RECEIVED

Mar 02 2023

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

---

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas
Post Conviction Relief

Honorable Edward W. Miller, Circuit Court Judge

---

Appellate Case No.: 2022-001244

---

Rajerick Knight, 353409, Petitioner,

vs.

State of South Carolina, Respondent.

---

# APPENDIX
# VOLUME I OF II

---

Tricia A. Blanchette
Post Office Box 2147
Leesville, SC 29070
(803) 908-3266
Attorney for Petitioner

Alan Wilson
Attorney General

Megan Harrigan Jameson
Senior Assistant Deputy
Attorney General

Post Office Box 11549
Columbia, SC 29211
(803) 734-3737
Attorneys for Respondent

INDEX

Trial Transcript……1

Clerk Records……638

Notice of Appeal……655

Brief of Appellant……657

Brief of Respondent……686

Opinion, South Carolina Court of Appeals……720

Remittitur……724

Application for Post Conviction Relief……726

Return……733

Motion for Discovery……739

Order Authorizing Discovery……743

Amendment to Application for Post Conviction Relief……746

PCR Evidentiary Hearing Transcript……750

PCR Exhibit……895

PCR Hearing to Close the Record……900

Order of Dismissal……918

Rule 59, SCRCP, Motion……940

Order Denying Motion……953

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA | ) | |
| | ) | COURT OF GENERAL SESSIONS |
| COUNTY OF BEAUFORT | ) | 2011 GS-07 1673 |
| | ) | |
| | ) | |
| | ) | |
| | ) | |
| State | ) | ) |
| | ) | |
| vs. | ) | TRANSCRIPT OF RECORD |
| | ) | |
| Rajerick Lovelle Knight | ) | ) |
| DEFENDANT | ) | November 26-29, 2012 |
| | | Beaufort, South Carolina |

B E F O R E:

THE HONORABLE D. CRAIG BROWN, JUDGE; and a jury.

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

DUFFIE STONE, SOLICITOR
SEAN THORNTON, ASSISTANT SOLICITOR
Attorney for the State

ARIE BAX, ESQ.
NAKI RICHARDSON BAX, ESQ.
Attorney for the Defendant

KESHIA REED
Official Court Reporter

I N D E X


| WITNESS | DIRECT | CROSS | REDIRECT | RECROSS |
|---|---|---|---|---|
| Anthony Re **In-Camera** | | | | |
| Mr. Stone | 64 | | | |
| Mr. Bax | | 72 | | |
| George Erdel **In-Camera** | | | | |
| Mr. Bax | 87 | | | |
| Opening Statements | | | | |
| Mr. Stone | 132 | | | |
| Mr. Bax | 134 | | | |
| Melanie Smith | | | | |
| Mr. Stone | 144 | | | |
| Veta Moore | | | | |
| Mr. Stone | 148 | | 156 | |
| Mr. Bax | | 155 | | |
| Kelsey Covert | | | | |
| Mr. Stone | 157 | | | |

I N D E X


| WITNESS | DIRECT | CROSS | REDIRECT | RECROSS |
|---|---|---|---|---|
| Tim Breen | | | | |
| Mr. Stone | 159 | | | |
| Mr. Bax | | 169 | | |
| Sierra Thomas | | | | |
| Mr. Stone | 174 | | | |
| Mr. Bax | | 181 | | |
| Demetria Green | | | | |
| Mr. Stone | 183 | | | |
| Mr. Bax | | 194 | | |
| Jeannie Salleme | | | | |
| Mr. Stone | 199 | | | |
| Mr. Bax | | 209 | | |
| Shiecarra Smalls | | | | |
| Mr. Stone | 212 | | | |
| Mr. Bax | | 222 | | |
| James Powell | | | | |
| Mr. Thornton | 231 | | | |
| Mr. Bax | | 238 | | |

I N D E X


| WITNESS | DIRECT | CROSS | REDIRECT | RECROSS |
|---|---|---|---|---|
| Tanya Terry | | | | |
| Mr. Thornton | 240 | | | |
| Trisha Gutterson | | | | |
| Mr. Thornton | 245 | | | |
| Mr. Bax | | 251 | | |
| Sharon Madison | | | | |
| Mr. Thornton | 258 | | | |
| Craig McDonough | | | | |
| Mr. Thornton | 260 | | | |
| Rob Carson | | | | |
| Mr. Thornton | 266 | | | |
| Josh Dowling | | | | |
| Mr. Thornton | 270 | | | |
| Mr. Bax | | 278 | | |
| Anthony Re | | | | |
| Mr. Stone | 298 | | 318 | |
| Mr. Bax | | 318 | | 319 |

I N D E X


| WITNESS | DIRECT | CROSS | REDIRECT | RECROSS |
|---|---|---|---|---|
| Dr. Nicholas Batalis | | | | |
| Mr. Stone | 321 | | | |
| Mr. Bax | | 330 | | |
| Richardo Prince | | | | |
| Mr. Stone | 337 | | | |
| Mr. Bax | | 343 | | |
| George Erdel | | | | |
| Mr. Bax | 368 | | | |
| Mr. Thornton | | 374 | | |
| Blake Johnson | | | | |
| Mr. Bax | 375 | | | |
| Chad Seronka | | | | |
| Mr. Bax | 393 | | | |
| J.L. Frasier | | | | |
| Mr. Bax | 401 | | 427 | |
| Mr. Stone | | 422 | | 432 |

I N D E X


| WITNESS | DIRECT | CROSS | REDIRECT | RECROSS |
|---|---|---|---|---|
| Joshua Heyward | | | | |
| Mr. Bax | 436 | | | |
| Lashaunica Allen | | | | |
| Mr. Bax | 445 | | 470 | |
| Mr. Stone | | 468 | | |
| DaQuan Cummings | | | | |
| Mr. Bax | 475 | | | |
| Rajerick Knight | | | | |
| Mr. Bax | 485 | | 516 | |
| Mr. Stone | | 510 | | |
| Dr. Thomas Martin **IN-CAMERA** | | | | |
| Mr. Bax | 526 | | 539 | |
| Mr. Stone | | 533 | | |
| Closing Statements | | | | |
| Mr. Stone | 587 | | | |
| Mr. Bax | 593 | | | |
| Jury Charge | 598 | | | |
| Verdict of the Jury | 622 | | | |

I N D E X


| WITNESS | DIRECT | CROSS | REDIRECT | RECROSS |
|---|---|---|---|---|
| Polling of the Jury | 623 | | | |
| Sentence of the Court | 636 | | | |
| Certificate of Reporter | 637 | | | |

E X H I B I T S

| NO. | DESCRIPTION | ID. | EVD. |
|---|---|---|---|
| S-1 | CD of 9-1-1 Call | | 146 |
| S-2 | Photograph | | 152 |
| S-3 | Photograph | | 152 |
| S-4 | Photograph | | 152 |
| S-5 | Photograph | | 152 |
| S-6 | Photograph | | 155 |
| S-7 | Photograph | | 155 |
| S-8 | Photograph | | 155 |
| S-10 | Surveillance DVD | | 162 |
| S-11 | Photograph | | 167 |
| S-12 | Photograph | | 167 |
| S-13 | Photograph | | 167 |
| S-14 | Photograph | | 167 |
| S-15 | Photograph | | 219 |
| S-16 | Photograph | | 190 |
| S-17 | Photograph | | 207 |
| S-18 | Photograph | | 250 |
| S-19 | CD 9-1-1 James Powell | | 146 |
| S-20 | Photograph | | 301 |
| S-21 | Photograph | | 301 |
| S-22 | Photograph | | 301 |
| S-23 | Photograph | | 311 |

E X H I B I T S

| NO. | DESCRIPTION | ID. | EVD. |
|---|---|---|---|
| S-24 | Photograph | | 307 |
| S-25 | Photograph | | 307 |
| S-26 | Photograph | | 310 |
| S-27 | Photograph | | 221 |
| S-28 | Certificate of Title | | 263 |
| S-29 | Driver's License Photo | | 265 |
| S-30 | Title Max Document | | 263 |
| S-31 | DMV License Plate Information | | 259 |
| S-32 | Photograph | | 311 |
| S-33 | Photograph | | 325 |
| S-34 | Photograph | | 273 |
| S-35 | Photograph | | 273 |
| S-36 | Photograph | | 273 |
| S-37 | Photograph | | 273 |
| S-38 | Photograph | | 273 |
| S-39 | Photograph | | 273 |
| S-40 | Photograph | | 86 |
| S-41 | Photograph | | 273 |
| S-42 | Photograph | | 273 |
| S-43 | Photograph | | 273 |
| S-44 | Photograph | | 273 |
| S-45 | Photograph | | 190 |
| S-46A | Photograph | | 304 |

E X H I B I T S

| NO. | DESCRIPTION | ID. | EVD. |
|---|---|---|---|
| S-46B | Photograph | | 304 |
| S-48 | Photograph | | 269 |
| S-50 | Drawing | | 298 |
| S-51 | Drawing | | 298 |
| | | | |
| D-1 | Photograph | 349 | 379 |
| D-2 | Photograph | 349 | 379 |
| D-3 | Photograph | 349 | 379 |
| D-4 | Photograph | 349 | 379 |
| D-5 | Photograph | 349 | 379 |
| D-6 | Photograph | 349 | 379 |
| D-7 | Photograph | 349 | 379 |
| D-8 | Photograph | 349 | 379 |
| D-9 | Photograph | 349 | 379 |
| D-10 | Photograph | 349 | 379 |
| D-11 | Photograph | 349 | 379 |
| D-12 | Photograph | 349 | 379 |
| D-13 | Photograph | 349 | 379 |
| D-14 | Photograph | 349 | 379 |
| D-15 | Photograph | 349 | 379 |
| D-16 | Photograph | 349 | 379 |
| D-17 | Photograph | 349 | 379 |

E X H I B I T S

| NO. | DESCRIPTION | ID. | EVD. |
|---|---|---|---|
| D-18 | Photograph | 349 | 379 |
| D-19 | Photograph | 349 | 379 |
| D-20 | Photograph | 349 | 379 |
| D-21 | Photograph | 349 | 379 |
| D-22 | Photograph | 349 | 379 |
| D-23 | Photograph | 349 | 379 |
| D-24 | Photograph | 349 | 379 |
| D-25 | Photograph | 349 | 379 |
| D-26 | Photograph | 349 | 379 |
| D-27 | Photograph | 349 | 379 |
| D-28 | Photograph | 349 | 379 |
| D-29 | Photograph | 349 | 379 |
| D-30 | Photograph | 349 | 379 |
| D-31 | Photograph | 349 | 379 |
| D-32 | Photograph | 349 | 379 |
| D-33 | Photograph | 349 | 379 |
| D-34 | Photograph | 349 | 379 |
| D-35 | Photograph | 349 | 379 |
| D-36 | Photograph | 349 | 379 |
| D-37 | Photograph | 349 | 379 |
| D-38 | Photograph | 349 | 379 |
| D-39 | Photograph | 349 | 379 |
| D-40 | Photograph | 349 | 379 |

E X H I B I T S

| NO. | DESCRIPTION | ID. | EVD. |
|---|---|---|---|
| D-41 | Photo | 349 | 379 |
| D-42 | Photo | 349 | 379 |
| D-43 | Photo | 349 | 379 |
| D-44 | Photo | 349 | 379 |
| D-45 | Photo | 349 | 387 |
| D-46 | Photo | 349 | 387 |
| D-47 | Photo | 349 | 389 |
| C-1 | Photo Lineup | 64 | |
| C-2 | Note from Jury Foreperson | 336 | |
| C-3 | Note from Jury | 618 | |

THE COURT: Is the State ready to proceed?

MR. STONE: State's ready, Your Honor.

THE COURT: Defense counsel ready to proceed?

MR. BAX: Yes, Your Honor, we are.

THE COURT: Mr. Solicitor, call your first case please.

MR. STONE: Thank you, Your Honor. Your Honor, the State calls the case of The State of South Carolina vs. Rajerick Lovell Knight, indictment 2011-GS-07-1673 charge of murder. As well as indictment 2011-GS-07-1674, charging Rajerick Lovell Knight with the charge of possession of a firearm during the commission of a violent crime. I will hand those indictments up to you, Your Honor.

THE COURT: All right, ladies and gentlemen, the State has called the case of The State of South Carolina vs. Rajerick Lovell Knight. As previously stated, Mr. Knight has been charged with the offense of murder and possession of a weapon during a violent crime. The murder indictment reads as follows: That in Beaufort County on or about July 26, 2011, with malice aforethought Rajerick Lovell Knight did kill and murder Travis Holmes, by means of shooting said victim with a firearm and that Travis Holmes did die in Beaufort County as a proximate result thereof on July 26th 2001 in violation of the South

Carolina code of laws.

The possession of a weapon during a violent crime indictment reads that in Beaufort County on or about July 26, 2011, the defendant, Rajerick Lovell Knight, did possess a knife or visibly display what appeared to be a gun during the commission or attempted commission of a murder. A violent crime in violation of the South Carolina code of laws.

Now, ladies and gentlemen, let me emphasize to you all, the indictments that I hold in my hand is not evidence in this case. It is not evidence in this case. These indictments are simply the method and manner that a case was brought into this court and these indictments are in no way evidence in this case. To these charges, Mr. Knight has pled not guilty. He has pled not guilty. Therefore, the State of South Carolina bears the burden of proving his guilt beyond a reasonable doubt. The State of South Carolina bears the burden of proving his guilt beyond a reasonable doubt. Before we go any further, there certain questions that I need to ask you all before you are qualified to serve as a juror in this case. Please listen very carefully.

Is there any member of the jury panel related by blood, connected by marriage, have a close personal, social or business relationship with Mr. Rajerick Lovell

Knight or Mr. Travis Sentell Holmes, if so please stand? Start to my right, yes, sir, your name and number?

PROSPECTIVE JUROR: Eric Jenkins number 141.

THE COURT: Hold on a minute.

Yes, ma'am, your name and number?

PROSPECTIVE JUROR: Shirley Green number 120.

THE COURT: Yes, ma'am.

PROSPECTIVE JUROR: Martha Frazier 103.

THE COURT: Can the lawyers approach for just a minute please.

(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)

THE COURT: Can you three form a line over here please.

Come on up, Mr. Jenkins. Who do you know?

PROSPECTIVE JUROR: I'm his cousin.

THE COURT: First, second, third?

PROSPECTIVE JUROR: Third. His grandfather is my great grandfather.

THE COURT: All right. I think that's close enough. I'm going to set him aside for trial of this case because of the relationship. Any objection by the State?

MR. STONE: No, sir.

THE COURT: Defense counsel?

MR. BAX: No, sir.

THE COURT: Stay with me don't leave, but you're not going to be in this trial.

PROSPECTIVE JUROR: Okay.

THE COURT: You may be seated.

Come on up, Ms. Green.

PROSPECTIVE JUROR: I believe my son-in-law is the brother of the late Travis Sentell Holmes.

THE COURT: Your son-in-law is the brother of the decedent?

PROSPECTIVE JUROR: Uh-huh.

THE COURT: Did you know the decedent?

PROSPECTIVE JUROR: No.

THE COURT: I'm going to set her aside for the trial of this case. I'm not going to ask anything else. I'm going to set you aside for the trial of this case. You can sit back out there.

MR. BAX: Judge, there are two Travis Sentell Holmes in this county. One is Travis Sentell Holmes who is victim in this case. And there is a Travis Javarne Holmes and he's still on the streets also and he also has a record. We should have pointed that out to you before, I apologize. We might make that clear to the jury there is another Travis Holmes.

MR. STONE: At this point, nobody has said they

even know Travis Holmes.

THE COURT: She said he was her son-in-law's brother.

Come on up, Ms. Frazier.

PROSPECTIVE JUROR: My cousin is married to the decedent's son.

THE COURT: First cousin?

PROSPECTIVE JUROR: First cousin.

THE COURT: Married to the decedent's son.

PROSPECTIVE JUROR: Uh-huh.

THE COURT: Any objection setting her aside for the trial of this case?

MR. STONE: No, sir.

MR. BAX: No, sir.

THE COURT: I'm going to set you aside for the trial of this case, but you have a seat back there for right now. If I set somebody aside and you have an objection, put it on the record before they go back to protect whatever you need.

All right. Ladies and gentlemen, please listen very carefully. The next question is about potential witnesses in this case. The following is a list of potential witnesses. I want you to listen very carefully. Corporal Eric Angstadt Beaufort County Sheriff's Office, Dr. Nicholas Batalis Medical University of South Carolina,

Tim Breen, Investigator Rob Carson City of Beaufort Police Department, Billy Crumpton City of Beaufort Police Department, Kelsey Covert, Demetria Green, Investigator Trisha Gutterman the City of Beaufort Police Department, Special Agent Vicki Hallman of South Carolina Law Enforcement Division, Sharon Madison, Craig McDonough, Veta Moore, Donesha Myers, James Powell, Special Agent Ricardo Prince of South Carolina Law Enforcement Division, Investigator Anthony Re of the Beaufort City Police Department, Jeannie Salleme, Danielle Simmons, Shiecarra Smalls, Justin Smith, Master Sergeant Melanie Smith Beaufort County Sheriff's Office, Tanya Terry, Sierria Thomas, Jeff Vortich of the Beaufort County Detention Center, Corporal C. Seronka of Beaufort County Sheriff'S Office, Corporal O. Lamb of the Beaufort County Sheriff's Office, Corporal James Prusinowski, Beaufort County Sheriff Office, Sergeant J. L. Fraiser Beaufort County Sheriff's Office, Private First Class B. Johson Beaufort County Sheriff's Office, Sergeant R. Garst Beaufort County Sheriff's Office, Private First Class McHaile Beaufort County Sheriff's Office, Sergeant Rodriguez Beaufort County Sheriff's Office, Investigator -- and I hope I'm pronouncing this correct Zamar with the Beaufort County Sheriff's Office.

MR. BAX: Your Honor, that is a typo. There

should be an A between the S and the M. It's pronounced Zamar, Your Honor. I apologize.

THE COURT: Zamar excuse me. Investigator Zamar Beaufort County Sheriff's Office, Investigator George Erdel Beaufort City Police Department, Investigator John Kelleher Beaufort County Sheriff's Office, Antoine Robinson, Darrien Hutchinson, Bruce Gilbert, LaShaunica Allen, DaShaunica Allen, Investigator John Gobel, DaQuan Cummings, Joshua Heyward, Dr. Thomas Martin, Richard Ulbrich. Those, ladies and gentlemen, are a list of the potential witnesses in this case. Is there any member of the jury panel related by blood, connected by marriage, have a close personal, social or business relationship with any of those potential witnesses, if so please stand? Yes, sir, your name and number.

PROSPECTIVE JUROR: Robert Conn juror number 50.

THE COURT: Who out of that list do you know, Mr. Conn?

PROSPECTIVE JUROR: Justin Smith.

THE COURT: Related by blood, connected by marriage?

PROSPECTIVE JUROR: By marriage. He's my brother-in-law.

THE COURT: All right. I'm going to set you aside for the trial of this case.

Yes, sir, your name and number?

PROSPECTIVE JUROR: Daniel Goneke 115.

THE COURT: Yes, sir, Mr. Goneke.

PROSPECTIVE JUROR: Several of the detectives and Smith just through work, business I know them on a daily basis, I guess.

THE COURT: Can the lawyers approach for just a minute.

(WHEREUPON, a bench conference was held in the presence of the jury panel, but out of the hearing of the jury panel.)

THE COURT: All right, Mr. Goneke, I'm going to set you aside for the trial of this case.

Yes, sir, your name and number?

PROSPECTIVE JUROR: Jim Mancill 173.

THE COURT: Yes, sir, Mr. Mancill.

PROSPECTIVE JUROR: I know Mr. Ulbrich.

THE COURT: Okay. Mr. Ulbrich; is that right?

MR. BAX: Yes, Your Honor, if we could approach on this matter.

THE COURT: All right.

(WHEREUPON, a bench conference was held in the presence of the jury panel, but out of the hearing of the jury panel.)

THE COURT: All right. Mr. Mancill, I'm going

to set you aside for the trial of this case. Thank you.

BAILIFF: Another one standing, Your Honor.

THE COURT: Yes, sir, your name and number?

PROSPECTIVE JUROR: Donald Brant number 25.

THE COURT: Hold on just a minute. Mr. Brant, out of that group?

PROSPECTIVE JUROR: There was an officer mentioned Erdel. I did not recognize the first name.

THE COURT: Hold on just a minute.

MR. BAX: Your Honor, if I could, that's George Erdel with the City of Beaufort Police Department, I believe, number ten on the defense's list.

THE COURT: You related by blood connected by marriage?

PROSPECTIVE JUROR: I know him by Ted Erdel, I believe. A social acquaintance, good friend of mine.

THE COURT: Would that fact that you know him would that affect your way in any way to be fair and impartial to both the State and the defense in this case?

PROSPECTIVE JUROR: No, sir.

THE COURT: Any objection by defense counsel?

MR. BAX: No, Your Honor.

THE COURT: By the State?

MR. STONE: No, sir.

THE COURT: All right. I'm going to let you

stay with us. Thank you for bringing that to my attention.

All right. At this time, Mr. Stone, if you stand and introduce yourself along with those who maybe involved in this case. Followed by you, Mr. Bax.

