and once we have sent
23 that back to you the bailiff will indicate to you you may
24 begin your deliberations.

25 So to my two alternates, the same: do not begin

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Charge of The Court
January 9, 2015

1 your deliberations. Do not discuss this case with anyone,
2 even with each other, until I come and I will personally
3 release you.

4 Please rise for the jury.

5 [Whereupon, the jury exits the courtroom at
6 9:20 a.m.]

7 THE COURT: Thank you. Be seated.

8 Other than what has already been discussed, any
9 objections, corrections, to the charge as read?

10 MR. KIDD: No, ma'am.

11 MR. COOPER: No, ma'am.

12 THE COURT: All right. Thank you. And that is
13 the box --

14 MR. KIDD: Yes, ma'am.

15 THE COURT: -- of evidence and --

16 MR. KIDD: Assuming it hasn't changed since
17 yesterday.

18 THE COURT: All right. And here is the verdict
19 form.

20 Sam, are you going to take them back?

21 THE CLERK OF COURT: Yes, ma'am.

22 THE COURT: And y'all have reviewed the verdict
23 form?

24 MR. KIDD: Yes, ma'am.

25 THE CLERK OF COURT: The alternates, Your Honor?

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Charge of The Court
January 9, 2015

1 THE COURT: Just keep them in a separate room.
2 I'll go and release them in just a few moments.

3 THE CLERK OF COURT: Thank you.

4 [Whereupon, evidence goes out to the jury at
5 9:20 a.m.]

6 [Whereupon, a recess is taken from 9:20 a.m. to
7 10:01 a.m.]

8 [Whereupon, Court's Exhibit Number 10 is marked
9 by the court reporter]

10 [Whereupon, an off-the-record bench conference
11 is held]

12 [Whereupon, a recess is taken from 10:02 p.m. to
13 11:23 p.m.]

14 [Whereupon, Court's Exhibit Number 11 is marked
15 by the court reporter]

16 [Whereupon, testimony is played to the jury from
17 11:23 a.m. to 12:51 p.m.]

18 [Whereupon, a recess is taken from 12:51 p.m. to
19 1:35 p.m.]

20 [Whereupon, Court's Exhibit Number 12 is marked
21 by the court reporter]

22 Court's Exhibit Number 13 is marked by the court
23 reporter]

24 THE COURT: Do y'all want to approach?

25 MR. COOPER: Yes. Sorry, Your Honor.

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Charge of The Court
January 9, 2015

1 THE COURT: The note, they're split 6, 6. I'm
2 going to give them the Allen Charge.

3 MR. KIDD: Okay.

4 THE COURT: Okay? Do you want to see the note?

5 MR. KIDD: No, ma'am.

6 THE COURT: And, counsel, just so -- just
7 approach. We have received another note, lunch time.
8 They have requested to stop hearing the testimony
9 after the first cross. They listened to direct and
10 cross and say that -- they said that was fine. All
11 right?

12 MR. COOPER: Yes, ma'am.

13 [Whereupon, Court's Exhibit Number 14 is marked
14 by the court reporter]

15 THE COURT: Any objection to giving the Allen
16 charge at this time? Mr. Kidd?

17 MR. KIDD: No, ma'am.

18 MR. COOPER: I think that's appropriate at this
19 time, Your Honor.

20 THE COURT: Thank you. Let's bring in the jury.
21 Please rise for the jury.

22 [Whereupon, the jury enters the courtroom at
23 1:36 p.m.]

24 THE BAILIFF: All present, Your Honor.

25 THE COURT: Thank you. Please be seated.

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State vs. Kadrin Singleton
Allen Charge
January 9, 2015

ALLEN CHARGE

1
2 THE COURT: Mr. Foreman, ladies and gentlemen of
3 the jury, you have indicated to the Court that you have
4 been unable to reach a verdict. You have stated that you
5 have been unable to agree, and as I instructed you
6 earlier, your verdict must be unanimous.

7 When a matter is in dispute, it isn't always
8 easy for people to agree, even two people to agree, so
9 when twelve of you must agree it becomes increasingly more
10 difficult. In most cases, absolute certainty cannot be
11 reached or expected. However, you have a duty to make
12 every reasonable effort to reach a unanimous verdict. In
13 doing this, you should consult with one another, express
14 your own views, and listen to the opinions of your fellow
15 jurors, tell each other how you feel and why you feel that
16 way, discuss your differences with open minds.

17 Although the verdict of the jury must be
18 unanimous, every one of you has the right to your own
19 opinion. The verdict you agree to must be your own
20 verdict, the results of your own convictions, and you
21 should not give up your firmly-held beliefs merely to be
22 in agreement with your fellow jurors. The majority should
23 and -- should consider the minority's opinion and the
24 minority should consider the majority's opinion. You
25 should carefully consider and respect the opinions of each

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Allen Charge
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1 other and reevaluate your own opinions for reasonableness,
2 correctness, and impartiality. You must lay aside all
3 outside matters and reexamine the questions before you,
4 based upon the law and the evidence in this case.

5 If you do not agree on a verdict in this case, I
6 must declare a mistrial. In that case, it does not mean
7 anybody wins. It simply means that at some future time, I
8 will try this case with some other jury sitting exactly
9 where you are. The same participants will come in and the
10 same lawyers will ask basically the same questions of
11 basically the same witnesses and get the same answers and
12 we'll go through this whole process again.