MR. STONE: Thank you, Your Honor. Ladies and gentlemen, my name is Duffie Stone. I'm the Solicitor for the Fourteenth Circuit. I'll be trying this case along with my Deputy Solicitor Sean Thornton. He's in another courtroom. He will be with us shortly. This is also Steve Murphy, he's an investigator with our office and Dillon Hightower is with our office as well.

MR. BAX: Thank you, Your Honor. My name is Arie Bax. This is my partner Naki Richardson-Bax. We are the attorneys and owners of Bax Law Firm here in town. We represent Mr. Knight standing before you. And Mr. Ulbrich works with our office as an investigator with our office.

THE COURT: Thank you.

MR. BAX: Thank you, Your Honor.

THE COURT: Is any member of the jury panel related by blood, connected by marriage, have a close business or personal relationship with any of the attorneys involved in this case, if so please stand?

Yes, ma'am, your name and number.

PROSPECTIVE JUROR: I am Kathryn Folds number

97.

THE COURT: Yes, ma'am, Ms. Folds.

PROSPECTIVE JUROR: I just need to ask them a question have you guys lived on Fripp?

THE COURT: Hold on a minute. Ms. Folds, if you could come around here please.

MR. BAX: She lives on Fripp Island with me or she doesn't live there, she works there.

THE COURT: This is juror number 97. Ms. Folds, you have a question?

PROSPECTIVE JUROR: I don't know. I've never done this before. All right.

THE COURT: You know, Mr. Bax?

MR. BAX: **Your Honor, we've never actually met before, but we've e-mailed back and forth on a list for making referrals and I advertise free firewood. And Kathy has -- she manages property out there. We haven't gone through with it yet, so that's the only thing I'm aware of. I don't think that's any reason to strike her.**

COURT REPORTER: I can't hear you, Judge.

THE COURT: I asked her if can be fair and impartial to both the State and the defense in this case if she were selected as a juror. She said she could. I'm going do allow her to stay.

Your name and number first?

PROSPECTIVE JUROR: Jennifer Klippel juror number 156. I do know Mr. Stone.

THE COURT: She says she knows Mr. Stone. Is there a person social relationship? I expect you to know him, he's the solicitor down here.

PROSPECTIVE JUROR: I know his wife for about 30 years. A few years back I was falsely arrested, had nothing do to with Mr. Stone. It was during his predecessors -- former boss. His former boss gave permission to prosecute me.

THE COURT: Let me ask you this, any more detail would that fact in any way shape or form affect your ability to be fair and impartial to the State?

PROSPECTIVE JUROR: I don't know.

THE COURT: I'm going to set you aside for the trial of this case.

MR. BAX: I want to make sure I protect the record. Her name is Heather Midyette. I forget her number.

THE COURT: 195.

MR. BAX: Yes. She work for Low Country Insurance Company and I just done business with her in the past policies I have on the house. I'm not close or anything like that. I thought she hasn't stood up so okay. I only been to her office once. I been to her

office once.

THE COURT: She obviously don't remember you.

MR. STONE: I don't know what that says.

THE COURT: Bear with me just a minute please ladies and gentlemen.

(WHEREUPON, a pause in the proceedings.)

THE COURT: Is any member of the jury panel related by blood, connected by marriage to any law enforcement officer, state constable or any other person having authority to enforce laws of the United States, the State of South Carolina or this county or city, if so please stand?

Yes, sir, your name and number.

PROSPECTIVE JUROR: Donald Brant number 25.

THE COURT: Yes, sir.

PROSPECTIVE JUROR: Okay.

THE COURT: Mr. Brant, the fact that you are related by blood or marriage to someone who has law enforcement authority would that in any way affect your ability to be fair and impartial to both State and defense in this case?

PROSPECTIVE JUROR: No, sir.

THE COURT: Thank you, you may be seated.

Somebody else stood over here.

BAILIFF: He was excused, Your Honor.

THE COURT: What was his name and number? Tell me your name and number again?

PROSPECTIVE JUROR: Robert Conn juror number 50.

THE COURT: Okay. Thank you, Mr. Conn. I had already previously set aside Mr. Conn for the trial of this case.

Is there any member of the jury panel or their immediate family ever been the victim of a violent crime, if so please stand?

Please state your name and number.

PROSPECTIVE JUROR: 124 Melissa Hagan.

THE COURT: Ms. Hagan, would that in any way affect your ability to be fair and impartial to both the State and the defense in this case if you were selected as a juror?

PROSPECTIVE JUROR: No. My sisters in here now...

THE COURT: It's a yes or no question.

PROSPECTIVE JUROR: No.

THE COURT: Thank you. You may be seated.

Yes, ma'am, your name and number?

PROSPECTIVE JUROR: Tia Thomas 290.

THE COURT: Ms. Thomas, the fact you or your immediate family been the victim of a violent crime would that in any way affect your ability to be fair and

impartial to both the State and the defense in this case?

PROSPECTIVE JUROR: No, sir.

THE COURT: Thank you, ma'am. You may be seated.

Yes, ma'am, your name and number.

PROSPECTIVE JUROR: Heather Winch 338.

THE COURT: Ms. Winch, the fact you or your immediate family been the victim of a violent crime would that in any way affect your ability to be fair and impartial to both the State and the defense in this case?

PROSPECTIVE JUROR: No, sir.

THE COURT: Thank you. You may be seated.

Yes, sir, your name and number.

PROSPECTIVE JUROR: Anthony Williams 329.

THE COURT: Mr. Williams, the fact that you and or your immediate family has been the victim of a violent crime, would that affect your ability in any way to be fair and impartial to both the State and the defense in this case?

PROSPECTIVE JUROR: No.

THE COURT: Thank you. You may be seated.

Yes, ma'am, your name and number?

PROSPECTIVE JUROR: Robin Schlanger 259.

THE COURT: Ms. Schlanger, the fact that you or your immediate family been the victim of a violent crime

would that in any way affect your ability to be fair and impartial to both the State and the defense in this case?

PROSPECTIVE JUROR: No.

THE COURT: Thank you, ma'am. You may be seated.

Is any member of the jury panel or their immediate family ever been charged in a criminal case here in the Fourteenth Judicial Circuit, if so please stand?

BAILIFF: One's standing, Your Honor.

THE COURT: Yes, ma'am, your name and number?

THE CLERK: Melissa Hagan 124.

THE COURT: Ms. Hagan, would that in any way affect your ability to be fair and impartial to both the State and the defense in this case?

PROSPECTIVE JUROR: No, sir.

THE COURT: Thank you, ma'am. You may be seated.

Can the lawyers approach for just a minute?

(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)

THE COURT: All right. Ladies and gentlemen, as I previously told you Mr. Rajerick Lovell Knight is charged with the offense of murder and possession of a weapon during the commission of a violent. And to these

charges, Mr. Knight he has pled not guilty. He has pled not guilty to each of these charges which places the burden of proof on the State of South Carolina to prove his guilt beyond a reasonable doubt.

Now, having said that, the murder for which he is charged with and the offense of possession of a weapon during a violent crime involved a shooting that occurred at the Subway restaurant at the Cross Creek Plaza, that's where the alleged incident took place and again to both these charges Mr. Knight has pled not guilty and therefore the State bears the burden of proving his guilt beyond a reasonable doubt. Having told you that, is there any member of the jury panel who has seen news reports, read any articles either online or in print or heard about any of the facts or events that occurred at the Subway restaurant in late July of 2011 or whether it be online, in print, on television or through social media, if so please stand?

All right. I'm going to start to my left on the front row. The young lady in the black sweater please state your name and juror number.

PROSPECTIVE JUROR: Asia Williams 330.

THE COURT: Yes, sir, your name and number?

PROSPECTIVE JUROR: Matthew Leszczynski 161.

THE COURT: Yes, ma'am, your name and number?

PROSPECTIVE JUROR: Melissa Hagan 124.

THE COURT: After you give me your name and number sit down right now.

Yes, ma'am, your name and number?

PROSPECTIVE JUROR: Alvena Dennis 69.

THE COURT: All right, you can sit down.

In the pink shirt, sweater? Yes, ma'am.

PROSPECTIVE JUROR: Deborah Boatright 19.

THE COURT: Okay. Brown sweater, shirt.

PROSPECTIVE JUROR: Sherie Willard 328.

PROSPECTIVE JUROR: Gerald Shaw 263.

PROSPECTIVE JUROR: Bruce Szelewa 284.

PROSPECTIVE JUROR: Heather Midyette 195.

PROSPECTIVE JUROR: Shirley Green 120.

THE COURT: Yes, ma'am.

PROSPECTIVE JUROR: Gail Brazell 27.

PROSPECTIVE JUROR: Clara Holland 133.

PROSPECTIVE JUROR: Rose Copeland number 52.

PROSPECTIVE JUROR: Marcia Kennedy-Parker 151.

THE COURT: Yes, ma'am.

PROSPECTIVE JUROR: Sylvia Bushey 38.

THE COURT: Yes, ma'am.

PROSPECTIVE JUROR: Kathryn Folds 97.

PROSPECTIVE JUROR: David Melton 193.

PROSPECTIVE JUROR: Vikki Deloach 68.

THE COURT: Sixty-eight?

PROSPECTIVE JUROR: Sixty-eight.

THE COURT: Okay, thank you, ma'am.

Yes, ma'am.

PROSPECTIVE JUROR: Christine Rogers 245.

PROSPECTIVE JUROR: Tia Thomas 290.

PROSPECTIVE JUROR: Tim Wiggs 326.

PROSPECTIVE JUROR: Brittany Whitehead 323.

PROSPECTIVE JUROR: Heather Winch 338.

PROSPECTIVE JUROR: Robin Schlanger 259.

THE COURT: Okay. All right. Ladies and gentlemen, as I've told you from the outset, Mr. Knight is presumed innocent of these charges. He is presumed not guilty and the State of South Carolina therefore bears the burden of proving his guilt beyond a reasonable doubt. Those individuals that stood when I ask that question of whether or not they had seen in print, online, on television et cetra anything related to this alleged incident that took place at the Cross Creek Plaza let me ask you this question. You will be instructed that you must decide this case base solely, base solely upon the evidence and the testimony that's presented in this courtroom and nowhere else. You are to decide this case based solely upon the evidence and testimony that's presented in this courtroom.

Is there any member of the jury panel that does not believe that they could be fair and impartial to both the State and the defense and decide this case based solely upon the evidence and testimony that's presented in this courtroom, if so please stand? If you do not believe that you can be fair and impartial to both the State and the defense and decide this case based solely upon the evidence and testimony in this courtroom, please stand at this time?

(WHEREUPON, no one stood.)

THE COURT: Can the lawyers approach a minute?

(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)

THE COURT: Is there any member of the jury panel that's posted comments online whether it be on Twitter, Facebook or any other online media outlet relating to this case, if so please stand?

(WHEREUPON, no one stood.)

THE COURT: Is there any member of the jury panel that's formed or expressed an opinion about any issue or matter involved in this case, if so please stand?

(WHEREUPON, no one stood.)

THE COURT: Is there any member of the jury panel aware of any biased or prejudiced toward either the

State or the defendant in this case, if so please stand?

(WHEREUPON, no one stood.)

THE COURT: Okay. Is there any member of the jury panel who is a member or contributor to any group which has as its primary concern the promotion of law enforcement or victim's rights, these groups might include but certainly are not limited to MADD, SADD, or CAVE citizens against violent crimes, if so please stand?

(WHEREUPON, no one stood.)

THE COURT: Okay. Is any member of the jury panel know of any reason whatsoever why he or she should not serve as a juror in this case with particular emphasis being placed upon your ability to be fair and impartial to both the State and the defendant, if so please stand?

(WHEREUPON, no one stood.)

THE COURT: Okay. Does the State have any additional voir dire at this time?

MR. STONE: We do not, Your Honor.

THE COURT: Defense counsel?

MR. BAX: One moment, Your Honor.

(WHEREUPON, a pause in the proceedings.)

MR. BAX: Nothing further at this time.

THE COURT: Madam clerk, if you would generate a list.

Five and ten strikes, two alternates one and two

on each alternate strike.

(WHEREUPON, a pause in the proceedings.)

THE CLERK: As I call your name and juror number, if you'll just come up front bring all your belongings and face the jury pool please. Juror number 188 Tammy McGinnis.

(WHEREUPON, a white female, comes forward.)

THE CLERK: What say the State?

MR. STONE: Please seat.

THE CLERK: What say the defense?

MR. BAX: Please seat the juror in the trial of this case.

THE CLERK: Juror number 330 Asia Williams.

(WHEREUPON, a black female, comes forward.)

THE CLERK: What says the State?

MR. STONE: Please seat Ms. Williams.

THE CLERK: What says the defense?

MR. BAX: Please seat the juror in the trial of this case.

THE CLERK: Juror number 160 David Leininger.

(WHEREUPON, a white male, comes forward.)

THE CLERK: What says the State?

MR. STONE: Please present Mr. Leininger.

THE CLERK: What says the defense?

MR. BAX: Please excuse the juror in the trial

of this case.

THE CLERK: Juror 260 Janice Schmid.

(WHEREUPON, a white female, comes forward.)

THE CLERK: What says the State?

MR. STONE: Please present Ms. Schmid.

THE CLERK: What says the defense?

MR. BAX: Please excuse the juror from the trial of this case.

THE CLERK: Juror number 238 Leanne Renato.

(WHEREUPON, a white female, comes forward.)

THE CLERK: What says the State?

MR. STONE: Please present Ms. Renato.

THE CLERK: What says the defense?

MR. BAX: Please seat the juror in the trial for this case.

THE CLERK: Juror number 311 Curtis Warren.

(WHEREUPON, a black male, comes forward.)

THE CLERK: What says the State?

MR. STONE: Please present Mr. Warren.

THE CLERK: What says the defense?

MR. BAX: Please seat the jury in the trial for this case.

THE CLERK: Juror number one Diane Adams.

(WHEREUPON, a white female, comes forward.)

THE CLERK: What says the State?

MR. STONE: Please present Ms. Adams.

THE CLERK: What says the defense?

MR. BAX: Please seat the juror in the trial for this case, Your Honor.

THE CLERK: Juror number 346 Joseph Young.

(WHEREUPON, a white male, comes forward.)

THE CLERK: What says the State?

MR. STONE: Please present Mr. Young.

THE CLERK: What says the defense?

MR. BAX: Please excuse the juror from the trial of this case.

THE CLERK: Juror number 340 Barbara Wirth.

(WHEREUPON, a white female, comes forward.)

THE CLERK: What says the State?

MR. STONE: Please present Ms. Wirth.

THE CLERK: What says the defense?

MR. BAX: Your Honor, we would ask to approach briefly.

(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)

THE COURT: Ms. Wirth juror number 340 with consent of counsel for the State and defense is being stricken for cause.

Ms. Worth, you may be seated back out in the

audience, ma'am.

Any objection?

MR. STONE: No, sir.

THE COURT: Defense counsel?

MR. BAX: No, Your Honor.

THE CLERK: Juror number 52 Rose Copeland.

(WHEREUPON, a white female, comes forward.)

THE CLERK: What says the State?

MR. STONE: Please excuse Ms. Copeland from this case.

THE CLERK: Juror number 19 Deborah Boatright.

(WHEREUPON, a white female, comes forward.)

THE CLERK: What says the State?

MR. STONE: Please present Ms. Boatright.

THE CLERK: What says the defense?

MR. BAX: Please excuse the juror from the trial of this case.

THE CLERK: Juror number 38 Sylvia Bushey.

(WHEREUPON, a white female, comes forward.)

THE CLERK: What says the State?

MR. STONE: Please present Ms. Bushey.

THE CLERK: What says the defense?

MR. BAX: What's the juror number again?

THE CLERK: Number 38 Sylvia Bushey.

MR. BAX: Please seat the juror in the trial of

this case.

THE CLERK: Juror number 235 Jana Reaves.

(WHEREUPON, a white female, comes forward.)

THE CLERK: What says the State?

MR. STONE: Please present Ms. Reaves.

THE CLERK: What says the defense?

MR. BAX: Please seat the juror for the trial of this case.

THE CLERK: Juror number 228 Kevin Pitts.

(WHEREUPON, a white male, comes forward.)

THE CLERK: What says the State?

MR. STONE: Please present Mr. Pitts.

THE CLERK: What says the defense?

MR. BAX: Please excuse the juror from the trial of this case.

THE CLERK: Juror number 256 Leroy Sanderson.

(WHEREUPON, a white male, comes forward.)

THE CLERK: What says the State?

MR. STONE: Please present.

THE CLERK: What says the defense?

MR. BAX: Please excuse the juror from the trial of this case.

THE CLERK: Juror number 142 Andrea Johnson.

(WHEREUPON, a white female, comes forward.)

THE CLERK: What says the State?

MR. STONE: Please present Ms. Johnson.
THE CLERK: What says the defense?
MR. BAX: What's the juror number again?
THE CLERK: 142.
MR. BAX: Please seat the juror for the trial of this case.
THE CLERK: Juror number 14 Frederick Beiser.
(WHEREUPON, a white male, comes forward.)
THE CLERK: What says the State?
MR. STONE: Please present Mr. Beiser.
THE CLERK: What says the defense?
MR. BAX: Please seat the juror.
THE CLERK: Juror number 130 Dina Himmelsbach.
(WHEREUPON, a white female, comes forward.)
THE CLERK: What says the State?
MR. STONE: Please present Ms. Himmelsbach.
THE CLERK: What says the defense?
MR. BAX: Please excuse the juror from the trial of this case.
THE CLERK: Juror number 112 Raymond Glover.
(WHEREUPON, a black male, comes forward.)
THE CLERK: What says the State?
MR. STONE: Please present Ms. Glover.
THE CLERK: What says the defense?
MR. BAX: Please seat the juror for the trial of

this case, Your Honor.

THE CLERK: Juror number 229 Dana Porter.

(WHEREUPON, a white female, comes forward.)

THE CLERK: What says the State?

MR. STONE: Please present Ms. Porter.

THE CLERK: What says the defense?

MR. BAX: Please seat the juror for the trial in this case.

THE CLERK: Juror number 133 Clara Holland.

(WHEREUPON, a white female, comes forward.)

THE CLERK: What says the State?

MR. STONE: Please present Ms. Holland.

THE CLERK: What says the defense?

MR. BAX: Please seat the juror for the trial of this case.

THE CLERK: Now, for our first alternate juror number 290 Tia Thomas.

(WHEREUPON, a black female, comes forward.)

THE CLERK: What says the State?

MR. STONE: Please present Ms. Thomas.

THE CLERK: What says the defense?

MR. BAX: Please seat the juror in the trial for this case.

THE CLERK: Now, for our second alternate juror number 46 James Castrinos.

(WHEREUPON, a white male, comes forward.)

THE CLERK: What says the State?

MR. STONE: Please present Mr. Castrinos.

THE CLERK: What says the defense?

MR. BAX: Please seat the juror in the trial of this case.

THE COURT: All right. Are there any matters of law that we need to take up with regards to jury selection from the State?

MR. STONE: None from the State.

THE COURT: Defense counsel?

MR. BAX: As previously stated, yes, Your Honor.

THE COURT: Can the lawyers approach for just a minute.

(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)

THE COURT: Ladies and gentlemen, those of you who are still seated in the audience, you all were not selected in this particular case. However, that does not mean you are not going to be selected this week, that's what we're checking on right now whether or not to send you back across the hall to the jury assembly room or send you next door to the -- courtroom number two for them to move forward in selecting a jury.

I realize it's almost tens minute to one, okay, and we hadn't eaten lunch around here. We are going to eat lunch I promise you, so just bear with us. We usually break for lunch around one o'clock, so just bear with us right now.

Just for your information purposes not sure Judge Maddox is in courtroom two next door. But for purposes of me and in this courtroom, we usually start court about nine o'clock in the morning, 9:30 somewhere in that time frame and go to about five, 5:30 just depending on where we are in the case, okay. And we usually try to break for lunch around one o'clock. However, there's some flexibility in there. If we're in the middle of a witness, I'm not going to stop on the dime of 12:30 or one o'clock to go to lunch. We'll press and try to finish with a witness and then break at that time. I typically break for about an hour and 15 minutes to an hour and a half for lunch, give everybody time to get out of here.

Where I come from in Florence, parking isn't that great, so we give jurors a little bit more time to find some parking, that's typically how I run things when in a courtroom as far as time scheduling in case you all need to know that. Just bear with us a minute.

MR. STONE: May I approach one minute, Your Honor.

THE COURT: Yes, sir.

(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)

THE COURT: All right. Ladies and gentlemen, those of you who are still seated out in the audience, as I said you all were not selected as jurors in this case, what I been informed, what I'm going to do at this point, is I'm going to excuse you all until 2:30. Those of you who are jurors who are seated out in the courtroom you are excused until 2:30. You need to be back up here at 2:30 in the jury assembly room and further instructions will be given to you at that time once you get back up here at 2:30 as to where you need to go from there. But you all that were seated out in the audience you are excused until 2:30. Everybody else remain seated.

(WHEREUPON, remaining members of the jury panel excused.)

THE COURT: Ladies and gentlemen, those of you who are still seated in the jury box. Can you all hear me, okay? You all, ladies and gentlemen, have been selected as fair and impartial jurors to decide this case base solely, base solely upon the evidence and testimony that's presented in this courtroom. Now, what we're going to do right now is I'm going to excuse you all for

lunch as well. I'm going to excuse you until 2:30. Bailiff here will show you where you need to return or when you come back, but I'm going to excuse you for lunch. I'm going to ask that you be back at 2:30.

Now, before I excuse you, let me give you some further instructions. You are not, you are not, ladies and gentlemen, to discuss with anyone that includes family, friends, coworkers, anyone. You are not to discuss this case at all with anyone until you are instructed to do so, until you are instructed to do so. And again, I emphasize the fact that you are to decide this case base solely upon the evidence and testimony that's presented in this courtroom.

Now, during your break today for lunch and when we break for the balance of this evening et cetra, you are not, you are not to do any independent investigation on your own. You're not to look at any newspapers, news reports whether it be online on television et cetra. You are not to do that at all. You are not to talk to anybody about this case. If anybody tries to talk to you about this case, when you return, you let the bailiff know and they will inform me and the Court will handle it accordingly, okay. You are not to discuss the case at all. You are to keep an open mind about this case. You're to keep an open mind about this case and not to

discuss it at all until you're instructed to do so by the Court.

Anything further at this time by the State before I release this panel?

MR. STONE: No, sir, not from the State.

THE COURT: Defense counsel?

MR. BAX: No, Your Honor.

THE COURT: All right. You all are free to go. Please be back in your jury room at 2:30.

(WHEREUPON, the jury was excused for lunch.)

THE COURT: Anything from the State at this time?

MR. STONE: No, sir, not from the State.

THE COURT: Defense counsel?

MR. BAX: Yes, Your Honor.

THE COURT: Happy to hear from you.

MR. BAX: Thank you, Your Honor. As I mentioned at the bench during bench conversation, I believe at this point that I must in my representation of Mr. Knight make a motion for change of venue. There was a large response when Your Honor asked about anyone who had had some exposure to some kind coverage of this case, whether it be in print or online or on television media or other mean. By my count, Your Honor, there were 24 jurors that stood during that time that I've recorded numbers. Your Honor

asked for their numbers. We have an overlap of five based on my count just really kind of right here that made it on to the jury panel. Out of the group that respond which is, Your Honor, obviously close to half of the 12 primary jurors who were to make the decision barring some problem that might put an alternate on there that have had this exposure.

The reason that I make the motion is -- and I don't know what may be curable about this other than a motion for change of venue is -- and I'm going up to the site, Your Honor, State vs. Parker. Your Honor, that can be found 671 Southeastern Second 619. It is a South Carolina Court of Appeals case from 2008. It appears from my partner's quick research that it is still good law. And what it talks about is it gives a number of things that the Court must go through when you have a large response by the veniremen to media exposure. They had ten veniremen in that case, Your Honor, that responded to being exposed to some kind of coverage about the case.

Ultimately, the judge did not grant a change of venue motion and that was upheld. Yet, the Court's opinion in the Court of Appeals is that the reason they upheld it was because of the steps the Court took. At this point, I don't know if taking those steps may cure and that's certainly something I leave to Your Honor,

wouldn't object to your trying that. But the two parts of that step, some of those parts have been taken. Your Honor, did ask about what -- who's been exposed, that's been covered. And Your Honor ask if it would affect their ability to be fair and impartial Your Honor has asked that. However, the questions that the Court says need to be asked as well is of each individual juror that says that they were exposed, what kind of exposure it was and what they recall of it. And I would quote out of the case, Your Honor. It's not a very long opinion, but about two paragraphs up from the conclusion, it states that each question individually was to determine -- was question individually to determine what prior exposure they had to the facts of the case, two what details of that coverage that they recall, three whether or not they had discussed the matter with anyone and four whether their knowledge of any individuals involved with the case would interfere with their willingness or ability to both the State and Mr. Parker a fair and impartial trial. I'm quoting from that. My concern is is that because we have some juror members that are on the jury that did respond, but we don't know the nature of their exposure and to what extent it is, that that could create an issue with this case. That's why I make the motion, Your Honor.

THE COURT: Mr. Stone.

MR. STONE: Your Honor, I have not gone through State vs. Parker. However, I've gone through State vs. Manning, which is pretty much the basis for how to handle a jury issue. The issue in Manning and the issue in those cases following Manning all say the same thing. The issue is not whether the jury has been exposed to pretrial publicity. It's whether or not the jury having been exposed to pretrial publicity can set what they have heard outside of the courtroom aside and make the determination based on what evidence is before this -- is before us on a witness stand and whether or not they can be fair and impartial. You covered those basis. I don't know that -- that is the -- and also Manning also has made it clear that the defense has the burden of showing actual juror prejudice. There is no evidence that there is any actual juror prejudice. It also appears that you have covered the basis of can they be fair and impartial and whether they can set anything that they have heard outside this courtroom aside and make the decision based on the evidence and the law before them. I think that that has covered the legal basis. And therefore, I would respectfully disagree with the defense on this motion.

THE COURT: Bear with me just a second.

(WHEREUPON, a pause in the proceedings.)

THE COURT: All right. Through the jury

selection, the State had five strikes. Defense counsel had ten strikes. When I had previously asked the jury pool whether or not any of them had read, seen, et cetera any reports about this case, my total number of jurors that stood were 24. I think defense counsel said 25 maybe at side bar, but I had 24.

MR. BAX: And I have 24, Your Honor.

THE COURT: Okay. From those 24 out of the strike sheet of potential jurors to serve on this particular case, three initially stood were pulled as potential jurors in this case. Of those three that were pulled, juror number 330 were seated by defense counsel. Juror number 19 was struck by defense counsel. And juror number 133 who was a final juror seated in this case was also seated by defense counsel. Defense counsel exercise a total of seven strikes in selecting a jury for this defendant. Two of those jurors that stood initially when questioned about having seen or read anything about the case, two of those jurors were seated by defense counsel. One was struck.

The Court on more than one occasion, on more than one occasion inquired this jury pool as to whether or not they could be fair and impartial, whether or not they could decide this case based solely upon the information, testimony and evidence presented in this courtroom,

whether or not they could decide this case based solely upon evidence and testimony presented in this courtroom and nobody indicated that they could not do so.

Furthermore, I believe that I asked the jury pool whether or not they could be fair and impartial after having seen that and being fair and impartial in deciding this case based solely upon the evidence and testimony presented in this courtroom. And no juror stood indicating that they could not be fair and impartial. Having said all that, I am going to respectfully deny defense counsel's motion for a change of venue at this time. Anything further from the State?

MR. STONE: No, sir, not from the State.

THE COURT: Defense counsel?

MR. BAX: Your Honor, just to put it on the record, no disrespect to the Court's ruling. The only thing I would want to state on the record about the reasons for the defense to accept obviously people who had responded to that is that we really felt like we didn't have enough information to make strikes based on the fact that they responded to it. We didn't know the nature of it. And I just want to put to the record that because there was 24 people that responded if I had struck based on that. I feel like I would have lost all my strikes and because I didn't have enough information to really know

what each individual jurors information exposure was, I did not make strikes based on whether they responded to that question or not. I just want to put that on the record.

THE COURT: So noted for the record.

Anything else, Mr. Stone?

MR. STONE: No, sir, I don't believe so.

THE COURT: All right. We had said that we were going to have this hearing at one o'clock. Your people here and ready to go.

MR. STONE: Yes, sir.

THE COURT: Let's do this ask them to be back at 2:15. Let's go ahead and break for lunch be back at 2:15. I can go to -- we got court personnel here et cetra. So I'm going to ask that you be back at 2:15. We will do that hearing at that point.

MR. STONE: Yes, sir.

THE COURT: Anything else from the State at this time?

MR. STONE: I do not believe so, Your Honor. We have gone through the exhibits just for Your Honor's... We've not had them premarked. Quite frankly, we have been moving relatively fast and have not had an opportunity to sit with the court reporter. Most of the exhibits the defense I do not believe have an objection to. I'm just

going to go ahead and mark them, Your Honor, in the order that I plan on presenting them and handle it that way.

THE COURT: Let me address -- and this is addressed to everybody in the courtroom. I spoken to the lawyers at side bar here. I know there family members in here of the defendant. I don't see any family member of the victim. They may have been in here previously.

MR. STONE: They just let, Your Honor. I'll be glad to obviously tell them anything you instruct.

THE COURT: Well, my instructions are I realize that this is a very serious case. I realize it's a very serious case and that emotions can run high in these types of cases. But I'm telling you in the courtroom right now that you better keep your emotions in check, that you better keep them in control. If you do not believe that you can do so, then you don't need to be in here. Your failure to do so could result, could result in this court holding you in contempt of court and sentencing you to a term of incarceration. If I'm not clear on that, I'm being abundantly clear at this point, abundantly clear. So you are on notice of what could happen. We'll stand at east until 2:15.

(WHEREUPON, a lunch break was taken.)

THE COURT: State ready to proceed?

MR. STONE: We are missing one of the two

witnesses on the first hearing. We do have another matter that however we like to bring up briefly. And I don't know if this is going to be something we have to rule on -- that, Your Honor, has to rule on at this point or not. And it really depends on if the defense -- what the defense is intending to do during their opening argument. There was some discussion back in chambers. The State does not intend to call any 404(B) evidence in this trial and our case in chief. The question I have and I don't know a good way to verse this is how much information is coming in concerning the victim in this case and whether there's any prior history that the defense plans on talking about in their opening. If they don't plan on talking in opening, I have no motion at this time. But if they do, we like to be heard on that?

THE COURT: Mr. Bax.

MR. BAX: Well, Your Honor, obviously that is at a little at odds for me because, you know, kind of requires me to say what I'm putting in my opening and there's two problems with that. Number one, kind of gives them a preview of how to prepare their argument. And number two, I don't always know exactly what my opening arguments going to be. Frankly, I do kind of -- I don't rehearse these or write them down in notes. I kind of wing it to some degree. However, I do -- I have discussed

with my defense team and have considered talking about Mr. Holmes. And the fact that, you know, he is -- his actions have a lot to do with what they're going to be deciding on. And how he behaved leading up to this case. So I can't say that I wouldn't go into that. I guess, is a best way to respond to it, Your Honor.

THE COURT: Here's the issue and I certainly understand Mr. Stone's position and I understand yours as well. However, what I would caution defense counsel is don't presuppose what my ruling may be with regards to this 404(b) material, if you open that door. And if you open it and I rule that the State can go down that road based upon you opening that door, then you may have some problems. If you presuppose that I'm going to allow something and I don't allow it, then that certainly come back and bite you as well. So I'll leave it at that right now and let you make that decision. However, if you open the door, we will cross that bridge when we get there. And I'll have to decide whether or not the State can adequately respond to it during their case in chief.

MR. BAX: In light of your ruling, Your Honor ---

THE COURT: I don't know that I made a ruling right now. I can't make a ruling until I hear something.

MR. BAX: Right. In light of that information

to the counsel here, I believe from the defense standpoint it would be best for us to go ahead and just address it because I think it's going to be the gorilla in the room. And I think it would be best for both sides especially for the defendant. We minds well just get it out there and address it, so that everybody can plan their cases accordingly.

THE COURT: All right. And I need to know what the State would intend to put up, so that I can make a ruling.

MR. THORNTON: Your Honor, if I might argue on behalf of the State?

THE COURT: Yes.

MR. THORNTON: Your Honor, in this case ---

THE COURT: Please identify yourself for the record.

MR. THORNTON: Apologize, Judge. Sean Thornton Deputy Solicitor Fourteenth Circuit. Your Honor, it's not so much what Mr. Stone was referring to is not what we would attempt to put up as 404, but the intent by the defense to start putting in 404 information with regards to the victim and, you know, we can't unring that bell. If he gets up and starts talking about any specific instances of conduct on behalf of the victim, which we would want to analyze under the Day case and Mekler, which

I know Your Honor is familiar with. And you haven't ruled on it yet. It would be he's getting ready to ring the bell prior to you even ruling on it. We're not seeking to introduce anything at this point. What we are concerned with is Mr. Bax's attempt to assassinate for a lack of a better word, the character of the victim in the case -- the character of the victim with any specific incidents of conduct or his reputation in the community without having an evidentiary hearing on whether it comes in or not. So our only concern was in his opening if he was going to start addressing anything specific to the victim, we had some concerns of which should be analyze under Day and Mekler before we decide -- before Your Honor decide what is and is not going to be admissible. That was I believe that is our objection I think is kind of the wrong word, Judge, but we're just trying to get in front of the train and not be run over by it.

THE COURT: I understand. Well, let me ask this question, is it the State's position that none of that should be gone into or that if it's gone into that a limited amount of it should be gone into?

MR. THORNTON: Your Honor, the State's position is -- and I'm sorry for throwing out case names and not give you the cite. State vs. Day is 341 South Carolina 410 and State vs. Mekler, Your Honor, is 368 South

Carolina one. Basically what those cases say, Judge, is that if you're talking about specific instances of conduct, there has to be -- it has to fall into one or two categories and that's only if it becomes relevant pursuant to some type of self-defense or an agreement -- it's not an agreement, but argument as to voluntary manslaughter. You have to get by the relevance aspect of it first.

The second prong of that is is it either specific instance of conduct that's directed toward the defendant or one that is so close in time as to go to the victim's state of mind at the time of the shooting. The Day case and the Mekler case -- Mekler was an incident three months prior. Day was an incident four months prior. Both of those were upheld because they met the relevance test first and they were not directly at the defendant as any prior difficulty. Both of those were held to be admissible. There is another case -- I'm sorry, Your Honor. It is a 1996 case State vs. Brown, which is 321 South Carolina 184, that talked about an incident some 20 years earlier that said it does not. It's the State's position that's where the law is. You got four months, it's okay cause it's close in time. Clearly, once you get into the years, it is not. So it has to fall into those categories, so the State would

argue, Judge, that first of all I need to know what, if any, specific instances of conduct that Mr. Bax may seek to introduce and then I would ask the Court to analyze it under the Day and Mekler cases.

Second, Judge, as to any reputation nonspecific incidence of conduct, but the reputation of the victim for peacefulness that has to be done. As, Your Honor, knows he's got to get into that with each witness as to what they know, how they know him, how long they've known him and do they know what his reputation is. And I think it would be inappropriate to allow him to go into general reputation of the victim because he may get up and not able to produce that and then he's got to ring that bell. And we can't unring it and then you may not let it in later, so those would be two -- the 404 evidence, Your Honor, and that's what the State's position would be on those.

THE COURT: All right. Mr. Bax.

MR. BAX: Well, Your Honor, there is evidence that we intend to try to go into about Mr. Holmes' past and his actions and I can go into the arguments about those. I'm a little confused frankly, Your Honor, because what I thought we were talking about is what the State would intend to try and introduce under Lyle about my client. And it's turned into what I am trying to

introduce against the victim. So it's kind of the situation well they're saying if he's going to tell us everything he's going to do, then we'll talk about what we're going to do and it's kind of forcing that situation. You know, it's kind of the situation where it seems like they want to get preview of the case when this is how they want to do it. They're concerned about what I'm going to put in my opening. And I certainly wouldn't think they have any knowledge what I intend to put in my opening at all. It would just be conjecture.

The problem is I do have evidence that I would intend to go into about Mr. Holmes' past and I have no doubt that it's going to qualify under the cases that Mr. Thornton has cited to Your Honor. We have situations where the conduct would be directly at my client and the majority of the Beaufort County Sheriff's Office personnel that I have on the defendant's witness list are here to testify to those events and the actions they took and the incident reports that they that I have obtained and that they were the officers of. But to some degree, the problem is if we're going to have an evidentiary hearing about that, that's a little bit different than what I expect to be doing right now obviously. And I'm not sure if they're going to want to try -- we're going to have to go into the facts of each one of the incidents, that's

going to take me a few minutes to get that all ready to make that argument and I need to know whether or not we're going to be calling witnesses because I got all those sheriff's officers on phone standby because I did not anticipate them being called in a pretrial hearing, Your Honor.

THE COURT: Well, I mean all I've heard to this point is simply that you attend to put up something. I still don't know what you intend to put up for me to make a ruling to it. I need to see it. I can't sit here and make a ruling until I know what you -- and I say that -- is there a record of the victim that I need to look at to look at and see whether or not I believe that something you might can go into. I don't have that yet. And I can't make a ruling on that at least look at some of that stuff.

MR. BAX: I understand, Your Honor, I was trying to get some clarification as to whether we're going to go down that road as far as giving Your Honor -- the report -- incident reports and whether I need to get witnesses here, I guess, that was my question, I apologize. I mean, the problem is I don't know what the motion is here. I mean, is it a motion to say what I'm going to do?

THE COURT: I don't mean to -- my understanding of what they're concern is is you getting up in opening

and saying that Mr. Holmes ---

MR. STONE: Yes, sir.

THE COURT: Mr. Holmes did A, B and C and X, Y, Z. And if therefore, your client had a right to do what he did. At least that's the perception of the argument, I'm getting from them.

MR. BAX: I understand, Your Honor.

THE COURT: And therefore, they want to know whether or not it is your intention in opening to get up and say Mr. Holmes did A, B, C, X, Y, Z. And therefore, my client was justified in doing what he did, that is the concern of you having the opportunity to go into that without me making a ruling on it. And they want to know if that's your intention. If that's your intention, I understand that. However, you may be able to go under some of that, but I need to see whether it's a record. I assume that's what the State's talking about. Again, I don't know of prior acts, that you want go into. Maybe, we do need to have a hearing, but I can't make a ruling -- at least am I wrong about that, Mr. Stone and Mr. Thornton?

MR. STONE: That's exactly right. Your Honor, the issue is this if the defense -- and I don't necessarily need to know what the defense's position is. However, the issue is whether or not the victim's past

comes into evidence. It's got to be relevant. If the defense is this is not my client, then that's irrelevant and no big deal. If on the other hand, it is exactly what as you mentioned that he was justified in doing the killing because this guy was a horrible person, then we would have an objection. But at that point in time, there's some standards that the Court would have to know that, so that was our concern is that before we get into opening argument that he didn't stand up and say, Hey, he killed him, but he was justified in doing so, that is exactly correct.

MR. BAX: If I may respond, Your Honor, I want to try to be as clear as I can for the Court's purpose as well as for the records purposes. I see two issues. One is the issue that they're talking about, but the other is the issue procedurally under the law. What gives the Solicitor's office or any prosecuting agency the right to ask the defendant and the defense counsel to say what they're going to do in an opening before they've ever done it. I mean, what they quoted and what they cited may be the subject of an objection when something gets -- and if they want to object during my opening, there's nothing that stops them under the procedures and they get to object. The problem I see proceeding first and foremost before we get to that question is the fact that if I don't

stand up and object to this and say where's the law that gives them the ability to question me and my defense theory, then I give up that issue to any appeal or any other defense attorney because, you know, to me that is as important from a procedural standpoint, from a defense attorney standpoint as any issue would be about the admissibility or the admissibility of evidence in general?

THE COURT: Well, and I understand the State's concern and position here. You know, if the State wants to object to anything that you bring out, like I said earlier until I hear it, then I can't make a ruling on it. But you run the risk when it's your decision however you see fit to defend the case for the defendant. If you open the door, then that may result in some other issues or matters coming out. And I will tell each of you and I told you back in chambers, I want you to try your case. Don't ordinarily hear objections in opening and don't ordinarily like them, but again each side you got to protect their clients and protect their interest and that's what you feel like you need to do. Do whatever you need to protect the record?

MR. STONE: Thank you, Your Honor, I apologize for the delay. Thank you. Your Honor, I think we can get a good bit of the Neil vs. Biggers hearing done. In fact, it all may be able to be done through the investigator.

He's already here, so I like to go ahead and do that if you like.

THE COURT: All right.

(WHEREUPON, Court's Exhibit No. 1 was marked for the record.)

MR. STONE: State calls investigator Tony Re.

THE CLERK: Do you solemnly swear truthfully answer all questions ask of you by this court, so help you god?

THE WITNESS: Yes, I do.

THE CLERK: Please be seated, state your name and spell it for the Court please.

THE WITNESS: Name is Anthony Michael Re, R-E.

WHEREUPON,

Anthony Re,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION IN-CAMERA

BY MR. STONE:

Q Let me get you to pull the microphone to you if you can cause I can't hear you very well. Investigator Re, you are with whom, sir?

A With Beaufort County City Police Department.

Q And how long have you been with the police department?

A Six and a half years.