13 You were selected in the same manner and from
14 the same source as any future jury will be and there is no
15 reason for me to suppose that this case would ever be
16 submitted to twelve more intelligent, competent,
17 impartial, and conscientious jurors that you are here
18 today.

19 I ask you to return to your deliberations with
20 the hope that you can arrive at a verdict within a
21 reasonable time.

22 Mr. Foreman, please go continue your
23 deliberations.

24 Please rise for the jury.

25 [Whereupon, the jury exits the courtroom at

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State vs. Kadrin Singleton
Allen Charge
January 9, 2015

1 1:39 p.m.]

2 THE COURT: Please be seated.

3 Any objection to the charge as read? From the
4 State?

5 MR. KIDD: No, ma'am.

6 MR. COOPER: No, ma'am.

7 THE COURT: All right. We'll be at ease.

8 MR. COOPER: Thank you.

9 [Whereupon, a recess is taken from 1:40 p.m. to
10 4:03 p.m.]

11 [Whereupon, Court's Exhibit Number 15 is marked
12 by the court reporter]

13 THE COURT: We have a verdict. Anything before
14 we bring in the jury? Mr. Kidd?

15 MR. KIDD: No, ma'am.

16 THE COURT: Mr. Cooper?

17 MR. COOPER: Not at this time, Your Honor.

18 THE COURT: Mr. Cooper, I did not allow you
19 to -- we haven't had time for you to articulate. I'll
20 allow you to place everything on the record, including
21 the imperfect self-defense, after the verdict.

22 MR. COOPER: That's what I figured.

23 THE COURT: Thank you.

24 To the members of the audience, I do not know
25 what the verdict is but as I've indicated to you

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Allen Charge
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1 throughout the progress of the trial, this courtroom
2 is a place of honor. If you do not feel that you can
3 maintain decorum, I suggest that you leave now. My
4 deputies and bailiffs have been instructed to remove
5 any outbursts, any persons with an outburst,
6 immediately from the courtroom and I will handle that
7 matter as a direct contempt of Court.

8 Anything further before we bring in the jury?

9 MR. KIDD: No, ma'am.

10 MR. COOPER: No, Your Honor.

11 THE COURT: All right. Let's bring in the jury.

12 [Off the record momentarily]

13 THE COURT: Please rise for the jury.

14 [Whereupon, the jury enters the courtroom at
15 4:05 p.m.]

16 THE BAILIFF: All present, Your Honor.

17 THE COURT: Thank you. Please be seated.

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State vs. Kadrin Singleton
Verdict
January 9, 2015

VERDICT

1
2 THE COURT: Mr. Foreman, I understand you have
3 reached a verdict. If you'll please hand the verdict
4 form to the bailiff.

5 [Whereupon, the bailiff proffers verdict to the
6 Court]

7 THE CLERK OF COURT: Have the defendant rise for
8 the verdict.

9 [Whereupon, the Court proffers verdict to the
10 clerk of court]

11 THE CLERK OF COURT: Thank you, Your Honor.

12 THE COURT: Thank you.

13 THE CLERK OF COURT: The State of South
14 Carolina, County of Charleston, in the Court of
15 General Sessions for the Ninth Judicial Circuit, case
16 number 2013-GS-10-01153, the State of South Carolina
17 versus Kadrin Singleton, we, the jury, find the
18 defendant, Kadrin Singleton, guilty of murder. Signed
19 Mr. Foreperson, January 9th, 2015.

20 Ladies and gentlemen of the jury, if this is
21 your verdict, please indicate so by raising your right
22 hand.

23 [Whereupon, jurors comply]

24 THE CLERK OF COURT: Please let the record
25 reflect that all jurors raised their right hand.

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State vs. Kadrin Singleton
Verdict
January 9, 2015

1 THE COURT: Thank you.

2 Anything further required of the jury? From the
3 State?

4 MR. KIDD: No, ma'am.

5 THE COURT: From the defendant?

6 MR. COOPER: Your Honor, we request that the
7 Court poll the jury.

8 THE COURT: All right. You may poll the jury.
9 Please use the jury numbers. Thank you.

10 THE CLERK OF COURT: Absolutely, Your Honor.
11 Thank you.

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State vs. Kadrin Singleton
Polling of the Jury
January 9, 2015

POLLING OF THE JURY

THE CLERK OF COURT: Ladies and gentlemen of the jury, whenever your juror number is called, if you would first raise your hand, indicate that that is you. I will then ask you two questions. Please respond to each question appropriately.

Starting with Mr. Foreperson, juror number 289. Is this your verdict?

JUROR NUMBER 289: Yes.

THE CLERK OF COURT: Is this still your verdict?

JUROR NUMBER 289: Yes.

THE CLERK OF COURT: Thank you. Juror number 386, is this your verdict?

JUROR NUMBER 386: Yes.

THE CLERK OF COURT: Is this still your verdict?

JUROR NUMBER 386: Yes.

THE CLERK OF COURT: Juror 106, is this your verdict?

JUROR NUMBER 106: Yes.

THE CLERK OF COURT: Is it still your verdict?

JUROR NUMBER 106: Yes.

THE CLERK OF COURT: Thank you. Juror 188, is this your verdict?

JUROR NUMBER 188: Yes.

THE CLERK OF COURT: Is it still your verdict?