Q Were you an investigator involved in the investigation of the shooting of the Subway in Beaufort in the City of Beaufort on July the 26th 2011?
A Yes, I was.
Q And in your capacity as an investigator with them -- first what is your rank by the way?
A Investigator Two, which is the corporal rank.
Q So I'm correct in calling you an investigator?
A Yes, yes, sir.
Q Through that investigation, did you prepare a photographic line-up for any witnesses to view?
A Yes, one was prepared for Miss Jeannie Salleme. I don't know how to pronounce the last name.
Q The last name, the lady's last name is Salleme; is that correct?
A Yes, sir.
Q We think that's Salleme?
A Sir, I believe so, yes, sir.
Q Now, you prepared a lineup or had a lineup prepared and showed her; is that correct?
A Yes, sir.
Q Now, let me first ask you, the photographs that came from the lineup, do you know where those photographs came from?
A From the South Carolina Department of Motor Vehicle

web site.
Q Let me first show you what's been marked as State's Exhibit Number 17, ask if you can identify this document please, sir?
A Yes, sir, this is a photo lineup I showed Miss Salleme?
Q Okay. And let me also show you what's been marked as Court's Exhibit 1 ask you if you can identify that for me please?
A This is the second page of the photo lineup, but this one identifies each person by their name and their -- either license number or identifying number through the Department of Motor Vehicles.
Q Now, the second one, which is Court's Exhibit 1 did you show that to the witness?
A No, I did not.
Q Just the first one, which is State's Exhibit 17?
A Yes, sir.
Q Is that correct?
A Yes, sir.
Q Let me show you what's been marked as State's Exhibit 18, could you tell me what that is please, sir?
A That would be the same Department of Motor Vehicle picture of Mr. Knight.
Q Now, of all of the -- hand these back to you please.

MR. STONE: Your Honor, I just hand this up to you for you to be able to see that, sir.

BY MR. STONE:

Q Okay. The photographic lineup that was State's Exhibit 17, that is how many individuals do you recall?

A Six individuals.

Q And those -- or all six individuals photographs taken from the Department of Motor Vehicle's photographs?

A Yes, sir.

Q All right. And in the creation of that lineup or use of that lineup, was there any indication on any of those photographs of any of those people ever having been arrested anything like that?

A No.

Q These are just highway department driver's license pictures basically?

A Yes, sir.

Q All right. How did you determine of the various six photographs in there which photographs were chosen? In other words, why were those six made up of that lineup?

A When we do the photo lineup, we choose people that are similar in features. In this case, the dreadlock hair, maybe facial hair, goatee, the skin color, tattoo anything else that might be similar to the person that we're trying to portray in the photo lineup.

Q Okay. Now, on State's Exhibit Number 17, there appears to be Wite-Out on the neck of the individuals, what is that from? Why is that there?
A Because the suspect Mr. Knight had a tattoo of, I believe, it was peanut on the side of his neck. We had to ensure that each individual on that photo lineup appeared the same. So we put the Wite-Out on all of them, so that I don't know if the other five had tattoos or not, so it would appear that they all looked the same.
Q Had the witness identified this tattoo?
A She did state that she observe a tattoo on the neck, so that's one of the main reasons we use Wite-Out.
Q Now, when did you show this lineup to the witness?
A The day after the incident on the 27th.
Q All right. On the 26th, tell me what her involvement in this case was when we talked -- we refer to her as a witness. What type of witness was she? Where was she? Her opportunity that type of thing?
A She was located inside of Subway and she observed the entire incident that happened.
Q Was she working at Subway or a customer?
A She was a costumer. She had stopped in with her son who was out in the car to pick up a couple subs for dinner and take them home.
Q Okay. And when this took place, how close was she to

the actual shooter?
A It's -- in front of the counter an approximate footage maybe between ten and 15 feet.
Q Let me show you what has been marked as State's Exhibit Number 11. Tell me what that is?
A That be a photo from inside the Subway.
Q All right. Do you know where that photograph -- where that photograph came from?
A I don't know who obtained it or gave it to you, but I know Investigator Erdel obtain most of the surveillance video from the Subway.
Q Okay. And is that a still shot of the surveillance video?
A It appears to be.
Q Do you see the witness in that photograph?
A Appears that she's at the register.
Q The lady in the white shirt, I guess.
A Yes.
Q And could you tell -- first of all can you show that to the Court, I'll hand that up to Your Honor. Also in this photograph tell anybody else in the photograph?
A Got one of the workers and I'm not really sure if that was identified as one of the suspect or someone else.
Q All right. Did Miss Salleme tell you what kind of opportunity she had to see the person?

A While she was standing there, she had stated to me that she observed the victim that was standing up at the counter ordering his stuff and who she identified later as Mr. Knight both of them in the business at the same time. She did state that there was no words between them at that time during the initial contact.

Q Did she tell you if she had an opportunity to see the -- did she tell you she could identify who it was?

A Yes.

Q And when did you interview her by the way?

A I interviewed her the following day.

Q The following day?

A Yes, sir.

Q And I'm assuming during the interview you asked her if she saw what she saw that type of thing?

A Yes, sir.

Q Okay. Her degree of attention whether or not she had an opportunity to see the defendant and whether or not she could make an identification, did you ask her any of those things?

A Yes, sir.

Q And what did she tell you?

A She stated that she observed him several times in the past. She works at Golden Corral. She stated that she had seen him at least approximately ten times coming into

that business. She didn't know him by name, but she had seen him in the past.

Q Okay. And she told you that before she saw the lineup?

A Yes.

Q And did she also tell you that she could identify him if she were shown a photograph of him?

A Yes, she did. Yes, she did.

Q Now, when you showed her the lineup, did you suggest in any way which person out of the lineup to choose?

A No, I did not.

Q In fact, what did you tell her when you handed her the lineup?

A I explain to her just like I already said that the photo lineup is six different people with similar features. I explain the hair and facial features stuff like that. And I explain to her just to look at all the photos carefully and when she had made a decision as to who the person was to point that person out.

Q Okay. Was she -- any way did you point at the photograph, do anything to indicate which one she should choose?

A No, sir, I slid the whole photo lineup to her. She looked at it and she point right at number two.

Q And how long did it take her to make that decision?

A It was a few seconds. It wasn't long.

MR. STONE: I don't have any further questions at this time, Your Honor.

THE COURT: Cross-examination.

MR. BAX: Thank you, Your Honor. May it please the Court.

CROSS-EXAMINATION IN-CAMERA

BY MR. BAX:

Q Investigator Re, good afternoon.

A Good afternoon.

Q A couple of brief follow-up questions for you, sir. First of all, the interview -- and I believe you stated this in some of the incident reports that you generated in this case was taped; is that correct?

A Yes, sir.

Q So it was in an interview room at the Beaufort County or Beaufort City Police Department?

A Yes, sir.

Q Okay. Now, you testified that I believe it's State's for ID right now 17 is the photo lineup?

MR. BAX: Approach the witness, Your Honor?

THE COURT: Yes, sir.

MR. BAX: Thank you.

BY MR. BAX:

Q And that is the actual one that you gave to her?

A Yes, sir.
Q It's the original of that; is that correct?
A Yes, it is.
Q Okay. And that Miss Salleme, if I'm saying that correctly and I apologize to her if I'm not, did not get to see the one that has names under it?
A No, she did not that was in another room.
Q Okay. All right. And the only other thing that she saw I believe you showed her some other paper about lineups just something that you read through some information before you gave her that; is that correct?
A I did not read off of that.
Q You did not read off of it?
A I didn't.
Q Okay. You had a discussion with her about what you were getting ready to do first before you showed it to her though; correct?
A Yes, sir.
Q And I believe in that discussion did you at all talk about the fact that she was going to see Wite-Out on the necks?
A Yes, I did.
Q And that's when you explain why that was?
A Yes, sir.
Q Do you recall what it is that you told her about why

that Wite-Out needed to be there?
A Not exactly, but I do know that it was because the suspect had a tattoo on that side of the neck and that's all the photos that we could get. All the photos that we could get -- all the photos that we could get that we had Wite-Out each person on that photo lineup, so the suspect would not stand out.
Q Okay. And so that's something you talked about before you handed the lineup to her?
A Yes, sir.
Q Now, once you handed the lineup to her I believe your testimony was is that she pointed to number two. Do you recall any kind of hesitation or any kind time before she pointed at number two?
A It was only a couple of seconds.
Q Okay. After she pointed at number two, did you ask her any other questions?
A I asked her if she was 100 percent sure of the photo.
Q And what was it that she responded?
A She said 90 percent.
Q Ninety percent. Okay. Did she also indicate to you when she was -- after she pointed to number two and after you asked her that question, did she also indicate that she knew somebody else in the lineup?
A I don't recall.

Q Okay. So you don't recall her saying that she knew one of the other people in the lineup and knew that wasn't this other individual because she knew that guy?
A I don't recall that, no.
Q Okay. And did you record any -- other than the audio recording -- well, strike that --

MR. BAX: Let me withdraw that question, Your Honor. Moments indulgence, Your Honor.

Thank you, investigator.

(WHEREUPON, a pause in the proceedings.)

THE COURT: Mr. Bax, anything further?

MR. BAX: Sorry, Your Honor. I was having a small debate here. And I'll just put this to Your Honor since we're in-camera and not in front of a jury. There is a portion of the video that I watched several times where I believe she's making a statement she knows somebody else in it. My problem is is that without either showing him the video to refresh his recollection, I can't get it in to be considered by the Court because he just doesn't recall. So at this point ---

THE COURT: Let me ask this question, what relevance does that have to do with the suggestiveness or potential suggestiveness of this photo lineup?

MR. BAX: And I don't mean to stand in front of the Solicitor here. The argument, Your Honor, is that,

you know, I think that the question that I would have about that and the relevance I would see in that is that if the investigator is aware at that time that she already knows somebody else in the lineup, then now it's a photo lineup of five pictures instead of six pictures because one person she knows is in there because she's familiar with that person. She knows he's not related to this incident at all. So now it comes to the fact that it does impact the validity of the lineup in that now you're looking at a situation where she really only has to pick from five unknown individuals to see if it's the individual who she states she doesn't know, she just saw him in this incident and has seen him around the community before. But does not know him in as a, hey, how you doing kind of situation and that's what it goes to. My problem is from a evidentiary standpoint because he doesn't recall it, I don't have it in evidence right now for you to consider in my argument.

MR. STONE: I can -- I apologize for interrupting. I can help him with that. I believe that's exactly what the witness says that she did -- when he shows the lineup, she goes through and she said that's -- she identified the defendant, but she also identified one other person, so I think that is correct, Your Honor. And we have the video that if you like to see it. I don't

quite frankly know that that affects the reliability, the lineup but that is correct. I do not require him to put evidence in for that.

THE COURT: The State stipulates to that.

MR. BAX: That way we can avoid playing the video. I don't have any further questions for the investigator at this time. Thank you, sir.

THE COURT: Anything further from the State?

MR. STONE: I do not, Your Honor.

THE COURT: Sir, you may step down.

(WHEREUPON, the witness leaves the witness stand.)

THE COURT: Okay.

MR. STONE: Your Honor, we have the witness here as well. However, I believe as far as the Neil vs. Biggers standards, we have already -- we have covered that which we need to do. The first primary threshold question that Your Honor has and that's the reason I handed up the lineup is to whether or not some way that photographic lineup was suggestive. The photographs are taken from the highway department not from any type of jail booking photographs, which I think is highly relevant in establishing any type of prejudice from the lineup. All six photographs as you have seen are similar individuals, similar in looks. And I think that the next

step of whiting out the tattoo actually helps that, making all six of those photographs as close as possible and yet at the same time the witness was able to make that choice within seconds according to the officer.

I believe the next prong once you analyze the lineup itself is determined whether or not the choice was something that really is whether or not there's reliability of the decision and the choice of the photograph. The testimony from the witnesses that she was within a feet of the defendant when the crime took place, that she was as the officer stated 90 percent sure. She choose number two within a matter of seconds and stated that the reason was prior to even being shown that lineup is that she has seen him a number of times in the past at her store where she worked, that being the Golden Corral. And in fact, she told the officer she could pick him out once he showed the lineup. From that standpoint, I think we have covered all the basis for the Neil vs. Biggers hearing, but if, Your Honor, needed more information we certainly have no objection to giving it.

THE COURT: All right. Thank you, Mr. Stone.

Anything in reply?

MR. BAX: Yes, Your Honor, briefly. Two things number one, obviously, as Your Honor is well aware from a procedural standpoint, we still have to wait for the

testimony of the Miss Semelle. Obviously, Investigator Re has testified here in-camera as to what he's been told, but in trial in front of the jury, we're going to have to hear that from Miss Salleme before any final ruling on admissibility, which I know Your Honor is aware of.

Number two is just the issue that I brought up before in this situation we would argue that there's a problem with this identification in that once the officer discovered that she had already knew somebody in this, it does impact the reliability of the lineup because you're talking about a situation where she's able to identify someone else in the lineup as not being involved because she's familiar with that person. She was able to name him by name. And that creates a situation where instead of having a five person or six person lineup, you really looking at in reality of a five-person lineup. So we would argue that's a basis for -- especially when the officer was told that that impacts the reliability of this lineup. Of course, as I said before, we rely on the testimony that's going to end up before the jury before the final determination of admissibility, but we put that on the record as our argument now.

THE COURT: Anything else from the State?

MR. STONE: Excuse me just a moment, just a moment. Nothing else, Your Honor.

THE COURT: All right, give me just a second here.

(WHEREUPON, a pause in the proceedings.)

THE COURT: All right. The Court has reviewed State's Exhibit Number 17, Court's Exhibit Number 1 and State's Exhibit Number 18. The State has the burden to establish the reliability of the identification pretrial by a preponderance, by a preponderance of the evidence. Addressing the factors of Neil vs. Biggers 93 Supreme Court 375 1972 case: First prong being was the ID unnecessary and unduly suggestive police procedure. Based upon what the Court has heard here today, there's been no evidence presented to the contrary. The Court finds that there was no unnecessary and unduly suggestive police procedures. The Court has reviewed State's Exhibit Number 17, which is a photo lineup of six individuals, six individuals looking at these photographs of these six individuals. The photograph of the defendant, who is number two in this photo lineup, does not stand out in anyway, shape or form on the other individuals in this photographic lineup.

Furthermore, each of these individuals appear to be similar in age, appearance and physical characteristics. Each of these individuals has dread locks. Each of these individuals has to some degree

facial hair, more specifically appears that each of them have what is commonly referred to as a goatee, as a goatee facial hair as far as facial hair is concern. There's nothing in this photographic lineup that would indicate that the defendant had any prior record. And there is nothing in the record here today to indicate that law enforcement expressly or implicitly suggested to the witness which photo is that of the accused in this case.

Furthermore, under the totality of the circumstances, there was testimony here, unobjected to testimony here that the witness had an opportunity to view the defendant prior to the alleged incident. And I believe that she actually took an order from -- took an order from him at the counter, that she had known the defendant prior to this incident and that she had in fact observed the defendant several times in the past and had seen the defendant approximately ten times and she stated to law enforcement that she could identify the defendant.

Furthermore, testimony was the witness within a matter of seconds picked out the defendant as the alleged perpetrator in this matter. And that this photographic lineup was produced to the witness for her viewing the following day. I don't think it was specified as to what time the following day, but it was in within 24 to 36 hours after the alleged incident. And based upon what

I've heard here today, the Court finds that this photographic lineup was not the result of any unnecessary and unduly suggestive police procedures. Therefore, the Court will rule out photographic lineup.

Anything further at this time?

MR. STONE: Not from the State, Your Honor.

THE COURT: Defense counsel?

MR. BAX: Not on this issue, Your Honor.

THE COURT: Sir?

MR. BAX: I said not on this issue, Your Honor.

THE COURT: Next issue.

MR. BAX: Thank you, Your Honor. I think the next thing that we would need to go to is defendant's motion to compel. The issues as I've stated and prior to Your Honor in chambers is there was a cell phone that was taken I believe I'm stating this correctly cell phone that was taken from my client upon his arrest. As a result of that, a search warrant was gotten and they took information off of that cell phone. The information that we have been produce -- that's been produced to us through discovery appeared to be incomplete and that was the subject of our motion to compel. Additionally, since that time and I raised these issues to, Your Honor, we've also discovered that we do not have an ability to listen to some phone calls that were recorded at the jail. And I

have spoken with Mr. Thornton earlier today during the lunch break and he is going to play them from his computer. We did not do that at the time since we had a very limited time for lunch, so I intend to do that before I leave here today. So from that standpoint, that's somewhat resolved. I still think that for the defenses part we need to take testimony on the issue of what was produced to us about what they found on the phone. I have that information in front of me. And additionally, the only other issue on motion to compel is the issue of the phone calls that I found that were referenced on pages 209, 210, and 211 of the discovery where there was an additional number of calls that is and all that they indicated Mr. Knight was part of that conversation, but I never seen any recordings of that. So those are the three areas under motion to compel that I think we need to address pretrial.

THE COURT: Mr. Thornton.

MR. THORNTON: Thank you, Judge. With regard to the phone calls, Your Honor, the phone calls that I have the ability to play. And I've already informed Mr. Bax that we'll be happy to play those for him today. I understand he got them, but he was unable to play them. I'll make sure those happen this afternoon. The phone calls that he referenced on the discovery, I think there

was some phone calls mentioned where his client party might have been a party to the calls. We weren't planning on using those or putting those in. If they were done at the jail, generally they recorded. I'll have Mr. Hightower with our office get on that right now today and we'll get him a copy of those for his -- you know, if he wants to hear those, that's not a problem. He doesn't have those yet because I don't have them because we didn't pull them off the system, but I'm happy to do that. I'll get with Mr. Bax before we leave today and make sure he has those as soon as possible.

With regard to the remainder of his motion, Your Honor, and, Mr. Bax, please correct me if I'm wrong. The remainder of his motion dealt with as, Your Honor, knows generally when we get records or anything off of a cell phone, we do a search warrant, that was done in this case. And there was a computer program run to extract the information physically from the cell phone, that information was pulled. It was provided to Mr. Bax. There were also text messages that the content of which this program would not pull. They actually physically photographed the text messages that were on the phone. And I've given Mr. Bax a copy of those some in going, some outgoing they're not complete conversations, but I have been told by law enforcement they did -- they took

photographs of every text message that they could that was on there is what they tell me. I've provided that to Mr. Bax.

Today, Your Honor, I provided Mr. Bax an e-mail communication between George Erdel, who is present in the courtroom, and Cricket Wireless. There was a reference in some of the material that Mr. Bax -- and frankly I was confused once he pointed it out that indicated it was a Cricket response to law enforcement saying in response to your subpoena or subpoena compliance department and we were unaware of any subpoenas issued. Everything that I knew about was done via a search warrant. What happened is Mr. Erdel with the Beaufort City Police Department contacted Cricket Wireless, the cell phone provider to the defendant in this case Mr. Rajerick Knight. And he made what is called a request for information pursuant to 18 U.S.C. 2702, it's an exigent circumstances request.

It's apparently used by the marshals if they have someone who's allegedly a fugitive going across state lines. They use it to ping the towers and try to track the person. When Mr. Erdel got back that there was pinging going on outside the state, he then turns it over to the marshals. So that's where the confusion came in about Cricket saying this is in response to your subpoena. It wasn't a subpoena. It was simply this request for

exigent circumstances. I've turned over every bit of that that I had to Mr. Bax. And it basically is a call detail and it list which tower it goes to. Mr. Erdel then turns it over to the marshals and the marshals track the defendant to Jacksonville where he is located. We would not seek to use any of that information, but I have provided everything I'm aware of, Your Honor. If that satisfies the motion to compel, then I'm fine to stop it there. If Mr. Bax needs to call, I have George Erdel here. But I believe we turned over everything except the phone calls that he's referenced that I don't have, but I will get those for him immediately, Your Honor.

MR. BAX: Thank you, Your Honor. And I understand everything Mr. Thornton is saying. The -- and I think probably the best thing is to call Mr. Erdel. I know he has a class today. I want to get him out of here, so he can do that class. I don't think it's going to take but a minute. So I call George Erdel if it's okay with the Court.

(WHEREUPON, State's Exhibit No. 40 was marked for identification only.)

THE COURT: Go ahead.

THE CLERK: Would you place your left hand on the Bible and raise your right hand for me please. Do you solemnly swear to truthfully answer all questions asked of

you by this court, so help you God?

THE WITNESS: I do.

THE CLERK: Please be seated, state your name and spell it for the Court please.

THE WITNESS: My name is George Erdel E-R-D-E-L.

WHEREUPON,

George Erdel,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION IN-CAMERA

BY MR. BAX:

Q Thank you, Investigator Erdel, thank you for being here this afternoon. A couple of quick questions for you. First and foremost, where you employed right now?

A The Beaufort County Police Department.

Q And were you involved in the investigation of the shooting incident on July 26th 2011 at the Subway Restaurant?

A Yes.

Q Okay. As a result of that, did you come in contact with or did you try to obtain any information concerning a cell phone or cell phone number that you believe was associated with the suspect that you had at that time a Mr. Knight?

A Yes, that's correct.

Q And I actually I have the color version here.

MR. BAX: If I may approach, Your Honor?

THE COURT: Yes, sir.

BY MR. BAX:

Q Okay. I'm just going to hand you something that has not been marked at all. I just ask you if you recognize it, okay?

A Yes, this appears to be the response from Cricket Wireless regarding the call logs and it's tower switching location.

Q Okay. And as I've looked through the discovery, I think I actually received a black and white version cause it looks very similar in discovery, so it not that I haven't received that. Let me ask you this, as I look on this, under date I see that it starts on July 26th and goes to July 27th and doesn't go anywhere past July 27th. Is that what you're showing and when you're looking at that?

A Yes.

Q Okay. Let me ask you this, is there a reason why what you're showing here is only restricted to those two days?

A Generally, they will only give you 48 hours of what exigency request, they'll give you 48 hours of records. So my intent at that time is to see if there was a way to locate Mr. Knight to find records that would tell us where

that he was at. After 48 hours, the exigency expires. By the time I had gotten this record, I had already made contact with the marshal service and they had taken over the -- getting a court order and doing everything with finding him.