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Polling of the Jury
January 9, 2015

1 JUROR NUMBER 188: Yes.

2 THE CLERK OF COURT: Thank you. Juror 221, is
3 this your verdict?

4 JUROR NUMBER 221: Yes.

5 THE CLERK OF COURT: Is it still your verdict?

6 JUROR NUMBER 221: Yes.

7 THE CLERK OF COURT: Thank you. Juror 300, is
8 this your verdict?

9 JUROR NUMBER 300: Yes, sir.

10 THE CLERK OF COURT: Is it still your verdict?

11 JUROR NUMBER 300: Yes, sir.

12 THE CLERK OF COURT: Thank you. Juror 353, is
13 this your verdict?

14 JUROR NUMBER 353: Yes.

15 THE CLERK OF COURT: Is it still your verdict?

16 JUROR NUMBER 353: Yes.

17 THE CLERK OF COURT: Thank you. Juror 248, is
18 this your verdict?

19 JUROR NUMBER 248: Yes.

20 THE CLERK OF COURT: Is it still your verdict?

21 JUROR NUMBER 248: Yes.

22 THE CLERK OF COURT: Thank you. Juror 108, is
23 this your verdict?

24 JUROR NUMBER 108: Yes.

25 THE CLERK OF COURT: Is it still your verdict?

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Polling of the Jury
January 9, 2015

1 JUROR NUMBER 108: Yes.

2 THE CLERK OF COURT: Thank you. Juror 131, is
3 this your verdict?

4 JUROR NUMBER 131: Yes.

5 THE CLERK OF COURT: Is it still your verdict?

6 JUROR NUMBER 131: Yes.

7 THE CLERK OF COURT: Thank you. Juror 368, is
8 this your verdict?

9 JUROR NUMBER 368: Yes.

10 THE CLERK OF COURT: Is it still your verdict?

11 JUROR NUMBER 368: Yes.

12 THE CLERK OF COURT: Thank you. Juror 333, is
13 this your verdict?

14 JUROR NUMBER 333: Yes.

15 THE CLERK OF COURT: Is it still your verdict?

16 JUROR NUMBER 333: Yes.

17 THE CLERK OF COURT: Your Honor, the jury has
18 been polled and the verdict stands.

19 THE COURT: Thank you.

20 Anything further, Mr. Cooper, required of the
21 jury?

22 MR. COOPER: No, Your Honor.

23 THE COURT: Thank you.

24 Ladies and gentlemen, this completes your
25 service to this case and also completes your service

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State vs. Kadrin Singleton
Polling of the Jury
January 9, 2015

1 for the week. If you would please return back to the
2 jury room, I will be there in just a few moments to
3 thank you for your service to Charleston County.

4 Please rise for the jury.

5 [Whereupon, the jury exits the courtroom at
6 4:09 p.m.]

7 THE COURT: Thank you. Be seated.

8 Counsel, do you wish to approach? Please
9 approach for just a moment.

10 MR. KIDD: Yes, ma'am.

11 THE COURT: Thank you.

12 [Whereupon, an off-the-record bench conference
13 is held]

14 THE COURT: Due to the lateness of the hour, I'm
15 going to defer sentencing until Monday at 9:00 a.m.
16 Monday at 9:00 a.m.

17 MR. KIDD: Your Honor, I know you've already
18 decided on this. My victim's family is from out of
19 state. I don't think sentencing will take that long.
20 I would -- I wasn't thinking about that when we were
21 on the bench. It would be a pretty significant
22 hardship for them to travel back because they live in
23 Florida. And I don't think sentencing would take
24 terribly long. I would request that we could do it
25 today, but I would say --

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State vs. Kadrin Singleton
Polling of the Jury
January 9, 2015

1 THE COURT: I'm going to take a short recess,
2 release the jury. You can discuss with your client.
3 I'll be back in about five minutes. All right? Thank
4 you.

5 [Whereupon, a recess is taken from 4:11 p.m. to
6 4:20 p.m.]

7 THE COURT: Thank you. Be seated.

8 MR. COOPER: We're ready to proceed with
9 sentencing.

10 THE COURT: And then I will do pretrial -- or
11 post-trial motions Monday.

12 MR. COOPER: Thank you.

13 MR. KIDD: Thank you, Your Honor.
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State vs. Kadrin Singleton
Sentencing
January 9, 2015

SENTENCING

1
2 THE COURT: All right. Mr. Kidd, I have heard
3 the facts and I have heard the prior record. Is there
4 anything else I need to know before I impose
5 sentencing?

6 MR. KIDD: The only other thing to his record,
7 Judge, would be unlawful carrying that we didn't
8 discuss at trial.

9 THE COURT: When was that?

10 MR. KIDD: Court's indulgence.

11 [Whereupon, Mr. Kidd reviews documents]

12 MR. KIDD: The unlawful carrying was in 2009.

13 The only other thing I would add, Judge, is that
14 he's a known gang affiliate through a blood gang in
15 Summerville.

16 You know, the self-defense theory is one they
17 served us within probably the last three months. In
18 dealing with his prior attorney, it was always an
19 alibi case. I find that especially troubling as a
20 prosecutor, and, Judge, I don't think anything but a
21 life sentence is appropriate in this case.

22 THE COURT: All right. And you indicated --

23 MR. KIDD: One member of the victim's family
24 would like to address the Court.

25 THE COURT: All right. I'll be happy to hear

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1 from one member.

2 Ma'am, I need you to state your full name for
3 the record and please spell your last name.

4 MS. BROUGHTON: Willisteen [phonetic] Broughton.
5 B-R-O-U-G-H-T-O-N.

6 THE COURT: Yes, ma'am. I'll be happy to hear
7 from you regarding sentencing.

8 MS. BROUGHTON: Judge, this has been a bad
9 situation for both families. I feel bad for his
10 family just as well as I do for my family right in
11 front of me.

12 Sharrell wasn't only the gentleman they
13 portrayed in this courtroom, he was a loving father, a
14 loving son, a beautiful nephew. Now I've got to cut
15 my own grass. That's how beautiful he was. But the
16 impact of his loss has been devastating to the family.
17 He was all the nieces' and nephews' favorite uncle.
18 When Uncle Rel came in, they knew there was going to
19 be a good time.

20 He tried his best to support us all. He didn't
21 always succeed, but he did the best he could and we
22 miss him for that every, every day, Your Honor. And,
23 Judge, we would just like for you to impose the best
24 sentence you think that is appropriate for this
25 situation.

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1 THE COURT: Thank you..

2 Anything further from the State?

3 MR. KIDD: Nothing further, Your Honor.

4 THE COURT: Mr. Cooper, I'll be happy to hear
5 from you regarding sentencing. I'm sure --

6 First of all, you have indicated to your client
7 his right to appeal?

8 MR. COOPER: Yes, Your Honor.

9 THE COURT: And so I'll be happy to hear from
10 anyone regarding sentencing. And I am also going to
11 allow you some time on Monday to fully articulate all
12 of your post-trial motions and to place on the record
13 any further objections.

14 MR. COOPER: Yes, Your Honor. May it please the
15 Court.

16 THE COURT: Yes.

17 MR. COOPER: Michael Cooper, on behalf of
18 Mr. Singleton.

19 Your Honor, as the Court has indicated, I have
20 advised my client as well not to make any statements
21 to the Court at this time. Obviously, it's all on his
22 behalf.

23 Your Honor, he was twenty-two years old when
24 this happened. He's twenty-four now. He has eight
25 brothers and sisters. He went to Willow Gray Academy

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1 in Columbia, where he earned his GED.

2 He is a client, Your Honor, that I have spent a
3 great deal of time with in the past few months since
4 this case came to me from Mr. Grimes and in every
5 single one of the meetings I've had with Kadrin, he
6 has been polite, respectful, accommodating. He has
7 engaged me in civil discussions. We have had a
8 wonderful client-attorney relationship since this case
9 came to me, and I see nothing but good things in him.

10 He has a strong support system. His mother
11 loves him and cares for him deeply. She cannot be
12 present today. She was here throughout the trial.
13 His father has been here throughout the trial. His
14 stepfather has been here. He has family members in
15 the courtroom today. I don't think that any of them
16 are in a position right now where they can address the
17 Court, given the verdict and the emotion of the
18 situation.

19 We would ask the Court for a minimum sentence.
20 It's a thirty-year day-for-day minimum sentence on
21 this offense. He will be fifty-five, if the Court
22 imposes the minimum sentence, when he is able to be
23 released. He will be a middle-aged man at that point
24 and have spent more years in prison than he's been
25 alive now.

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1 Whatever happened there, he was a kid and the
2 next time anything else happens, he will be an adult
3 man. And as I'm sure the Court knows, and it's been
4 documented, the human brain doesn't develop fully
5 until you're thirty-five years old and so that's part
6 of the reason that the Court has high sentences in a
7 lot of cases.

8 But I think a thirty-year sentence would be
9 appropriate and will be sufficient, and that's what we
10 would ask the Court.

11 THE COURT: Mr. Singleton, I know your attorney
12 has advised you not to speak due to your -- in order
13 to protect the record for your appellate purposes. I
14 do not hold that against you. But I'm going to give
15 you this opportunity, if there is something you wish
16 to say at this time.

17 MR. SINGLETON: No, ma'am.

18 THE COURT: Okay. Thank you.

19 Ms. Ehrlich, anything else you wish to add?

20 MS. EHRLICH: No, Your Honor.

21 THE COURT: And, again, I just want to make
22 sure, Mr. Cooper, I am --, you are going to be able,
23 even though we're not going to do it this afternoon,
24 to make any post-trial motions, and that the record is
25 clear that they are made contemporaneously, even

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1 though we are not doing it this afternoon.

2 MR. COOPER: Thank you, Your Honor.

3 THE COURT: Anything else before I impose
4 sentence?

5 MR. COOPER: No, Your Honor.

6 THE COURT: Mr. Singleton, it's the order of the
7 Court on 2013-GS-10-1457 that you be committed to the
8 State Department of Corrections for a term of ten
9 years.

10 Mr. Cooper, you've advised your client that
11 that is considered a violent offense in that
12 classification?

13 MR. COOPER: Yes, Your Honor.

14 THE COURT: It's the order of the Court on
15 indictment 2013-GS-10-2602 that you be committed to
16 the State Department of Corrections for a term of five
17 years. It's the order of the Court on indictment
18 2013-GS-10-2603 that you be committed to the State
19 Department of Corrections for a term of three years.

20 Mr. Cooper, did you advise your client of the
21 enhancement features of that particular offense and
22 the fact that he will lose his driving privileges for
23 a period of time?