Q So to your knowledge was there ever any other records from this cell phone number that were obtained by the federal authorities?

A There may be, I can't tell you firsthand. I just tell you I turn the information over to them and they run with it. I know generally they get court orders, but I couldn't speak to the specifics of this case.

Q So whatever they had if they had it, did they ever turn it back over to you?

A No.

Q Okay. Now, let me also ask you this and I may have to call another individual. But let me ask you this, did you have anything to do with any of the extraction of information from the cell phone once it got back to your department, sir?

A No, sir.

Q Okay. Did you have anything to do with the -- looking at and taking actual physical photos of the screen of that?

A No, sir.

Q To your knowledge who did do that? Do you know?
A I have no idea.
MR. BAX: That'll be all the questions that I have for Mr. Erdel at this time, Your Honor, for this matter.
THE COURT: Anything from the State?
MR. THORNTON: No, sir.
THE COURT: Sir, you may step down.
(WHEREUPON, the witness leaves the witness stand.)
MR. STONE: Your Honor, I ask that he be excused at least for the balance of the afternoon. He's actually under Mr. Bax's subpoena. He has a class this afternoon.
MR. BAX: I have no objection. Mr. Erdel is on phone standby. I know he'll come back if I call him.
THE COURT: All right. Sir, you are excused for the balance of today.
MR. THORNTON: Thank you, Your Honor.
THE COURT: Anything else from defense counsel?
MR. BAX: I will ask this and I apologize if I didn't have this person here, but I was going to ask if Billy Crumpton is here in the courtroom.
The reason I ask, Your Honor, to this matter Investigator Erdel as not as he's testified not the one that did some of the extraction. I think that the

defendants and the defense is going need the testimony of Mr. Crumpton. The reason for that to cover the record is the discovery that was produced to me, Your Honor, the documents of what they extracted from the phone, all read with -- under the call history, they all read out with a date of November 7th 2011, which would have been months after my client was brought back by the marshals and incarcerated pretrial at the Beaufort County Detention Center. So part of the confusion there and then also the cell phones and we certainly understand that they were able to take pictures of the phone. And at this time, I don't necessarily see a problem with that certainly not under discovery. But I need to be able to question him about that because what I'm looking at seems to see that there's a call history that existed after the fact. And in order for me to protect my client's rights to make sure there's not any discovery out there that we're not aware of, I would like to have that. I don't want to hold the Court up though. I know we got a jury waiting and I don't want to be the reason for them to be sitting unnecessarily, so I can hold that off, put that on the record at a later time when Mr. Crumpton can be here. I have no objection to that for scheduling purposes and we can move on.

THE COURT: Mr. Thornton, Mr. Stone.

MR. THORNTON: Your Honor, I will have him here first thing in the morning, that's not a problem. This is not something I was aware of we would need him here, but I can have him here first thing in the morning if that addresses all the other concerns except for his testimony, I'm happy to take care of that.

THE COURT: Is that it, Mr. Bax?

MR. BAX: I think for the discovery motion that is it, Your Honor.

THE COURT: Any other matters at this time?

MR. BAX: One minute, Your Honor.

(WHEREUPON, a pause in the proceedings.)

MR. BAX: Your Honor, from a pretrial stand point, I think that basically takes care. The only thing I would say is that -- the way we reviewed all the exhibits that the State intends to introduce based on what they have told me, there are few of the photographs that I would have objection to. I don't know if you want to deal with that now or wait and that would be the extent of what I can see as pretrial at this time based on all of our discussions.

THE COURT: Can I see the photographs please?

MR. STONE: You want to see all of them, Your Honor, or just the ones he's objecting to?

THE COURT: Ones he's objecting to. Let's do

this, I'm going to step down a minute while you all go through that. I'm going to take these contacts out they're about to kill me. I will be back in a minute.

(WHEREUPON, a break was taken.)

THE COURT: All right. Mr. Stone has handed me some photographs some of which has been marked State's Exhibit 2 and 16 several of which have not been marked for identification purposes or anything.

Keshia, can you at least mark the ones for identification purposes, so the record will be clear.

MR. STONE: They all have been marked, Your Honor.

THE COURT: Can you hand those to Mr. Bax? Those are the ones he's objects to.

MR. BAX: That's correct, Your Honor.

THE COURT: I want to know what the objections are.

MR. BAX: We pull these out. And, Your Honor, I can give you my objections to each one of the number and then pass them back if that be the most appropriate way to do it.

THE COURT: Yes, sir.

MR. BAX: Okay. What's been marked as State's Exhibit 2 appears to be a photograph of the front of a Subway Sandwich shop, Your Honor. The objection that I

would have to that is that at the bottom of the picture there is, you know, what is pretty clearly the feet of the victim in this case Mr. Holmes with a white sheet over the legs. And I would argue that I would object under 403 that him under a sheet is more prejudicial than it is probative. I know that I believe the Solicitor's intent in this picture is to show the proximity of the position of the victim to the door.

Number one, I would have no problem stipulating to the distance from the door where he was located and it's also in their demonstrative evidence the chart -- I don't know the word I'm looking for, but their diagrams, that's the word, of the crime scene indicate the position of the body in relation to the front of the store. So the purpose for which they're seeking to introduce it can be achieved through other nonprejudicial means, so that would be the basis of my objection on State's Exhibit Number 2 for ID.

State's Exhibit Number 16, Your Honor, and this is an objection that's going to carry through to a couple of the other exhibits. And I will list those is a, I believe, as it was described in the paperwork, I received a trajectory kit provided by SLED to one of the local law enforcement officers. I believe it was Investigator Re that he went over and took it out of its SLED bag, read

its instructions and utilized it.

However, my understanding is he did that on November 20th 2012, last week. And my objection would be that we have no evidence to say that that crime scene has been maintained. There's not been any custody of it. Subway Sandwich shop has continued to run its business for a year and half between the time of the crime and the time on November 20th 2012, that the investigator went over. This kit from what I can tell is placing a rod through whatever hole the projectile has formed in a structure or something else and then placing a red line from the tip of that rod through any empty air place to where they believe that the projectile ended something like that. If I'm describing it incorrectly, I apologize.

My objection will be basically foundation and chain of custody because -- well, not chain of custody, but they haven't maintained that crime scene. You know, what I believe that they would be able to testify to is that Subway people would say they haven't done anything to it, but we don't really know that, that's something they could have done on the night of the crime or within a couple of days of the crime when they were still maintaining the crime scene. There's no reason why they couldn't have. SLED was there and I'm certain that it wouldn't be a problem getting a trajectory kit then. So

that would be the basis for my objection on State's Exhibit 16 and that objection is the same, Your Honor, for State's Exhibit 46.

I have two State's Exhibits marked 46, so it would be the same for both of them. There just, I guess, two different views of the same thing. They're both marked as 46.

The objection I would have to State's Exhibit Number 45 and it would be the same for State's Exhibit Number 47, it's purely the fact that these pictures both depict a large amount of blood allegedly from the victim. I don't necessarily doubt that that's the case, but it's just a 403 objection basically the gore that it shows, I think, outweighs the probative value of what they intend to introduce it for. What I have been informed is that number 45 is being introduced for purpose of showing the bullet hole in relation to some of the other items in the room. I believe there's some other pictures they could use that don't have that of amount blood that they can do that with what we're taking on the night of the incident, so I would object to number 45 for that. And number 47 also depicts a lot of blood splatter on the floor fairly close up near the counter. And I don't believe that that picture serves any probative purpose that hasn't already been established by other pictures including some of the

ones that I have not objected to. There is one picture that shows all of the evidence identification markers, the yellow alphabetized indication of evidence markers that they placed on the floor, they're yellow in color. There's another picture that I have not objected to that's taken from a distance from this spot that shows all of them and I think it serves the same purpose. Additionally, there's a down shot that shows item one as well as M and L, that I have not objected to that shows a closer shot at that same area without that large blood splatter and I have not object to that. So based on the argument that under 403, these have more prejudicial effect than they do probative value. And the evidence and facts they intend to introduce are proveable through other pictures that do not have that level of gore in them that would be the basis for my objections on both 45 and 47, Your Honor.

Finally, my objection on State's Exhibit Number 48, Your Honor, State's Exhibit Number 48 is two different shots of my client. The first shot on the left side of the page clearly has him in jail garb and shows his -- some dreads on his head and the tattoo on his neck. The shot on the right side of the page is a close up of his tattoo on his neck with his face turned. My objection to that would be relevance number one and 403 number two.

Relevance is -- I don't know exactly what they would intend to try and show with that picture. I would say this obviously if the defense were to come up here to make a strenuous argument that he was not the one, then there be an issue of ID. I can tell you I don't think that's going to come up. I don't think that's going to be an argument about ID in this case as to whether he was the one there number one.

Number two obviously under 403, Your Honor, this has him in jail garb. This -- both shots show orange for the clothing and both shots are ones that indicate he's locked up and so under 403 analysis especially considering the fact that I'm not sure ID's even going to come up. And, of course, you can withhold your ruling in case I -- I think you'll find after this trial that you can rely on my word when I say something, but in the chance that something does not work out, certainly I would expect you to change your ruling, but I don't think ID is going to be an issue here. So the probative value of these pictures become much less in light of that statement.

Additionally, the photograph in State's Exhibit Number 48, Your Honor, is the exact same photograph that is in the media coverage that came out this weekend at the very least. It might have been in some of the other ones from earlier, but I know it's the exact same photograph

that was in the articles that we discussed prior. So that also has some impact because you got potentially people who might have been exposed to that picture in the papers, they're going to be looking at the same picture in evidence produce by the State in which kind of blurs that line, Your Honor, as you've already told them about making a decision only on what's produced to them in the court versus what they've seen in the media. So that would be the objections to all the evidence pictures here -- excuse me not all the evidence, but pictures. I can pass these up at this time if you like to be able to specifically...

THE COURT: I want Mr. Stone or Mr. Thornton to address them in response.

MR. STONE: If I may, Your Honor.

THE COURT: Yes, sir.

MR. STONE: If identification is not the issue, then it's not prejudicial. And so if the argument is that the photograph of him with his hair cut from what it look like when he was in the Subway is -- is not -- if identification is not the issue, then it's not going to be prejudicial to put that in, that's photograph number 48. Point being from our standpoint is it does go to prove identity. It has the tattoo that was on his neck that's recognized and these are photographs. Indeed, they are jail photographs. This is when the police officer -- and

they would testify that they arrested him. So there's not going to be any question as to this -- this is not an old booking photograph. This is a photograph of the defendant as he appeared when he was arrested after this event. And what is relevant to us is that he did cut his hair. It appears from our standpoint is that he's trying to evade capture and saying that it was not him in the Subway. That's what makes this relevant.

Of course, the State has to prove their case beyond a reasonable doubt. Identification is always an element in that and that's what we would offer that for. As to the -- we have three witnesses inside the Subway during the shooting. We have two witnesses outside the Subway right after the shooting and these photographs -- and I'll specifically refer to State's Exhibit 2 as the outside of the Subway. Two witnesses will testify as to what they saw at that door standing in that particular spot and that is a fair and accurate depiction of the scene. The reason that you have the red tarp which the witness actually said they watched the officers put up is because I actually tried to choose the photograph that did not have a vivid bloody picture of the defendant. And all you have ---

THE COURT: You mean the victim?

MR. STONE: Excuse me of the victim. I

apologize. All you have in this photograph are the shoes and the sheet. There's no excessive blood and that's the reason that photograph was chosen.

As to number 16 and 45, these are -- and in fact this actually goes to my point as to the trajectory strings that were placed. The same investigator that seized these scenes at the night of the event is the same investigator that will testify as to putting the strings through the holes later on. And what this show is that this was documented -- what I'm showing you is State's Exhibit 45 that's the documentation of the cashier's stand. There are two witnesses -- three witnesses excuse me -- inside the store that say the victim was standing at the cashier register about to pay when the defendant walked up to him, put the gun to his ribs and pulled the trigger. This verifies those witness' statements. You can see -- they also testified that after the victim was shot, he attempted to get away from the defendant by climbing over the cashier's stand. Relevant point of that obviously is that the victim was not an aggressor in this situation. He was trying to get away from the defendant. This backs up what the witnesses say as well as showing where the bullet enters and this is the documentation. Over here to the far left of this photograph which is State's Exhibit 45, you can see the bullet hole as it

appeared that night.

This State's Exhibit 16 is a photograph of that same bullet hole which is in the same place that it was before and the same officer that viewed the first photograph views this as well. I asked him to go back in and put a spring in the hole to show the trajectory of the bullet. That is these two photographs here. This is State's Exhibit 46 and State's Exhibit -- which is also 46. I will refer to if I may -- if I can get the first photograph of State's Exhibit 46A if I can change that, so that that's easy for the Court. And then the second photograph will be 46B. And for purpose of the record, the first is the shot that comes on the other side of the wall from State's Exhibit 16. So if I can put these together, 16 is where the bullet comes goes in. It goes directly through that wall and out, which is depicted in State's Exhibit Number 46. Across the room striking a refrigerator door, which is State's Exhibit 46B and if, Your Honor, will note the crime scene measurement is still there. This is -- these are again preserved by the officer at first and then I asked him to go back in and show the trajectory to show the path of the bullet after it passed through the victim, that is the purpose of that. And then again State's Exhibit 47 which I'll show is merely a -- this is the SLED numbers when they came in and

identified the various items. We have individual items that match up to these that are closer photographs, but this shows how -- in what sequence it would be shown in. Also at the very -- number one is the $20 that the victim was holding in his hand attempting to pay for the sandwiches when he was shot and killed and so that for those reasons, Your Honor, the probative value, I believe, is relevant in that they're all going to be used by witnesses who are telling what they saw. I do not believe that they are overly prejudicial. In fact, State's going out of their way not to produce any photographs that would be too graphic. And I'll hand those up to you.

(WHEREUPON, a pause in the proceedings.)

THE COURT: What I'm going to do on State's Exhibits 2, 16, 47, 48, 45, the analysis of certain whether or not prejudicial effect -- whether the probative value is outweighed by prejudice to the defendant. I am going to reserve ruling on the admissibility pending upon testimony of the witnesses as to their investigation what they saw et cetra. I do not believe based upon what I've seen here that any of those photos, that any of these photos draws any intense emotional response that would be unduly prejudicial or unfair to the defendant. I do not see anything in these photographs that would arise to that level.

Certainly, Exhibit Number 2 which shows the feet, a portion of a sheet over the victim here, I certainly understand defense counsel's concern there. However, that photograph does not show any actual gunshot wounds and blood on the victim et cetra where those wounds were. So I don't think that any of these photographs draw any intense emotional response that would be unfair to the defendant. Depending upon the State's ability to lay a proper foundation, I'm going to reserve my ruling on admissibility to those photographs.

MR. STONE: Thank you, Your Honor.

THE COURT: Now, anything else?

MR. STONE: No, sir, not from the State.

THE COURT: My next question is we've -- I asked the jury to be back here at 2:30. It's now almost four o'clock. How long does the State anticipate on opening?

MR. STONE: I am very brief on opening, Your Honor, 15 minutes at the most.

THE COURT: Mr. Bax.

MR. BAX: Your Honor, I would anticipate that mine trying to be as conservative as possible my opening to be about 30 minutes. Maybe, a little bit longer.

THE COURT: This is what I'm going to do, I hate to do this, but I'm going to cut the jury loose, not starting this trial at four o'clock this afternoon. I

want to get all this stuff hammered out before -- I hate that we had the jury sitting back there this long, but that's one of the -- my opening charge to them will be 20 minutes, that's one of the luxuries or draw backs of a visiting judge coming in having to address all of these issues. So I'm going to bring this jury in, I'm going to cut them loose. And we're going to start at nine o'clock in the morning. And before you all leave here, I want you all to let me know whether or not there any other pretrial issues that we need to address before we start the trial of this case.

MR. STONE: Yes, sir.

THE COURT: Bring me the jury please.

(WHEREUPON, the jury came into open court at.)

THE COURT: Okay. Ladies and gentlemen of the jury, first of all let me tell you that I appreciate you being back here when I asked you to be here. I inevitably end up putting my foot in my mouth every time I say this and it happen today. I did not anticipate you all having to be back there as long as you have been back there. There were some pretrial matters that we had to take care of outside of your presence. We take care of or deal with pretrial matters in hopes that once a trial starts, I want have to keep asking you all to go to the jury room, so I have to keep dealing with these issues. I try to deal

with all of these pretrial matters before the trial starts. Did not anticipate that it would take this long, but it did, sometimes that happens. So I want to apologize to you for making you sit back there as long as you have.

Now, what I'm going to do now rather than start the trial of this case this late in the day, I'm going to let you go for the day. I want you to be back here at nine o'clock in the morning, at nine o'clock in the morning. There's some other matters that we have to deal with today, that I will take care of before I leave here today. So that when you get back here in the morning, we going to start the trial of this case as promptly at nine o'clock as possible.

Again, I apologize to you for making you have to sit back there. My instructions remain the same as they were when you left here for lunch. You are not to do any independent investigation of your own. You're not to talk about this case with anybody. You're not to do any research on this case at all. If anybody attempts to contact you or talk to you at all about this case, you're to let the bailiff know upon your return here in the morning. The Court will deal with it however the Court deems appropriate. But you are not to talk about the case at all with anybody. I know Beaufort -- I'm from a small

town probably most of you never heard of Town of Hemmingway, that's where I grew up and where everybody knows about everybody in the town. Beaufort is a little bit bigger than that, a lot bigger than Hemmingway. But you may know court personnel that work up here as well. I'm going to tell you in my instructions to court personnel, they're not to talk to you at all either. So if you see anybody that you know up here, that works up here and they don't speak to you, they're following my instructions, innocent conversations. Innocent conversations could be misconstrued and I don't want that to happen, okay. So do not discuss the case. And nobody is to discuss the case with you. You're to decide this case as I've told you from the outset based solely upon the evidence and testimony that's presented in this courtroom, in the courtroom and nowhere else. You all are excused for the balance of today. Please be back here at nine o'clock in the morning.

(WHEREUPON, the jury was excused for the day.)

THE COURT: Anything else from the State at this time?

MR. STONE: No, sir, not from the State.

THE COURT: From defense counsel?

MR. BAX: No, Your Honor, obviously, I was thinking about ways to try and move this along. And

hopefully help keep the jury from having to spend any time, I'm going to ask the Solicitor afterwards on whether some of the stuff with the phone Mr. Crumpton will not be able to stipulate to. Maybe, we can speed that up.

THE COURT: Well, I just didn't want to start a case this late in the day. I know you all didn't anticipate it taking this long. I understand that. I mean, that's one of the benefits or drawbacks of a visiting judge coming in and maybe pursuant to State vs. Langford, I believe, it just came out last week some of these pretrial matters may be able to be addressed beforehand. I don't know. Again, you need to do, Mr. Bax, what you need to do to protect your client's interest and that's your job. So no fault on your behalf in raising those issues, okay. I like to deal with them. Mr. Stone and Mr. Thornton has tried cases in front of me. You know that I like to deal with everything I can deal with upfront, so that once a trial starts we don't have to keep shuttling the jury in and out of here to address those matters outside the presence. Again, I realize that things may come up during the course of the trial, but once we start this trial in the morning, I want things to go as smoothly as possible.

Now, I want to go back to this issue that was raise previously about the victim's record et cetra. I

would just caution defense counsel and would instruct you to look at Rule 404(A)(2) that deals with character of the victim along with the cases that were cited by the State. State vs. Day 341 SC 410 and 368 SC 1, which is State vs. Mekler.

MR. BAX: I've got them down. Actually, 366 -- is it 368?

THE COURT: I wrote down 368.

MR. BAX: Okay. Thank you, Your Honor, you corrected me. And I got State vs. Brown at 321 184 as well. We cited that as well.

THE COURT: 321 SC 14 State vs. Brown. I would just caution you to look at those cases and certainly be prepared if you open that door for the Court's ruling on it.

MR. BAX: Your Honor ---

THE COURT: Sir?

MR. BAX: I said I've got the cases up right here.

THE COURT: Okay. Anything else? I just wanted to bring that to everybody's attention before we broke.

MR. STONE: No, sir.

THE COURT: Here are these exhibits, madam clerk.

MR. BAX: And, Your Honor, one point of

clarification just to make sure that I'm clear. When you listed the photographs that you reserved you're ruling, I have down 216, 47, 48 and 45. I know we have that 46A and 46B ---

THE COURT: Had what?

MR. BAX: There's a 46A and B and I just didn't hear you talk about 46. I just wanted to make sure if that's under what said about reserving your ruling until the testimony.

MR. STONE: I think these were the ones you reserved your ruling on based on the investigation of the officer.

THE COURT: Right, and I mean and I believe that those what you raised about going back in time, I think that certainly goes to the weight not the admissibility of it.

MR. BAX: Thank you, Your Honor.

THE COURT: But I'm going to still reserve my ruling pending the testimony the State laying the foundation for the introduction of those exhibits.

MR. STONE: Yes, sir.

THE COURT: Anything else at this time?

MR. STONE: No, sir, not from the State. I apologize.

THE COURT: Nine o'clock in the morning. Let me

reemphasize nine o'clock in the morning.

MR. BAX: Yes, sir.

THE COURT: We will stand at ease until nine o'clock.

(WHEREUPON, the proceedings were concluded for the day to be reconvened on November 27, 2012.)

THE COURT: Okay.

MR. STONE: May we approach, Your Honor.

THE COURT: Yes, sir.

(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)

THE COURT: All right, yesterday, for the record, note that counsel for the State, counsel for the defendant as well as defendants in the courtroom, but also yesterday I went over a matter that I'm going to go over again because there's a lot of people in the courtroom today that aren't in here -- that weren't in here yesterday. I know this is a very serious case. A lot of family members on both sides that are here in this courtroom interested in this case. I will tell everybody in the courtroom again that they are to keep their emotions in check. They are to keep their emotions in check. If you do not believe that you can keep your emotions in check, then you don't need to be in here. If

you do not keep your emotions in check, I want to make it abundantly clear that this court could hold you in contempt of court and sentence you to a term of incarceration. I just want that out there right now in case there's anybody that does not believe that they could keep their emotions in check, that means that you are not to be making any head gestures and facial expressions to this jury while they are in this courtroom. It's not going to be tolerated nor will it be allowed.

All right. Anything from the State at this time?

MR. STONE: No, sir.

THE COURT: All right. From defense counsel?

MR. BAX: Your Honor, Mr. Crumpton is here. I have spoken with Mr. Thornton about the phone issue we talked about yesterday. I haven't had a chance to talk to Mr. Crumpton, but I think it's something we may be able to resolve without having to necessarily put anything on the record. I'm going to take an opportunity here during a break to talk to him, but other than that, there's no issues we can proceed.

THE COURT: All right. I want to put this on the record, I been told that the jury is here. There were some objections yesterday to some photographs. And yesterday before we broke, I reserved ruling on the

admissibility of those photographs. After I looked at the photographs again this morning and before Mr. Bax got here, Mr. Stone was in here when I asked him to provide me with those photographs, I wanted to look at those that y'all agreed upon as well as those that were objectionable from my recollection yesterday. Those were objectionable were photographs 47, 45, 2, 48, 16, 46A and 46B.

Now, upon my further review of photograph 47 appears to be would you agree with me, Mr. Stone, Mr. Bax appears to be a closer shot of photograph 26, which you all agreed upon. Now, State and it's already been yesterday referred to 47 as showing the money which was being utilized for purposes of paying for the sandwich. That money is also shown in photograph 32.

MR. BAX: Which I'm not objecting to.

THE COURT: I'm going to exclude photograph 47. I think it's cumulative to 26 and 32. I'm going to exclude that photograph.

MR. STONE: Yes, sir.

THE COURT: Photograph 45, 2, 48, 16 and 46A and 46B I'm not going to exclude. I'm not going to exclude certainly provided the State lay's a foundation to introduce those. Now, I understand Mr. Bax objection yesterday that the probative value was outweighed by the prejudicial effect. In going back in looking at State vs.

Collins, State vs. Collins 398 S.C. 197, the Court in that particular case goes into the prejudice, talks about prejudice. And it says that prejudice that is unfair is distinguish from the legitimate impact all evidence has on the outcome of a case and does not mean the damage to a defendant's case that results from a legitimate probative force of the evidence.

Rather, it refers evidence which tends to suggest a decision on an improper basis. I do not believe that the photograph that I previously reference 45, 2, 48, 16, 46A and 46B would tend to, would tend to suggest a decision by this jury on improper basis. And therefore, I'm not going to exclude those photographs provided that the State lays a proper foundation for that.

Now, having said that, another issue came up yesterday with regards to the victim's, with regards to the victim's prior record or State had a concern about defense counsel going into defendant's prior record and had a concern about the bell being rung so to speak and not being able to unring that bell.

Now, yesterday -- and one of the things I asked yesterday was nothing's been put before me to make a ruling upon whether or not it's admissible. I asked the State to provide me yesterday afternoon with a copy of Mr. Holmes criminal record, which they did so. I went

through Mr. Holmes criminal record and from November of 2002, Mr. Holmes was charged with murder, assault and battery with intent to kill, unlawful carrying of a weapon, assault and battery excuse me -- those three charges. The results of those three charges assault and battery with intent to kill was nol-prossed, unlawful carrying of weapon was nol-prossed. And it appears that he pled to a voluntary manslaughter. It appears that he pled to a voluntary manslaughter, appears he pled to a voluntary manslaughter and received a sentence of 17 months. That's what it appears to me. Do the State agree with that, Mr. Thornton?

MR. THORNTON: Your Honor, apologize, I'm looking right now.

THE COURT: Page one and two of five that were given to me.

MR. THORNTON: Yes, sir, that is correct.

THE COURT: All right. Furthermore, in November of 2006, it appears that Mr. Holmes was charged with among other charges, he was charged with unlawful carrying of a weapon. The result of that particular charge was also a non-conviction. It was nol-prossed. And July of 2008, Mr. Holmes was charged with assault and battery with intent to kill, discharging a firearm into a dwelling, possession of a weapon during a violent crime.

The results of those charges were that they were the possession of a weapon during a violent crime according to the rap sheet was dismissed at prelim. The assault and battery with intent to kill was also dismissed, nol-prossed prosecution ending on September 4, 2009. The discharging of a firearm into a dwelling excuse me -- into a vehicle while occupied was a non-conviction.

In February of 2009, Mr. Holmes was charged with assault and battery with intent to kill three counts and discharge a firearm into a dwelling each as well as pointing and presenting a firearm, possession of a weapon during commission of a violent crime. It appears that he went to trial and was found not guilty of assault and battery with intent to kill on three counts and discharging a firearm into a vehicle while occupied.

Now, there are other charges on his rap sheet drug charges and some traffic offenses, but I've highlighted those offenses that I believe that defense counsel maybe inclined or seek to go into. Before we broke yesterday, I asked defense counsel to look at State vs. Day 341, S.C. 410.

MR. THORNTON: I have copies for Your Honor.

THE COURT: I just want it in my evidence handbook. Thank you though. And I went back and looked at State vs. Day along with Rule 404 and Rule 405 both of

those rules talks about specific instances of conduct of a victim. In State vs. Day that was a particular situation where it was murder prosecution one pleaing self-defense, individuals pleaing against an attack by the deceased. Evidence of other specific instances of violence on the part of the deceased, of course, they were not admissible unless they were directed against the defendant or if directed against others were so closely connected at point of time or occasion with a homicide as reasonable to indicate the State of mind of the decease at the time of the homicide or to produce reasonable apprehension of great bodily harm.

The Court in State vs. Day went into the fact that the self-defense in this case necessitated to some degree the raising of that prior instance because it did create a reasonable apprehension of fear in the defendant, which was an element to the defense of self-defense, okay.

In this particular case that we have before me here today, these instances of conduct as previously stated on the record first and foremost were not directed against this defendant, were not direct against this defendant. Furthermore, they were so far removed in time that the Court does not believe that they would be relevant to the matter that we have before us here today. And therefore, the Court will not allow defense counsel to

go into those prior instances of conduct by the victim. That's my ruling on that. Your objection if you have one, Mr. Bax, is so noted for the record.

MR. BAX: And, Your Honor, if I could be heard on that matter just to protect the record as well as some background into it. Your Honor, I did review both State vs. Day as well as State vs. Mekler. And I reviewed Rule 404 as instructed by the Court and I had looked at this rule, obviously, before this trial on a number of occasions as well. I feel that State vs. Day, State vs. Mekler both support the defense that we intend to provide. The record that Your Honor has before you certainly spans some period of time. We understand that. However, there's another incident and since we're here we minds well get into it. I don't see at this point any point for me trying to do anything other than to address it. But there is -- and I can provide incident reports to Your Honor. I'm flipping through them right now.

THE COURT: Let me stop you for a second and ask you this question.

MR. BAX: Yes, sir.

THE COURT: You said Day and Mekler apply. Tell me how they apply? Because those cases or instances so far removed or went directly against the defendant in those cases. Tell me how they apply?

MR. BAX: I will, Your Honor. Also what we intend to show evidence of in this case is in -- and I think it ties into what happened in 2008 and 2009, but we intend to show that Mr. Holmes along with an associate by the name of Antwan Robinson were believed in the mind of my client as well as were implicated in the investigation by Beaufort County Sheriff's Office to have put 18 bullet holes into my client's trailer in May of 2011 60 days prior to the shooting in this case. I have what's been produced by the sheriff's department in this case a number of officers that responded to the call of excuse me -- of May 30th of 2011, Your Honor, and they conducted an investigation. They collected 18 shell casings both .9mm and .45 caliber. They took pictures of the holes in my client's trailer where his girlfriend and his adopted son were at the time. He had just put his son down to bed and had walked out to a neighbor's house only a few short minutes before. And these shots were -- these projectiles were shot into the trailer all throughout the trailer. An ensuing investigation occurred and Mr. Holmes was implicated as one of the people that was involved in that case, that's recorded in the investigation.

Now, that did not result in any arrest, but under State vs. Mekler and State vs. Day as well as 404 and 405, it was directed at my client. It was close in

proximity via a time 60 days. And it impacted my client's -- the argument is it impacted his state of mind. In addition, there will be testimony that there was a number of threats by Mr. Holmes to Mr. Knight. I'm going to kill you and that went on for a long period of time. And in an overact to carry out that threat, Mr. Holmes shot up my client's trailer and tried to kill him.

As a result, there will be testimony that his girlfriend was grazed twice once in the shoulder and once in the thigh. That she had to go to the hospital, that those in the community knew about it, that it was reported to the police that Mr. Holmes was potentially responsible along with a Mr. Robinson. That law enforcement tried to follow up with that, could not get ahold of Mr. Holmes who was basically not where they could find him at the time and that they administratively close the case. It's not clear based on the notes and something that I intend to ask Sergeant Frasier who was the lead detective in that case. At what time, he administratively closed that case because it's not exactly clear what relation it had to Mr. Holmes being shot whether they administratively closed it before or after that. However, that is under State vs. Day, under State vs. Mekler 404 and 405, that I believe is relevant and admissible. It bears direct on it.

THE COURT: It's the very stuff that I ask for

yesterday, so that I could make a ruling upon it. All I had that you all left me with yesterday was me to look at a record to make a ruling on.

MR. BAX: And I understand that, Your Honor, and I appreciate it and just the point I was trying to make yesterday, which I make not to hold the Court in the dark but to hold the rights of the defense open and not constrict the rights of the defense and how they conduct defenses at trial is that I was not aware of what law requires us to go into that before my opening. Because neither in Mekler or Day or any other case that I found was it an issue where they said they can go under this in opening or they can't mention this. It was always something that came up when it tried to be admitted into trial and there was an argument about its admissibility. We haven't even gotten to the jury yet. They haven't even been sworn yet. So that was my argument yesterday. It was not meant to keep the Court in the dark. It was meant to reserve my rights to try and prepare my defense in the best way possible for my client.

THE COURT: Any more argument on that issue with regard to that particular instance?

MR. BAX: With regards to this particular incident?

THE COURT: Any more instances?

MR. BAX: I would argue that the Court should reconsider its ruling on 2008, on the 2009 case because we be able to present testimony that in 2008 Travis Holmes was accused of going to James Odom's house --

THE COURT: Well -- I'm sorry go ahead.

MR. BAX: And I will bring this around for Your Honor and then certainly, that he shot up Mr. James Odom's house and that's what he was accused of in 2008. While the -- one of the charges may have been -- and I looked at the same record Your Honor did prelim.

The other charges as you shown was not dismissed until September of 2009 after the trial that was conducted on the 2009 charges. The 2009 charges was when Mr. Holmes was out on bond he went and shot up James Odom's car while James Odom was in it along with one of Travis Holmes' cousins. So the problem is is that my client knows Mr. Odom. He personally knows Mr. Odom and so it -- his knowledge of what Mr. Holmes was cable of, that he was not only capable of shooting into a house to get at somebody he didn't like, but he was capable of being out on bond for those charges and to continue to go after someone. And the fact that the car was -- had his family members in it did not stop him from continuing to shoot into a vehicle that had his person he didn't like in it -- was something that my client knew when Mr. Holmes decided to

start shooting at him and shooting into his trailer, so our argument is it does bear directly.

THE COURT: This is what I'm going to do. I've made a ruling with regards to the 2002 -- I mean, if you feel like you need to try to put that up, I will make a ruling at that time if the State objects to it make. I will make a ruling at that time. I don't want you to have to feel like you need to go any further right now. But I've ruled on the 2002 matter. And we'll cross that bridge and I've ruled on the 2005. You feel like you can tie this stuff in later. You can say what you believe you need to say in your opening statement. If the State objects to it, they object to it, okay. Like I said yesterday, don't presuppose what the Court's ruling going to be on this other stuff. You know, putting something out there to that jury -- I may not allow.

MR. BAX: I understand, Your Honor, thank you very much.

THE COURT: Anything else from the State at this time?

MR. STONE: No, sir.

THE COURT: Defense counsel anything further?

MR. BAX: No, Your Honor.

THE COURT: Bring me the jury please.

(WHEREUPON, the jury came into open court.)

THE COURT: Okay. Good morning, ladies and gentlemen. You all -- the only two people right now that I have assigned seating are the two individuals in the back who are selected as alternates, everybody else right now as you come in and out of the courtroom you all can sit wherever you so desire. Now, at some point in time, a foreperson will be named or appointed and that foreperson will sit where this young lady in the beige sweater is, but they will have an assigned seat. But right now you all do not have any assigned seating when coming in and out of the courtroom.

Now, ladies and gentlemen, we are about to begin the trial of the case of the State of Sout Carolina vs. Rajerick Lovell Knight. Before we begin this trial, I want to tell you that this trial be different from what you might expect. Many people do not have the chance to attend actual court sessions as you're doing now. And may think from watching television or reading books that trials are always full of high drama, intense action and riveting circumstances. While all of these things may be true at times, this trial is not for entertainment. It is a fundamental part of our democracy. A search for the truth in an effort to make sure that justice is done between the parties before the Court. Searching for the

truth and making sure that justice is done is often slow, deliberate and repetitive. The opposite of what you may have seen on television or in movies or read in books. This courtroom is a place of honor dedicated to the protection and preservation of citizens rights through what many have called the greatest justice system every created.

Now, the attorneys appearing before you are advocates for the parties that they represent, but first and foremost, they are officers of the Court sworn to uphold the integrity and fairness of our judicial system and to help you in the search for the truth. You should expect them to be professional, competent and ethical in the representation of their client's interest. Remember that you have taken an oath and I'm going to ask that the clerk at this time swear the jury.

(WHEREUPON, the jury is sworn.)

THE COURT: Okay. Now, that oath that you just took, that oath that you just took, ladies and gentlemen, is an oath to try this case and reach a fair and just verdict. And you all, ladies and gentlemen, are also expected to be professional, reasonable and ethical. Thank you for accepting the important responsibility of jury service and for your contribution to our judicial system.

Now, what I will now say to you is intended to serve as an introduction to the trial of this case. These remarks are not a charge on the law in this case. I will instruct you on the law applicable to this case. At the end of the trial, before you retire to consider your verdict, this is merely an explanation of the procedure that we will follow in the trial of this case so that you may better understand what may be happening. The defendant in this case, ladies and gentlemen, Mr. Rajerick Lovelle Knight, is charged by an indictment filed in this court with the offense of murder and possession of a weapon during a violent crime. The elements of which will be explained to you later.

The indictment, ladies and gentlemen, is simply the charging document by which this case is brought into this court and it is not, it is not in any sense evidence of any of the allegations it contains. The defendant has pled not guilty to these indictments. The State therefore has the burden of proving each of the elements of the indictment beyond a reasonable doubt. And it will be your duty, ladies and gentlemen, to decide whether the State has met that burden. Your purpose as jurors is to find and determine the facts. You are the sole judge of the facts. If at any time I make any comment regarding the facts, you must disregard it. You are to determine the

facts from the testimony you hear and the other evidence introduced in this court. It is up to you to determine the inferences which you feel may properly be drawn from the evidence. It is especially important that you perform your duty of determining the facts diligently and conscientiously because ordinarily there is no way to correct an erroneous determination of the facts by a jury.

On the other hand and with equal emphasis, the same law that makes you the judge of the facts makes me the judge of the law. The law as given by the Court is the only law that you may consider. You must accept and follow it even though you may disagree with it. I cannot tell you what the facts are and you, ladies and gentlemen, cannot disagree with me about what the law is or should be. Your job is to take the law as I give it to you and apply it to the facts as you find them from the testimony of the witnesses and any other evidence that is introduced. After doing that, you will render your verdict a true and just verdict under the solemn oath that you just took as jurors.

Now, until I advise you to begin your deliberations, you must not discuss this case with anyone including your fellow jurors, friends, family members and anyone involved in this case. This includes discussions face to face. Those by telephone e-mail, text, blogs or

any other method of communication. You may not use a computer, cell phone or other electronic device with communication capabilities at any time while in this courtroom or during deliberations. During your breaks from meals or overnight, if necessary, you may use these devices. However, you may not at any time use those devices to get or send information about the case. This includes information about a party, a witness, an attorney or a court officer. News accounts about the case, research on any topics raised, any topics you may think would be helpful in deciding the case or any testimony presented by any witness.

During the trial do not read, listen to or watch any news reports about this case. This includes anything that may be in the newspapers or on the internet or radio or television. You must not, ladies and gentlemen, consider anything you may have heard or read about the case outside the courtroom whether before or during trial. After the case is submitted to you, you must discuss it only in the jury room with your fellow jurors. The attorneys and parties in this case have been advise that they are not to talk to you at all. So if you see anyone involved in this case and they don't speak to you, they are not being unfriendly. They are simply following the instructions of this court.

It is important, ladies and gentlemen, that you keep an open mind and not decide any issue in the case until all of the evidence been presented. The parties have made their closing argument and I have instruct you on the law in this case. It is your solemnly responsibility to determine the guilt or innocence of the defendant and your verdict must be based solely on the evidence as it is presented to you in this trial and on the law as I instruct you during and at the close of this trial.

Now, in just a moment, the Solicitor will make what is called an opening statement in which the Solicitor will explain to you the issues in this case or at least what the Solicitor thinks the issues are in this case. The attorney for the defendant may also make an opening statement although he is not required to do so. What the attorney's tell you, ladies and gentlemen, during their opening statements is not evidence in this case. It is only their contention as to what the issues are. The evidence in this case will be presented to you by the testimony of sworn witnesses from this witness stand and or by exhibits that may be introduced into evidence.

From time to time during the trial, you may hear one of the attorneys say something like, Your Honor, I believe that we have a question of law or a matter of law

that we need to discuss or Your Honor may we approach the bench or sometimes I, myself, might find it necessary to excuse you from the courtroom for a short while so the attorneys and I can discuss a matter of law. The reason for this is because you are judges of the facts. And sometime when I'm discussing matters of law with the attorneys, it may be necessary for me to make some comment as to the facts in connection with ruling whether or not a particular law applies. I am not suppose to tell you what I think the facts are, so I will excuse you from the courtroom while these discussions take place. So that in no way will you be influenced by anything that I might say or do in connection with the facts.

In determining, ladies and gentlemen, what the facts are, you must decide whether or not the testimony of the witness is believable. It will be my responsibility to rule as a matter of law as to whether certain testimony is admissible at all or not. But once the testimony is admitted whether or not you believe it is solely for you to determine. In deciding whether to believe a witness, you have the right to consider the interest of any witness, the bias of any witness, the prejudice of any witness. The opportunity for the witness to have seen the matters and things about which may testify. And the way the witness acts on the witness stand. You have a right

to consider anything that is in the record that will help you evaluate the testimony of the witnesses. That means that it is your duty, ladies and gentlemen, to pay close attention to these witnesses, to observe the witnesses, to listen to the witnesses and to pay close attention to the attorneys and to the Court.

Please don't let your thoughts wonder, but give strict attention to the testimony in this case. So that at the end of all the testimony, after the arguments of counsel and charge on the law by the Court, you will then be in a position to determine what the true facts are and apply the law to those facts and thus render a true and just verdict.

Now, when a foreperson is appointed in this matter, it will be the foreperson's responsibility to preside in the jury room and be the jury's spoke person while here in court. It will also be the foreperson's responsibility to write the verdict on the verdict form, but I will give further instructions to the foreperson later during the course of this trial. Now, in order to preserve everyone's rights, I will give the parties an opportunity to object to anything that I've said. Any exception to anything that I've said or objection by the State?

MR. STONE: No, sir, not from the State.

THE COURT: Defense counsel?

MR. BAX: No, Your Honor.

THE COURT: All right, ladies and gentlemen, we will now begin the trial. The State's recognize for opening statement?

MR. STONE: May it please the Court, Your Honor.

THE COURT: Yes, sir.