24 MR. COOPER: Yes, Your Honor.

25 THE COURT: Mr. Singleton, it's the order of the

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1 Court on 2013-GS-10-1153 --

2 Mr. Singleton, I sat and listened to the facts
3 regarding this case and there is absolutely no
4 justification for what you did, what the State alleges
5 that you did and the jury has found you guilty.

6 It's the order of the Court on indictment 2013-
7 GS-10-1153 that you be committed to the State
8 Department of Corrections for a term of life.

9 Good luck to you, sir.

10 MR. KIDD: Thank you, Your Honor.

11 [Whereupon, Court's Exhibit Number 16 is marked
12 by the court reporter]

13 [JURY TRIAL ADJOURNS AT 4:29 P.M.]

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Certificate of Court Reporter

C E R T I F I C A T E

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the jury trial held before the Honorable Kristi L. Harrington, on Friday, January 9, 2015.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 21st day of June, 2015.

Mia Perron

Mia Perron, CVR-CM-M
Circuit Court Reporter
9th Judicial Circuit

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STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
) NINTH JUDICIAL CIRCUIT
 COUNTY OF CHARLESTON) CASE NO.: 2013-GS-10-01153

STATE OF SOUTH CAROLINA)
)
 VS.)
)
 KADRIN SINGLETON,)
)
 DEFENDANT.)
 _____)

JURY TRIAL

VOLUME 6 OF 6

held before the Honorable Kristi L. Harrington
 Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
 in the Charleston County Courthouse
 Charleston, South Carolina
 on Monday, January 12, 2015, Commencing at 3:26 p.m.

SUSAN "MIA" PERRON, CVR-CM-M
 Circuit Court Reporter - 9th Judicial Circuit
 Post Office Box 31865
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CERTIFICATE OF COURT REPORTER

EXHIBITS

MARKED/ADMITTED

Court's Exhibit Number 1
[Defendant's Request to Charge]

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POST-TRIAL MOTIONS

THE COURT: All right. We're back on the record for Singleton. Just so the record is abundantly clear, due to the late hour Friday afternoon, we reserved all motions and matters until today.

You have waived your client's appearance; is that correct?

MR. COOPER: Yes, Your Honor.

THE COURT: I'll be happy to hear from you.

MR. COOPER: Thank you, Your Honor. May it please the Court. Michael Cooper on behalf of Kadrin Singleton.

Your Honor, as the Court has indicated on the record, after -- on last Friday the Court was handling both bond hearings while we were -- the jury was out for deliberations and after you charged the jury, after the Court's charge to the jury, I placed my objection contemporaneously on the record and the Court allowed me to further articulate that objection today.

Now, I will begin by on Friday, the Court's charge on self-defense, the Court did not charge. Defendant's request -- two of defendant's request to charges, Your Honor, before I -- the defense's charge I made a Court's Exhibit at that time. I have an

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1 extra copy to be made a Court's Exhibit at this time
2 if it was not done so on Friday, Your Honor.

3 THE COURT: I think that it was. But just out
4 of an abundance of caution, Mr. Cooper, please, you
5 may approach.

6 MR. COOPER: Your Honor, if I may articulate
7 this and then I will --

8 THE COURT: Certainly.

9 MR. COOPER: -- approach with them to be made a
10 Court's Exhibit.

11 Your Honor, we submitted to the Court several
12 requested jury charges on Friday before the jury was
13 charged. And in my review of the law, I asked, after
14 the Court was charging the jury, the Court did not
15 charge defendant's request to charge number 3 and
16 defendant's request to charge number 6.

17 Defendant's request to charge number 3, as the
18 Court indicated before it charged the jury, is the --
19 it's the drop charge. It's the language which says
20 that if Kadrin Singleton's belief was reasonable, he
21 did not have to wait it until he was actually attacked
22 or injured and some force is used by the aggressor
23 before he exercises his rights to use --

24 THE COURT: Mr. Cooper, we are -- the court
25 reporter and I are right under a vent.

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1 MR. COOPER: Yes, ma'am.

2 THE COURT: So I'm going to need you to speak
3 loudly.

4 MR. COOPER: Yes, ma'am.

5 THE COURT: Thank you.

6 MR. COOPER: I can hear the vent, and I
7 apologize.

8 It's basically that Mr. Singleton does not have
9 to wait until Mr. Williams was on equal footing before
10 he was allowed to use deadly force. And the last
11 sentence of the charge is Kadrin Singleton does not
12 have to wait until the assailant gets the drop on him
13 in order to be entitled to use force itself, and it's
14 i.e., that he doesn't have to wait until the assailant
15 gets the upper hand or is on equal footing before he
16 is allowed to use force.

17 And then Mr. Singleton's request to charge
18 number 6 is that Mr. Singleton shot Mr. Williams more
19 than once and the request to charge was: I charge you
20 that ordinarily, one is not justified in -- excuse me
21 -- ordinarily, one is not justified in employing a
22 deadly weapon after the adversary has been disarmed or
23 disabled. However, when a person is justified in
24 using deadly force, he is justified in continuing to
25 use deadly force until it's apparant that a danger to

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1 his life and body has ceased.

2 And that, Your Honor, cites State v. Hendrix.

3 And at this time, may I approach to make this
4 packet of request to charges a Court's exhibit?

5 THE COURT: You may. And I mean not sure that
6 it was, but that was the intent was to make your
7 charges and Mr. Kidd's charges part of the record.