MR. STONE: This case is about a public execution, public execution. In July of last year about 6:30 in the afternoon and back in the summer sunshine still out with people going in and out of the Subway sandwich shop not five miles from this courthouse, this man over here, Rajerick Lovell Knight, walked into the Subway with a gun, walked up Melvin Holmes (sic) put the gun in his ribs and pulled the trigger. The bullet went through Melvin Holmes side, out his shoulder, into the wall right next to where the cashier was taking Melvin Holmes' 20 dollar bill for the sandwiches he just ordered. The bullet goes through that wall, into another room and hits the refrigerator where it lands and is later photographed by the police officers when they get there. It was a public execution. Pretty much in downtown Beaufort, that's what this case is about. That's the facts -- those are the facts that you will hear over the next couple of days from this witness stand. You won't

hear just from the witness stand, you'll see it. Because when Rajerick Knight went into the Subway not five miles down from here, there were witnesses on the outside of the store. There were witnesses inside the store. There were people working. There were people just simply trying to get food. And there was a camera system that video taped everything.

You will hear testimony that Rajerick Knight was in the Subway. He was ordering food with a woman by the name of Shiecarra Smalls. As they're ordering food, Melvin Holmes comes in. Melvin Holmes is ordering food at the Subway as well. Rajerick Knight and Shiecara Smalls walked out of the Subway. They get into their car and Rajerick Knight stops, gets his gun, walks back into the store, literally walks around two people to shot and kill Melvin Holmes.

This is not a complicated case. Those are the facts that you'll hear, what you'll see on the video and on photographs. My job as the prosecutor and Solicitor for the Fourteenth circuit is to prove to you these cases beyond a reasonable doubt. Every time I walk into a courtroom, my job is to prove the case. The judge will give you the instruction on the law later on and what he will tell you is this, Rajerick Knight has been charged with murder and the use of a handgun during the commission

of that murder. And murder is the unlawful killing of another with malice. The judge will give you that instruction. And then it will be your decision on whether or not I prove to you that Rajerick Knight walked into that Subway, put that gun on Melvin Holmes and pulled the trigger. If I don't do that, if I don't prove to you that beyond a reasonable doubt, your job is to come back here and say not guilty. Solicitor, you didn't do your job. But let me just tell you one thing in every courtroom, everywhere your decision is called a verdict, when you come back issue a verdict. And verdict is pretty simple, what it means is to tell the truth, that's what you do as a juror. The end of this case, ladies and gentlemen, I'm just going to come back and ask you to do one thing, tell the truth. And if you tell the truth, you have done your job. Thank you.

THE COURT: Mr. Bax.

MR. BAX: May it please the Court, Your Honor. Good morning, ladies and gentlemen, I introduced myself during the jury selection process, but I like to do it again. My name is Arie Bax. I have a small law practice here in town. And I like to introduce you to the people here at this table once again. This is Mrs. Richardson Bax, she is my law partner. She's also an attorney with my firm. She's also my wife, so if she says something, I

immediately stop you know why.

This is Mr. Knight. This his day. He needs to focus on what we're here for. Mr. Ulbrich our investigator. Thank you for being here. Thank you for taking time. I know some of you may be thinking, well, you now, I got a notice, I didn't really think it was optional. And to so some degree you're right, it's not optional, but that doesn't mean we don't appreciate it because we all know that you have to take time out of your lives to come sit here and listen to this. Something that you had nothing to do with and now it's become part of your lives and it is. It is going to become part of your lives.

The judge has instructed you on kind of what to expect and how to deal with it, but you are going to be drawn into this. It is not entertainment. The judge is absolutely correct. These are people's lives. These are events that have happened in our community. A community that I find myself lucky to say is my community as well. So it affects us, but it's something that you're going to find you think about it. The judge has instructed you that you are not to talk about this case until the end and I would re-emphasize that, but we're all people, okay. Let's be honest, it's going to be going through your head and that's fine. You're going to be thinking about this

stuff whether you're here, whether you're home having dinner with your family. It's going to be going through your heads and that is fine. What I would emphasize to you is what you see here is what you hate to make your decision on. But remember our jury system which I think everybody in this courtroom that works in this system would stand behind as the best system in the world relies on you.

The reason it relies on you as the jury, that almighty word jury, is because we did not want to -- the forefathers of our country did not want to place the authority about whether someone's liberty was to be taken away solely in the hands of the governing, solely in the hands of either a judge or a law enforcement agency or prosecutor. They wanted the people to be able to make the decision about somebody's life about whether or not they did something wrong or not, whether or not they did something they deserve to have their liberty taken away for.

For that reason, I want to talk to you a little bit about what you expect -- what I think that you can expect to see. What we say in these openings and in fact what we say as attorneys in this closings is not evidence. We are only giving you as attorneys what we think is -- what you can expect of the evidence. And at the end,

we're going to argue about what we think you should take away from that evidence. So remember that we haven't even got to the meat of this. You're going to see and hear the meat of this.

Now, I think that it's very important in these cases and in every case that I've ever tried, which is quite a few. I started my career in Columbia working for the Attorney General's office. I continued on to try cases in Columbia for the next almost ten years before coming down to Beaufort because I love this community.

But nothing is a snapshot, ladies and gentlemen, life is not a box. When you take a picture of Thanksgiving, that's not necessarily your whole life, that may be the happy time. I hope it was. It was for me, I had a great Thanksgiving. I hope you guys did too. But that's a snapshot of your life. That's not the whole context of your life. Maybe, that's a good year. Maybe, that's a bad year. We don't know unless we look into the context of your life. That's what I want you to be thinking about. What Solicitor Stone has got up and told you he is going to present to you evidence of what happened on July 26, 2011. But that is a snapshot and we need to put things into context.

First of all, there's a larger context. There will be testimony that is shown to you that there is

another world, some us may have been a part of that world, some of us may see that world, some of us may have never seen that world. But there is a world in this community and around this country where people are born into abject-bone-breaking poverty and it's here in our communities. And you're going to hear about those communities today and throughout this week. And life in those communities may be very different from your life. So I want you all to listen to it with that in mind in context that when you are born into that community, that you may not have the opportunity that society tells you that you do. You may not agree with the decisions that people make in those communities, but you've seen it. I know you have. You've driven through Poppy Hill, Grays Hill. You've been past the trailer parks. Maybe, you've lived in them. So keep context in your mind as you listen to the testimony. Keep context about the life that some people end up having to live and whether or not they really got to choose that life, but they have to life the live nonetheless because that's what we're doing. We're striving to live the best life that we can.

Now, I want to talk to you about what you're going to hear from the State. The State is going to present testimony as Mr. Stone has said in his opening of what happened that day. They are going to present

surveillance video, that's going to show you the events of that day. They're going to talk about the fact that Mr. Holmes -- I know him as Travis Sentell Holmes. I've never heard him referred to as Melvin. Maybe, that's a name that they know him by. I know him as Travis Sentell Holmes commonly referred to by a lot people that know him as Travy and he is deceased. And I do regret that. I wish it had not come to that. We don't deny that he's dead.

They're going to talk about how they look into it, how they found out who they think did it. And how they went about catching that person and that that person is Mr. Rajerick Knight. You're going to hear testimony from the defense that we don't deny it. So let me tell you right now, we don't deny it. They're going to spend a lot of time arguing about whether or not he's the one that did it and we prove that he did it. Well, we're not denying it, so let's just put that out right now. You're going to hear testimony from the defense that we're not denying it, that Rajerick Knight is the one that you're going to see on that video and that Mr. Rajerick Knight sitting right over here is the one that shot Mr. Holmes. So let's just get that out there, okay.

However, as you listen to the State's case, I want you to listen to how much investigation that they put

into the why. Mr. Stone has talked to you about the fact that his job is to prove that Mr. Knight committed the actions that resulted in Mr. Holmes death.

However, it is not that simple. And the judge will instruct you on the law at the end of this case and I submit to you as you listen to that law at the end of this case, you will see that it's not that simple. And you all know why because in this country, we have always said that the why is important. We need to know why because for you to judge someone's action that is an extremely important factor. You need to know the why. And while you're listening to the State's case, I want you to listen to whether or not they put any effort whatsoever into finding out the why or whether they just assume it was just a another black on black crime and went on with their lives. The why is important, ladies and gentlemen.

Now, in our case, in the case that you're going to hear from the defense through cross-examination of the State's witnesses as well as the presentation of our own witnesses, you're going to hear about the why. You are going to hear testimony that Mr. Knight is not what most people would describe as a law abiding citizen. And we don't deny, that's part of that context I talk to you all about. That is the world that he is in. You may not agree with every decision he's made in his life. Frankly,

I don't. But we're here to decide if the why affects whether he has committed the crime that he's charged with and I submit to you that it want. You are going to hear testimony, you are going to hear testimony that Travis Sentell Holmes is a very dangerous man. You are going to hear testimony about what he has done and it's going to affect how you look at the why. He was a very dangerous man and you're going to hear about that.

You are going to hear testimony that he had turned his sights on Mr. Knight. And you are going to hear what that means in this world. You're going to hear about what it means to be in Travy sights.

You're also going to hear that law enforcement knew and law enforcement did not do anything about. And that Mr. Knight and his loved ones that were close to him knew that they were not going to do anything about it.

And finally, what's important in your duties and I have said this so many times to so many juries, that I can't recall it, but I always say it because it's important. You're common sense and how you see the world is someone who has lived here and grown up here in this country, in this community is invaluable, that is why the jury system is considered to be the best in the world and that's why I think it is because we all have common sense. And we have all lived in this community. We have all

lived in this country. And we all know that just the words that come out of someone's mouth is not the whole picture. You are here to listen to what is not said. You are here to listen to how something is said. You are here and the judge is going to instruct you to judge the credibility and believability.

You are here to judge motive about what someone has said, what they have said. You are here to judge whether or not they say something else or what they don't say and what that manes. If they avoid a subject, if they don't have a good answer, if they dodge an answer, those are things that you are here to judge, when it comes time to decide what really happened and what it mean.

So I want everyone of you and I ask this humbly and I can only ask you are all people, you are all free. Your jury service is compulsory, but your decision is not compulsory. You are not required under the law to make a particular decision, that is your job to make your own decision. And I'm going to speak more to that at the end of this trial, but remember while there's deliberations, it is still your purview to make your decision. And I submit to you listen to what you are going to hear. Do you -- I would submit that you are not going to hear testimony here in this trial throughout this week, you are not going to hear any testimony of anything Knight did to

Holmes. You are not going to hear any investigation about that and that's important as well.

Now, thank you so much for your attention. We are going to get started and it's going to be a long week, but I know that all of you will dedicate all of your attention to it. And like I said, you're going to be thinking about this throughout the week. We ask that you refrain from deliberating until the end, but it's certainly going to be something that is going to impact your life and that's okay because it's an experience and I look forward to presenting our case in front of you. Thank you.

MR. STONE: The State calls Master Sergeant Melanie Smith to the stand.

THE CLERK: Would you place your left hand on the Bible and raise your right hand for me please. Do you solemnly swear to truthfully answer all questions ask of you by this court so help you God?

THE WITNESS: I do.

THE CLERK: Please be seated, state your name and spell it for the Court please.

THE WITNESS: My name is Melanie Smith, that's S-M-I-T-H.

WHEREUPON,

Melanie Smith,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. STONE:

Q And you are a master sergeant; is that correct?

A Correct.

Q What does that mean exactly?

A I hold the highest rank for the dispatch center for the sheriff's department.

Q Okay. And how long have you worked in the dispatch center?

A I been there 14 years?

Q And in your capacity in the dispatch center, what exactly do you do?

A I'm liaison for all the departments that we dispatch for.

Q Pull that microphone down a little bit to you, I apologize can't really hear you.

A Is that good?

Q Yes, thank you.

A I'm the liaison for all the departments we dispatch for. I'm in charge of that national crime information center for all the police departments we dispatch for. I investigate all the complaints. And my main duty is the record custodian for the 9-1-1 tapes or information.

Q All right. Now, the dispatch center does it handle

all the 9-1-1 calls coming into Beaufort County?
A Correct.
Q And when those calls come in, they could come in basically from anyone who dials 9-1-1 and then you dispatch out to law enforcement; is that correct?
A Correct.
Q Now, in your capacity as -- and I guess, you are in charge of the center; is that fair?
A Yes.
Q Okay. Now, when these calls come in is a recording made, how are those...
A Everything that comes in and out of the center is recorded is on a digital system called N.I.C.E. It's held in a digital storage facility.
Q And these records are kept in the ordinary course of business at the dispatch center?
A Correct.
Q When the calls come in, are they recorded contemporaneously when the calls are coming in?
A Yes.
Q Okay. Let me show you what has been marked as State's Exhibit 1 ask if you can identify those for me please, ma'am?
A Yes, this is a 9-1-1 call that we had received that I made a recording for.

Q And you have reviewed that?
A Yes.
Q Is that a fair and accurate depiction of the recording as made on July 26, 2011?
A Yes.
MR. STONE: Your Honor, at this time we move State's Exhibit 1 into evidence.
THE COURT: Any objection?
MR. BAX: I don't believe so, Your Honor.
THE COURT: Any objection, Mr. Bax?
MR. BAX: Oh, I'm sorry. No, Your Honor.
MR. STONE: We move that into evidence and request to publish that to the jury.
THE COURT: Yes, sir, so granted.
(WHEREUPON, State's Exhibit No. 1 was admitted into evidence.)
(WHEREUPON, 9-1-1 call played for the jury.)
MR. STONE: Excuse me just a moment, Your Honor.
THE COURT: Yes, sir.
BY MR. STONE:
Q Let me show you what has been marked as State's Exhibit 19. Ask if you can identify that please?
A That's the other call.
Q That is the second call that you received at 9-1-1?
A Yes, sir.

Q Was this also kept in the ordinary course of business in your job?
A Yes.
Q Have you reviewed that and is that a fair and accurate depiction of the second 9-1-1 call you got or the other call that you got?
A Yes.

MR. STONE: Your Honor, at this time we offer State's Exhibit Number 19 into evidence.

THE COURT: Any objection?

MR. BAX: No, Your Honor.

THE COURT: Without objection State's Exhibit Number 19 admitted into evidence.

MR. STONE: Your Honor, we request to publish that to the jury.

THE COURT: So granted.

(WHEREUPON, State's Exhibit No. 19 was admitted into evidence.)

(WHEREUPON, second 9-1-1 call played for the jury.)

MR. STONE: No further questions at this time, Your Honor.

THE COURT: Cross-examination.

MR. BAX: No questions Your Honor.

THE COURT: Thank you, ma'am, you may step down.

Thank you.

MR. STONE: State calls Veta Moore.

THE CLERK: Would you please place your left hand on the Bible and raise your right hand for me please. Do you solemnly swear to answer all questions truthfully ask of you by this court, so help you God?

THE WITNESS: Yes.

THE CLERK: Please be seated and state your full name and spell it for the court please, ma'am.

THE WITNESS: Veta Moore.

MR. STONE: Ms. Moore, let me get you to pull the microphone down if you don't mind.

WHEREUPON,

Veta Moore,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. STONE:

Q Where do you live, Ms. Moore?

A Beaufort, South Carolina.

Q Pardon me.

A Beaufort, South Carolina.

Q How long have you lived in Beaufort?

A Fourteen years.

Q I'm going to talk to you about July the 26 2011, what were you doing on that day?

A Walking in the Subway.
Q And about what time of day was this?
A Between six and 6:30.
Q I'm going to have to get you to pull the microphone. I can hardly hear you. I know you're soft spoken. Thank you. I'm sorry about what time?
A Between six and 6:30 in the evening.
Q When you say the evening was it dark outside, light outside?
A No, it was still light outside, but it was raining.
Q And where is the Subway located that you talking about?
A Belk.
Q First of all, is it in Beaufort County?
A Yes.
Q It's actually in the City of Beaufort?
A Yes. On Robert Smalls Parkway.
Q Is it down Cross Creek Plaza in that area?
A Yes.
Q And who was with you at the time?
A My daughter.
Q And what is your daughter's name?
A Kelsey.
Q And you are going into the Subway what's the purpose behind you going in there?

A To get subs.
Q As you were going in, did you drive into the parking lot? Were you driving or was Kelsey driving?
A I was driving.
Q Tell me what you recall?
A We were pulling -- we were turning into the parking spot and a car was pulling out of the parking spot and almost hit us. I had to stop, was a dark car. And then he took off, didn't stop, did nothing, just took off.
Q What did you do? At that point, what did you do?
A Fussed at him.
Q Okay, after that? Did you go ahead and go into the Subway?
A Yeah, we pulled into the parking spot, got out, went to walk -- went to open the Subway door and a man came out and fell on to the floor -- on to the sidewalk.
Q Tell me about the man?
A He was bleeding from his nose and mouth and he was breathing really hard and then he just fell down.
Q And when he fell down was this out in front of the Subway?
A Yes, sir.
Q What do you do -- as you're seeing this happen, how far do you get from him?
A He was right there at our feet.

Q So you're opening the door as well as he's coming out?
A He's trying to push open the door and we're pulling it open.
Q And how was he walking?
A He was staggering.
Q And you saw the blood in his face?
A Uh-huh.
Q As he falls, where is Kelsey at this point?
A Standing beside me. And my first instinct was -- I went to open the Subway door to push her in because I wasn't sure what happened. And there was two people inside going don't come in, somebody just got shot.
Q And what did you do at this point?
A I kind of looked at the man on the floor, but I looked at Kelsey and I was like get to the car call 9-1-1. And there was another person standing over here that came from the store beside Subway. And we turned around and there was a police officer at the A.T.M., so I ran to the A.T.M. and got the police officer.
Q And is that A.T.M. located in that strip or in the parking lot or what?
A In the parking lot, probably from me to him.
Q Let me ask you if you could take a look State's Exhibit Numbers 2, 3, 4, and 5. Do you recognize what is

depicted in those photographs?
A Yes, that's the Subway.
Q And is that where you were located that day?
A Yes.
Q And are those fair and accurate depictions of the area as you saw them that day?
A Yes.
Q Now, let me --
MR. STONE: At this point, Your Honor, these are State's Exhibits 2, 3, 4 and 5 and we ask to move those into evidence and publish those to the jury please.
THE COURT: Two, three, four, and five?
MR. STONE: Yes, sir.
MR. BAX: Your Honor, can I approach?
THE COURT: Yes, sir.
(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)
THE COURT: Any objection by defense counsel as to exhibits two, three, four and five?
MR. BAX: Just as to foundation, Your Honor.
THE COURT: Objection so noted for the record, objection overruled.
(WHEREUPON, State's Exhibits No. 2, 3, 4 and 5 were admitted into evidence.)

MR. STONE: I like to publish these now to the jury please.

THE COURT: Yes, sir.

MR. STONE: Your Honor, can I ask her to step down, so she can publish the photographs.

THE COURT: Yes, sir.

BY MR. STONE:

Q Ma'am, you have to keep your voice up because she has to hear everything you're saying. Let me ask you to stand right here if you don't mind. What is now being shown to you as State's Exhibit Number 2, is this approximately where -- can you show me where you were standing when the man came out of the store?

A We're standing like right here.

Q Right here in the front, right here in the front area?

A Yes.

Q Now, this red tarp was this actually put up while you were still there?

A Yes, it was.

Q And this is where the victim fell as you came through?

A Yeah, he actually was further over here.

Q But this was after medical treatment?

A Uh-huh.

Q All right. We go to State's Exhibit 5. Now, in this shot -- I'm sorry that is State's Exhibit 3, but that is fine. In this shot, could you show us -- is this the -- in the very center of this photograph is the Wells Fargo A.T.M. that you're talking about the police officer?
A Yes, it was right there.
Q And this is the center. This is the parking lot that you pulled into?
A Yes.
Q And then four and five and what is this exactly?
A That's a shopping center and this is the Subway we walked into.
Q And then this is the location from the other direction?
A Yes, sir.
Q All right. Go ahead and have a seat. Thank you. Let me show you what's been marked as State's Exhibits 6, 7 and 8 ask if you can identify these as well please, ma'am?
A That's the car that almost backed into us.
Q This is the car you spoke to earlier that almost backed into you as you were pulling out?
A Yes, sir.
Q Okay. This a fair and accurate depiction of how the car looked to you that day?

A Yes.

MR. STONE: Your Honor, at this time we move number State's Number 6, 7 and 8 into evidence.

MR. BAX: Same objection.

THE COURT: Same objection so note for the record overruled. State's Exhibit 6, 7 and 8 are admitted. Defendant's objection is so noted.

(WHEREUPON, State's Exhibits Nos. 6, 7 and 8 were admitted into evidence.)

MR. STONE: Permission to publish to the jury. That would be what is being shown as State's Exhibit Number 6, State's Exhibit Number 7, and State's Exhibit Number 8. I don't have any further questions at this time.

THE COURT: Cross-examination.

MR. BAX: Briefly, Your Honor. Thank you.

CROSS-EXAMINATION

BY MR. BAX:

Q Good morning, Ms. Moore.

A Good morning.

Q Thank you for being here, just a few brief questions for you. Did you hear any gunshots?

A No, I did not.

Q Did you see anyone brandishing a weapon?

A No.

MR. BAX: No further questions. Thank you, Your Honor.

THE COURT: Any redirect?

MR. STONE: Just one question.

REDIRECT EXAMINATION

BY MR. STONE:

Q The man that was -- that came out of the store bleeding that fell in front of you, did he have a gun?

A No.

MR. STONE: No further questions, Your Honor.

THE COURT: Any recross?

MR. BAX: No, Your Honor.

THE COURT: Ma'am, you may step down. Thank you.

(WHEREUPON, the witness leaves the witness stand.)

MR. STONE: The State calls Kelsey Covert.