8 MR. COOPER: Thank you, Your Honor.

9 [Whereupon, Court's Exhibit Number 1 is marked
10 by the court reporter]

11 MR. COOPER: And just out of an abundance of
12 caution to make sure that the language is preserved
13 for the record.

14 Additionally, Your Honor, we requested that the
15 Court charge -- when we requested permission to argue
16 against precedent --

17 THE COURT: Let me just -- before we get to the
18 issue of precedence: as to your argument on your
19 request to charge 3 and 6, I charged significantly
20 what you requested.

21 MR. COOPER: Yes, Your Honor.

22 THE COURT: I just don't charge -- and what I
23 meant is I think that get the drop on is a blame term,
24 and that's what I was not going to charge. But I
25 believe that what was charged encompasses your 3 and

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1 6.. But they are marked -- of course, it's part of the
2 record what I did charge the jury. We did mark the
3 packets that went back to the jury. They did request
4 a copy of the charge and I did mark all twelve of
5 those as a Court's exhibit, as well. And so those
6 were all being marked. So I note your exception to my
7 charge.

8 Anything further as to defendant's request to
9 charge 3 and 6, just for the record?

10 MR. COOPER: No, Your Honor.

11 MR. KIDD: Nothing other than what you did just
12 state, Your Honor. I think you incorporated those
13 conceptionally in your charge, if not verbatim. I
14 think that was adequately covered.

15 THE COURT: Now, as to the imperfect self-
16 defense.

17 MR. COOPER: Thank you, Your Honor. May it
18 please the Court.

19 Defendants requested jury charge number 7. Mr.
20 Singleton requested a charge on imperfect self-
21 defense.

22 And if I may approach, Your Honor?

23 THE COURT: You may.

24 MR. COOPER: I don't recall if we made
25 defendant's request to charge number 7 a Court's

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1 exhibit, either.

2 THE COURT: I thought we made the whole packet
3 of your charges Court's exhibits. But, again, we can
4 mark this.

5 MR. COOPER: And I only ask, Your Honor, because
6 I think we -- those separately on Friday. And I
7 understand the law in South Carolina and --

8 THE COURT: Let me just -- because we're getting
9 kind of -- you didn't request any lesser included;
10 correct?

11 MR. COOPER: Right.

12 THE COURT: And so what this says is: where the
13 defendant had an actual but unreasonable fear of
14 imminent peril or bodily harm for the victim and he
15 believed he had to use deadly force to prevent it, you
16 should find him guilty of voluntary manslaughter
17 instead of murder.

18 MR. COOPER: Yes, Your Honor.

19 THE COURT: I don't recall you requesting a
20 lesser included.

21 MR. COOPER: The intent of requesting an
22 imperfect self-defense charge would be to ask the
23 Court for a charge on manslaughter based on the
24 inference -- the concept of imperfect self-defense.

25 In State v. Sams, South Carolina Supreme Court,

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1 said that. In our state we have not heretofore
2 recognized the concept of imperfect self-defense in
3 South Carolina. And we are --

4 THE COURT: What is the case name?

5 MR. COOPER: Yes, Your Honor. May I approach?

6 THE COURT: You may. Do you have a copy?

7 MR. COOPER: Yes, Your Honor. It is State v.
8 Sams and it's from the Supreme Court of South
9 Carolina, 764 SE2d 511.

10 THE COURT: All right. You may continue.

11 MR. COOPER: And then, Your Honor, in the Sams
12 case, essentially Mr. Sams said that he believed he
13 was in danger of death or serious bodily injury and
14 the Court said that if that belief is not reasonable,
15 then the Court did not have to charge self-defense.
16 And in that discussion, they state that they have --
17 that South Carolina has not recognized imperfect self-
18 defense as of yet.

19 THE COURT: Just so I'm clear, and the record is
20 clear, because there was no dialog about you
21 requesting specifically any lesser included. What I
22 reecall you requesting was that you wanted to
23 articulate imperfect self-defense.

24 MR. COOPER: Yes, Your Honor.

25 THE COURT: And what I responded back to you was

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1 I'm not going to charge anything that's not the law of
2 South Carolina. And I said, but I will allow you to
3 articulate your position on the record.

4 MR. COOPER: Yes, Your Honor.

5 THE COURT: Is it a correct statement that you
6 never requested a voluntary manslaughter charge as a
7 lesser included?

8 MR. COOPER: Yes, Your Honor. Under the heat of
9 passion in manslaughter, that we do recognize in South
10 Carolina, we did not request that charge.

11 THE COURT: All right. I just wanted to make
12 sure that I addressed any request that you had --

13 MR. COOPER: Yes, Your Honor.

14 THE COURT: -- for lesser included. But your
15 position was that the lesser included was encompassed
16 in the imperfect self-defense?

17 MR. COOPER: Yes, Your Honor.

18 THE COURT: All right.

19 MR. COOPER: It's the -- South Carolina, we
20 recognize manslaughter in terms of a heat of passion
21 where there is a legally adequate provocation and one
22 is under the stress of that provocation and kills
23 another while under that stress.

24 We did not ask the Court for a lesser included
25 of manslaughter based on heat of passion. The logic

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1. behind, and the rationale behind, imperfect self-
2. defense is where essentially the malice element is
3. negated by ones belief in death -- the possibility of
4. death or serious bodily injury. And so it is
5. analagous to our manslaughter law that we have in
6. South Carolina but it is separate and distinct from
7. that where the actions by the shooter, in this case
8. Mr. Singleton, would have been purposeful but yet not
9. quite meeting all the elements of self-defense, in
10. that the jury found that he did believe he was in fear
11. of death or serious bodily injury, somehow that fear
12. is not reasonable to whatever circumstances that they
13. could then find him guilty of manslaughter under that
14. factual scenario.

15. And, Your Honor, several other jurisdictions
16. recognize the concept of imperfect self-defense. And
17. if I may approach and hand the Court case law on those
18. jurisdictions?

19. THE COURT: You may.

20. [Whereupon, Mr. Cooper proffers documents to the
21. Court]

22. MR. COOPER: Your Honor, please let me know if
23. I'm not articulating my point clearly.

24. THE COURT: You are. I just wanted to make sure
25. -- and we had this discussion: I want to craft

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1 charges and give to the jury what is the law of the
2 case.

3 MR. COOPER: Yes, Your Honor.

4 THE COURT: So I just wanted to make sure that I
5 did not miss anything in crafting charges or --

6 MR. COOPER: Yes, Your Honor.

7 THE COURT: -- or the verdict form.

8 MR. COOPER: Yes, Your Honor.

9 THE COURT: All right. Thank you.

10 MR. COOPER: We did not request a voluntary
11 manslaughter charge.

12 THE COURT: Thank you.

13 MR. COOPER: And in the cases I have provided to
14 the Court are The State of North Carolina v. Herndon.
15 It's 177 North Carolina Appeals 353. And the parallel
16 citation is 629 S.E.2d 170, from 2006. The enxt case
17 is Andre Roach vs. State of Maryland. And Roach is
18 R-O-A-C-H -- from the Court of Appeals from Maryland,
19 358 Maryland 418. The parallel cite is 749 A2d 787
20 from 2000. And the third case I have provided to the
21 Court is State of Kansas vs. Clarence Jones from the
22 Court of Appeals of Kansas. The citation is 27 Kansas
23 Appallant 2nd 910 and the parallel cite is 8P3d1282
24 from the year 2000. And in those cases the Court
25 analyses the concept of self-defense as it applies to

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1 the mental state, the requisite mental state, of
2 murder, as we have in South Carolina. And it is our
3 position that it is time and appropriate for South
4 Carolina to recognize the concept of imperfect self-
5 defense, because while there are factual scenarios
6 that do not quite rise to a heat of passion,
7 manslaughter, but yet there are facts and
8 circumstances presented to an individual where they
9 would actually believe that they are faced with death
10 or serious bodily injury causing them to act. And
11 while the jury may not believe -- may not see that
12 belief as reasonable, or for some other reason do not
13 find self-defense, they could also find that
14 appropriately it is not a murder and that what the
15 facts and circumstances that the defendant faced at
16 the time did not arise to malice. And that is our
17 position, Your Honor, and that is what we were
18 requesting of the Court. And while we understand that
19 the Court is bound by State v. Sims, we are asking to
20 argue against precedent and that -- the hope that in
21 this case, and the facts that are presented, and our
22 Courts of Appeals and our higher courts will find that
23 it is time for South Carolina to recognize imperfect
24 self-defense and that it is an appropriate charge
25 under certain factual scenarios.

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1 And if there is anything in particular that the
2 Court feels I need to address, I'm happy to do so at
3 this time.

4 THE COURT: Mr. Kidd?

5 MR. KIDD: I would like to just briefly respond,
6 Judge.

7 As you articulated a minute ago, the defense
8 never requested a voluntary manslaughter charge. I
9 think that was done out of -- from a strategic
10 standpoint in that they obviously had a lot of
11 confidence in their self-defense argument and didn't
12 want to give the jury sort of a way out to split the
13 baby with voluntary manslaughter.

14 THE COURT: And perhaps part of the reason they
15 didn't request it is I had indicated that I was going
16 to follow the law. And I think that based upon the
17 facts and circumstances presented, I don't know that
18 that should have been presented. And that lesser
19 included would have been, even if it had been
20 requested; correct?

21 MR. KIDD: It would have been close. Just I'll
22 be candid with the Court. I mean, I think if they had
23 specifically said, we want a voluntary manslaughter
24 charge, if the Court wanted to look for evidence of
25 provocation and the defendant's direct testimony,

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1 arguably one could find it by saying, you know, the
2 testimony about the defendant rushing around the bar
3 and coming at him could be arguably provocation for a
4 voluntary charge, conceiveably. But I think there was
5 a -- you know, a conscious decision not to have a
6 voluntary manslaughter charge. And while they could
7 have received that charge through a direct request, as
8 opposed to sort of back-dooring it in through perfect
9 self-defense -- because I think all in perfect self-
10 defense is another way to achieve a voluntary charge.

11 So while giving them an option, it doesn't
12 require them to argue directly against their own self-
13 defense theory. Because by requesting a voluntary
14 manslaughter charge and being able to argue for it to
15 the jury, would be an argument inconsistent with their
16 own self-defense theory. And so seeking the imperfect
17 self-defense was sort of a way of arguing for a lesser
18 without arguing for something inconcistent with their
19 own theory, which is not the law in South Carolina,
20 whereas if you wanted voluntary, you didn't ask for
21 voluntary and argue voluntary. And that sort of back-
22 doored into an imperfect self-defense charge, which is
23 --

24 You know, I've been reading Sams, which clearly
25 he says imperfect self-defense is not the law in South

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1 Carolina. In that case it was harmless because
2 voluntary was charged anyway, basically saying they
3 got what they would have wanted anyway by a voluntary
4 charge. And I think because voluntary wasn't
5 specifically requested here, it almost makes it a moot
6 point because I think it was, you know, maybe a
7 strategic decision not to have voluntary at the same
8 time.

9 THE COURT: Anything further? Mr. Kidd,
10 anything further?

11 MR. KIDD: No.

12 MR. COOPER: Thank you, Your Honor.

13 I'll just note that our Courts of Appeals have
14 discussed and have sort of gone, for lack of a better
15 phrase, back and forth, about whether or not voluntary
16 and self-defense are mutually exclusive. And somewhat
17 recently, and I draw a blank on the name of the case,
18 our courts have said that voluntary manslaughter and a
19 self-defense are not usually exclusive under a limited
20 set of factual scenarios. However, there are factual
21 scenarios where, as the Court indicated, voluntary
22 manslaughter and heat of passion may not be present
23 and the Court would deem that involuntary charge as
24 not appropriate. And in those cases, it's either
25 self-defense or it's murder. And I think that is

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1 factually appropriate under a set of circumstances
2 like in this case with Mr. Singleton where the jury
3 could have found that while the Court would not have
4 found heat of passion and facts arising to give a
5 voluntary charge based on the heat of passion.
6 However, malice may not have existed based on the
7 facts and circumstances presented to Mr. Singleton in
8 forcing him to act and giving the jury -- or there's a
9 possibility that he believed that he's in fear of
10 death or imminent bodily injury, however the jury
11 would find that that fear was unreasonable for
12 whatever reason. And so a voluntary manslaughter
13 charge would thereby be appropriate when it would
14 otherwise not be appropriate under a heat of passion
15 scenario. And we're asking -- while we understand the
16 Court is bound at this point we think that this is an
17 appropriate charge and would be appropriate under the
18 law. We are asking that South Carolina now recognize
19 imperfect self-defense.

20 THE COURT: Are there any other post-trial
21 motions?

22 MR. COOPER: Your Honor, we move for a new
23 trial. We renew our motion for a directed verdict.
24 We renew all of our pretrial motions and any and all
25 objections made and ruled against by the Court during

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1 the course of trial.

2 THE COURT: Mr. Kidd?

3 MR. KIDD: I have nothing further, Your Honor.

4 THE COURT: What is your position -- do you have
5 anything to add to his request for a new trial?

6 MR. KIDD: I mean, I'm assuming his request for
7 a new trial is based on the Court's refusal to charge
8 imperfect self-defense. And I just want to articulate
9 that that is not a request to charge voluntary
10 manslaughter. It's very different from just asking to
11 charge voluntary and not giving a voluntary charge.
12 And that what they're asking the Court to do is to not
13 follow the law in South Carolina. I don't think as
14 the case was presented and as the law was charged,
15 that there was any error which would justify a new
16 trial at this point.

17 THE COURT: Just so I'm -- I want the record to
18 be clear. What we're doing here now is for you to
19 articulate the law of imperfect self-defense. And so
20 this is not necessarily something that you raised
21 during the trial or during the charge conference or
22 anything of that nature. It is simply something that
23 you wish to articulate so that -- because I am
24 assuming that this issue will be appealed, they are
25 assuming -- or hopeful that perhaps this will become -

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1 - that this will be something that an appellate court
2 would consider?

3 MR. COOPER: Yes, Your Honor.

4 THE COURT: All right. Anything further as to
5 any -- on your motion for a new trial or any of the
6 motions that I had already ruled on?

7 MR. COOPER: Nothing further for our motion for
8 a new trial. You know, I just want to make sure the
9 record is clear. We submitted to the Court a request
10 to charge imperfect self-defense prior to -- I just
11 want to make sure that we are preserved. And I know
12 that we've gone about this in a somewhat unique or
13 disjointed fashion and I want to make sure that my
14 arguments are preserved for the Courts of Appeals and
15 that I did submit the request to charge prior to our
16 charges and that the Court -- we had met in chambers.
17 The Court indicated that it would charge the law as it
18 is in South Carolina and would allow me to articulate
19 this argument today in that afterward -- after -- I
20 made a contemporaneous objection immediately after the
21 charge was given to the jury.

22 THE COURT: All right. I think this is clearly
23 delineated and articulated for appellate purposes.

24 As to your post-trial motions, your post-trial
25 motions are denied.. I have heard nothing, based upon

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1 the jury's deliberation, or anything following, that
2 would make me change any of my initial rulings.

3 Note your exception to my ruling, previously and
4 to the ones here today.

5 Anything further, Mr. Cooper?

6 MR. COOPER: No, Your Honor. Thank you.

7 MR. KIDD: No, ma'am.

8 THE COURT: All right. Thank you.

9 [JURY TRIAL CONCLUDES AT 3:54 P.M.]

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Certificate of Court Reporter

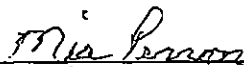
C E R T I F I C A T E

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the jury trial held before the Honorable Kristi L. Harrington, on Monday, January 12, 2015.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 21st day of June, 2015.



Mia Perron, CVR-CM-M
Circuit Court Reporter
9th Judicial Circuit

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