THE CLERK: Would you place your left hand on the Bible and raise your right hand for me please. Do you solemnly swear to truthfully answer all questions asked of you by this court, so help you God?

THE WITNESS: I do.

THE CLERK: Please be seated and state your name and spell it for the court please.

THE WITNESS: Kelsey Covert C-O-V-E-R-T.

WHEREUPON,

Kelsey Covert,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. STONE:

Q Okay. Let me get you to pull that microphone a little bit closer to you too please. Thank you. Kelsey, was that your mom that just testified?

A Yes.

Q You were with her on the day of July 26th?

A Yes.

Q Tell me what you recall?

A We were going to Subway and we went to go into a parking spot and the car backed up really fast and speed away. We parked. And we were going to go inside. We were going to open the door and the man came out and fell. And then we went to go inside. There was people inside telling us not to come in because someone got shot. So we went back to the car and she went and got a cop. And I called 9-1-1.

Q You called 9-1-1 as well?

A Uh-huh.

Q Okay, go ahead.

A Eventually, they came.

Q Were you able -- how far away were you from the man that was bleeding? I think your momma described him as bleeding when he came out the door.
A Not very far.
Q How far is that? If I'm coming to you, how close were you?
A I don't remember exactly, I just know it was really close.
Q Okay. Did you see any gun on him anything like that?
A No, I didn't.
Q Did you see the person that was driving away in the dark car?
A No.
Q Okay. Now, this has been moved into evidence what's on the monitor here as State's Exhibit 8. Does that appear to be the car that you saw drive away that day?
A Yes.

MR. STONE: I don't have any further questions at this time, Your Honor.

THE COURT: Cross-examination.

MR. BAX: Thank you, Your Honor. No questions for this witness, Your Honor.

THE COURT: Thank you, ma'am, you may step down.

MR. STONE: Your Honor, the State calls Tim Breen to the stand.

THE CLERK: Would you place your left hand on the Bible and raise your right hand for me please. Do you solemnly swear to truthfully answer all questions asked of you by this court, so help you God?

THE WITNESS: I do.

THE CLERK: Please be seated, state your name and spell it for the court please.

THE WITNESS: Tim Breen B-R-E-E-N.

WHEREUPON,

Tim Breen,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. STONE:

Q What do you do, sir?

A I'm the district manager for Subway restaurants in Beaufort.

Q What has been shown as State's Exhibit, I believe, this is number two, that's up on the monitor. Is that your store? Is that one of your stores?

A Yes, sir, that's the store in Cross Creek shopping center.

Q And that is -- how far from here?

A Probably about two or three miles I say.

Q This is in that plaza. What else is in that plaza?

A We have Belk and J.C. Penny's and T.J. Max.

Q How long been -- you're the district manager?
A Yes, sir.
Q So you have a number of different Subways?
A Correct. We have seven in Beaufort County.
Q This particular Subway shop does it have a surveillance system?
A It does. All of our restaurants have a surveillance system through -- called D.D.T. that records all the occurrences in our stores throughout the days and night.
Q Now, does that run on a continuous basis?
A It sure does, yes.
Q So it captures -- it captures everything going on in the store as it's happening; is that correct?
A Correct.
Q Now, is that recorded somewhere or does that...
A It is.
Q How is it recorded?
A It's stored through D.D.T.'s system that we can pull up when needed. We use it for, you know, employee safety store security reasons.
Q Let me show you what's been marked as State's Exhibit Number 10 and ask if you've taken a look at that?
A I have this is one of our tapes in the store.
Q Is that a fair and accurate depiction of the -- and this again is pulled off of the surveillance system that

you have in the Subway; is that correct?
A That's correct.
Q And that surveillance system runs on a regular course of your business; is it not?
A Correct.
Q And all of these records including the copy of the surveillance is kept in the ordinary course of your business?
A It is.
Q All right. And is this what has been marked as State's Exhibit Number 10 a copy of the recording of July 26, 2011?
A It is.

MR. STONE: Your Honor, at this time we move State's Exhibit 10 into evidence as the surveillance on the Subway on that day.

THE COURT: Any objection?

MR. BAX: Your Honor, I would object it's based on foundation.

THE COURT: Hold on. Could you all approach a minute.

(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)

THE COURT: All right. Defense counsels

objection is so noted for the record, over defense counsel's objection, State's Exhibit Number 10 is admitted into evidence.

(WHEREUPON, State's Exhibit No. 10 was admitted into evidence.)

MR. STONE: Thank you, Your Honor. I need to put the screen up at this time to publish this please.

THE COURT: And note for the record that defense counsel's objection was to foundation.

MR. BAX: Thank you, Your Honor.

THE COURT: Yes, sir.

MR. STONE: Your Honor, may we approach briefly?

THE COURT: Yes, sir.

(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)

MR. STONE: Can we dim those lights.

BY MR. STONE:

Q Mr. Breen, let me ask you first of all, the -- what's depicted on the screen and the top left -- and if you like to come down, you welcome to do that, sir.

MR. STONE: If it's all right with, Your Honor, want to make sure everybody understand what this is.

BY MR. STONE:

Q What is listed up at the very top says prep area,

what does that mean?
A All the stores kind of have areas that they -- we have several cameras in each store and that's just one of the cameras that record.
Q So tell me if you don't mind to the right of this screen, what are we looking at? To my right excuse me.
A That's the same area.
Q What is this area in here?
A That's where we were making the sandwiches, that's an employee. The customer would come in and order a sandwich and they kind of go down the sandwich line as the sandwich prep for them.
Q And this is the sandwich prep area; is that correct?
A Correct. The customer starts at the very end and work their way down. The cashier stand is down -- to the bottom of the screen.
Q All right. Cashier stand is down here?
A Correct.
Q Can we actually see that from here or is there another...
A There's another, that camera doesn't really capture the point of sell area. We do have another camera that captures that.
Q On both the point and sell area as well as the -- this shot here is all of that kept on this same disk?

A That is correct.
Q And recording at the same time?
A Yes, it is.
MR. STONE: Your Honor, what I like to do is play this and then play the other angle of the same thing as well both of which are captured on the same disk. Go ahead and play.
(WHEREUPON, video being played for the jury.)
BY MR. STONE:
Q Mr. Breen, this is one of your employees here?
A Yes, it is.
Q Can you tell me how that is?
A Her name is Dee Dee.
Q As these customers are moving down the line, when they move out of the screen down here, that's at the point of sell?
A Correct.
Q That's the cashier stand, right?
A That's correct.
MR. STONE: If I could get you to play the other angle of that please. This angle if you could just stop it just a moment.
BY MR. STONE:
Q This angle is referred to at the top left is the dining area; is that correct?

A That's correct.
Q All right. And this is obviously a view of the dining room, but we're sort of seeing the reverse angle of the serving area; is that correct?
A That's right.
Q So according to what you were telling us, this is the beginning of the prep area where people order the sandwiches, they move down and then at the very end is the cashier; is that correct?
A That's correct.
Q And they pay after they've ordered, after they received their sandwiches?
A That's right.
Q Okay. So these people here are ordering and then at the end once they get to this very end at the right they leave?
A That's right.
MR. STONE: Go ahead and play that please.
(WHEREUPON, video being played for the jury.)
MR. STONE: Thank you, Mr. Breen.
BY MR. STONE:
Q Okay. Let me show you what's been marked as State's Exhibit Number 11 ask if you can identify that photograph please, sir?
A That's again the restaurant at Cross Creek the prep

area.
Q Is that a still photograph from the video clip?
A It's to be, yes.
Q And is that a fair and accurate depiction of the video as we just saw it?
A It is.
Q Let me show you State's Exhibit Number 12 is that -- could you recognize that as well?
A That again that's the dining area of the restaurant at Cross Creek.
Q The fact at the very top where it says dining area this is a still shot of the video that we just looked at?
A That's right.
Q State's Exhibit 13 I can if ask you that as well?
A Same dining area of the restaurant.
Q State's Exhibit 14?
A And that's the prep area of the restaurant.
Q And just stop part of this, which is State's Exhibit 15 the photograph itself is that also a fair and accurate depiction of the part of the video as we just saw it?
A It is.
MR. STONE: I'll introduce, Your Honor, State's Exhibit 15 later. But at this time, move State's Exhibit 11, 12, 13 and 14 into evidence.
THE COURT: Any objection?

MR. BAX: Your Honor, same objection as before as to foundation.

THE COURT: Subject to defense counsel's prior objection, which is overruled. State's Exhibits 11, 12, 13 and 14 are admitted into evidence.

(WHEREUPON, State's Exhibits Nos. 11, 12, 13 and 14 were admitted into evidence.)

MR. STONE: Permission to publish to the jury, Your Honor.

THE COURT: Yes, sir.

BY MR. STONE:

Q And I don't know -- Mr. Breen, can you see this monitor?

A I can.

Q What is depicted there is State's Exhibit Number 11 and I'll show you that for your reference. This is one of your employees here at the bottom; is that correct?

A It is.

Q The in this -- the lady here with the white what appears to be a green apron type thing. She is a customer; is that correct?

A Yeah, a customer.

Q And then there's a man here at the very top; is that correct?

A Correct.

Q This is a shot from the prep area. This is that first view that we looked at; is that correct?
A That's right.
Q I'm going to show you now what is marked as and been admitted as State's Exhibit 12 and that's on the monitor now as well. This is an earlier photograph. This is also the -- this would be the dining area shot that we just saw; is that correct?
A Yes, sir.
Q And that's early on in the event; is that correct?
MR. BAX: I have to object and approach the bench at this time, Your Honor.
(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)
THE COURT: Objection sustain.
Mr. Stone, you may continue.
MR. STONE: Sure.
BY MR. STONE:
Q Let me show you what has been marked as State's Exhibit 13, could you tell us what's depicted in that scene as well?
A That is the dining area of the Cross Creek restaurant.
Q And then finally I show you State's Exhibit number

14. The lady in the very bottom is that one of your employees the center of this video here?

A Yes, that's an employee.

MR. STONE: I don't have any further questions at this time of this witness, Your Honor.

THE COURT: Cross-examination.

MR. BAX: Briefly, Your Honor.

CROSS-EXAMINATION

BY MR. BAX:

Q Good morning, Mr. Breen, just a couple of quick questions. July 26 of 2011, where were you during that day? Do you remember if you were ever at this store?

A At 6:30, I was not at the store.

Q Okay. So you were not at the store when the event that they're asking you about on that video happened?

A I was not.

Q Were you anywhere near that store?

A At that point in time, I lived on Hilton Head.

Q Okay. All right. When -- let me ask you this, were you present or did you have anything to do with the extraction of that video from the surveillance system there at that store, sir?

A It was done that night. I was not there when they did that. I did help them the next couple days.

Q Okay. Were you present so when it came to the

extraction of that and handing that to law enforcement, you were not present for that?

A I was not.

Q Okay. Do you know who was?

A I do not know.

MR. BAX: No further questions, Your Honor.

THE COURT: Any redirect?

MR. STONE: No, sir, Your Honor.

THE COURT: Thank you, sir. You may step down.

(WHEREUPON, the witness leaves the witness stand.)

MR. STONE: The State calls --

THE COURT: Can the lawyers approach a minute?

(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)

THE COURT: All right. Ladies and gentlemen, I told you yesterday when I -- before we started, we typically run court about an hour and a half to two hours between breaks. We been going about an hour and a half. What I'm going to do right now is I'm going to give you a break this morning, go ahead and give you a break. I will get you back in here as quickly as possible and we'll resume the trial of this case. Do not discuss this case until you are instructed to do so, okay. Everybody remain

seat while the jury exits the courtroom.

(WHEREUPON, the jury retire to the jury room.)

THE COURT: Also, Mr. Bax, wanted to put on the record, we had some discussions up here at side bar with regards to his objections to various exhibits that been admitted into evidence. I wanted to give him an opportunity at this time to put on the record what those objections were. Go ahead, Mr. Bax.

MR. BAX: Thank you very much, Your Honor. And just briefly, as I stated at side bar, the objection as to the video is as to foundation and that's why I ask those follow-up questions on the record under cross. My objection would be based on the fact that while Mr. Breen is the manager and can testify to the state of the store and the fact that there was a surveillance system. I don't think that he has the ability to lay the proper foundation for the introduction of the video based on what he testified to both on direct and cross. He was not present when it happened, so he can't say whether what's on the video is really what happened because he wasn't there. He wasn't present for the extraction of the video and he was not present for the handing it over to officers. So he doesn't know if that's something different then what was handed to law enforcement, whether there's been any changes to what's on it because he didn't

see what happened. Obviously, he can testify that that's the store and nothings been changed about the appearance of the store, but the objection would be based on the fact that I don't think he as a witness and what he has as a personal knowledge is sufficient for the foundation of the video. Thank you very much.

THE COURT: Mr. Stone.

MR. STONE: And this was admitted in under Rule 803 subsection six, which is the records of regular course of business. It was clearly a business record. It was kept contemporaneously with the events and recorded therewith. He was a person of knowledge, which is what is required by the rule. There is no rule requirement as to chain of custody. And again, he also in the context of the record of the shot itself. He also had testified that he had viewed that that was his store and that was a fair and accurate depiction of his store. I believe that it comes in under the business records exception under 803 subsection six.

THE COURT: I had previously overruled the objection, but wanted to allow both of you an opportunity to put on the record what your objection was and what the State response was to that objection. All right. Anything further at this time from the State?

MR. STONE: No, sir.

THE COURT: From defense counsel?

MR. BAX: No, sir. We will stand down for about ten minutes.

(WHEREUPON, a break was taken.)

THE COURT: Anything from the State before I bring the jury back in?

MR. STONE: No, sir.

THE COURT: Defense counsel anything from defense counsel?

MR. BAX: No, Your Honor.

THE COURT: Bring us the jury.

(WHEREUPON, the jury came into open court.)

THE COURT: Okay. All right. Mr. Stone, call your next witness.

MR. STONE: Yes, sir. The State calls Sierra Thomas to the stand.

THE CLERK: Would you place your left hand on the Bible and raise your right hand for me please. Do you solemnly swear to truthfully answer all questions asked of you by this Court, so help you God?

THE WITNESS: I do.

THE CLERK: Please be seated, state your name an spell it for the Court please.

THE WITNESS: Sierra Thomas T-H-O-M-A-S.

WHEREUPON,

Sierra Thomas,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. STONE:

Q Ms. Thomas, where do you live, ma'am?

A I live in Walterboro, South Carolina.

Q Pardon me?

A Walterboro, South Carolina.

Q And how long have you lived in Walterboro?

A Two months now.

Q All right. Did you work at the Subway sandwich shop on July of last year?

A Yes.

Q Now, what did you do for them?

A Made sandwiches.

Q I'm sorry.

A Made sandwiches and cashier.

Q Okay. You have seen the video. You were in the courtroom when the video was shown earlier; is that correct?

A Yes, sir.

Q All right. Which one of the employees -- there were two employees. Let me show you this State's Exhibit 14 and State's Exhibit 11, which employee are you? You pointed to State's Exhibit 11.

A Yes, sir.
Q And I'm showing State's Exhibit 11 on the board now. This is you -- and this -- that appears to be like a light green shirt; is that correct?
A Yes, sir.
Q What time did you come to work that day?
A It was three.
Q Pardon me?
A Between three and four.
Q And what is your shift normally last to?
A Ten o'clock at night.
Q Ten o'clock. Let me ask you to bring the microphone just a little bit closer to you. And who was with you that night working?
A My assistant manager.
Q And who is your assistant manager at the time?
A Dee Dee.
Q And what is her full name, do you know?
A Demetria Green.
Q But she goes by Dee Dee?
A Yes, sir.
Q And she's working along with you; is that correct?
A Yes, sir.
Q Tell me what you recall of that afternoon?
A The suspect came in with a female. I made his

sandwiches and also rung him up. Demetria Green she started making Travis sandwiches.

Q Okay, let me back up a second. The first man that came in what -- do you recall how many sandwiches he ordered?

A I think it was two.

Q Two. And he was with a woman when he walked in?

A Yes, sir.

Q Let me show you what's been -- well, actually what's on the board here is State's Exhibit 11. Is this the individual that you're talking about that ordered the sandwich?

A Yes, sir.

Q And he came in with a female; is that correct?

A Yes, sir.

Q I'm now showing you State's Exhibit 12 on the monitor is this the female?

A Yes, sir.

Q They -- tell me what they're doing at this point?

A They're walking out.

Q So they've already ordered. These are the sandwiches he has in his hand?

A Yes, sir.

Q All right. And you take care of him. You take the order and you -- when you work behind the counter, do you

handle each customer and stay with him through the whole process or do you switch up?
A Sometimes we switch up and then sometimes we stay with them during the whole service.
Q So what did you do in this case?
A I stick with him through the whole service.
Q These two people depicted in State's Exhibit 12; is that correct?
A Yes, sir.
Q All right. Tell me what happened after this?
A Well, Travis walked in and Demetria started -- well, he was waiting in line. And then he was waiting in line, I was -- I was ringing up Rajerick. And they was walking away and she started making Travis sandwiches ---
Q Let me stop you, when you say she, who is she?
A Demetria.
Q She is -- whose sandwiches are she making?
A She started making Travis sandwiches.
Q All right, Travis is Travis who?
A Holmes.
Q Travis Holmes he is the victim in this case?
A Yes, sir.
Q All right. So she's making his sandwiches I'm assuming standing across from him?
A Yes, sir.

Q Let me show you what has been marked as State's Exhibit 14, is that Travis Holmes in that picture?
A Yes, sir.
Q All right. And it's now showing on the monitor, which one is he?
A Travis in the red shirt.
Q Pardon me.
A Travis in the red shirt.
Q In the red shirt here?
A Yes, sir.
Q And is this the man and the woman walking out?
A Yes, sir.
Q That we saw in the other photo?
A Yes, sir.
Q And then this is Dee Dee here?
A Yes, sir.
Q All right. Tell me what happens after that Dee Dee make Travis Holmes' sandwich; is that right?
A Yes, sir. As she's making Travis sandwiches, I was ringing up the other customers. Then another customer came in. Knight came back in and ask the lady said excuse me, ma'am, and he walked up to Travis. I thought that he was going -- they knew each other, but I guess I was wrong. I heard a gunshot and I heard -- I seen smoke and that's when Travis jumped on top of the counter. And when

he jumped on top the counter, I ran the other way. And as Travis jumped back off the counter, I went the other way.

Q Where are you standing when you hear the gunshot?

A I'm standing beside the front of the cooking counter that's beside the register about to make her sandwich.

Q I don't know. I'll show you what's been marked as State's Exhibit 13. I don't know if that will show you if you can see that clear enough see if we can put that back up on the monitor that's number 10. I'll let you look at that. But in this photograph as State's Exhibit what number I just handed you I'm sorry. State's Exhibit 13 where is the cookie counter in this?

A It's closer to the register.

Q And is this the register area back here?

A No, it's in the front. She's waiting on me.

Q All right. And then it appears that the man you identified earlier is Travis Holmes. Is this the man back here in this far back?

A Yes, sir.

Q And what is he doing?

A He's giving Demetria the money.

Q Okay. All right. Tell me -- and then where are you that this point you're here?

A Yes, sir.

Q All right. Tell me when the shot is fired how far

are you away from the distance here is where you were from the shooting?
A No, I was like in between the register and the cookie jar.
Q All right. So as I'm approaching you, how far away or how close were you when you heard the shot?
A Like where she's at.
Q Right there?
A Uh-huh.
Q This close which is three feet?
A Yes.
Q Okay. Did you hear any words exchange between the man you identified as Travis and the other man?
A No.
Q Was there any argument?
A No.
Q Did you -- you saw Travis Holmes did he have a gun on him anything like that?
A He didn't have anything.
MR. STONE: Excuse me just a moment, Your Honor.
THE COURT: Yes.
BY MR. STONE:
Q Did you ever see a gun in the other man's hand?
A No, at that time I was helping the customer, so I was like bending over trying to get what she needed for her

sandwich.
Q Okay. All right. And then what did you do after that?
A Well, I didn't even get a chance to start her sandwich. Before I could get a chance to start her sandwich, he had already shot him.
Q Pardon me?
A He had already shot him.
Q Okay. All right. But again, there was no argument or anything like that that proceeded this?
A No, sir.
Q And when he leave, does he go by you?
A No, I'm behind the register.
MR. STONE: All right. No further questions at this time, Your Honor.
THE COURT: Cross-examination.
MR. BAX: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. BAX:
Q Ms. Thomas, good morning.
A Good morning.
Q Just a couple of quick questions for you. In your testimony, you referred to the gentleman in the red shirt as Travis?
A Yes, sir.

Q Do you know Travis?
A No.
Q Did you know his name anything before this incident?
A No.
Q Did you know Mr. Knight before this incident?
A No.
Q So you're using those names because you learned them after the fact; is that correct?
A Yes.
Q And also just wanted to ask you, I heard you testify in direct to I believe you stated that when Mr. Knight was coming back in that at some point he said excuse me, ma'am?
A Yes, sir.
Q Do you know who he was talking to when he said excuse me, ma'am?
A The customer that was in front of Travis or behind Travis.
Q When he was passing by that person?
A Yes, sir.

MR. BAX: Okay. No further questions, Your Honor.

THE COURT: Any direct?

MR. STONE: Nothing else at this time, Your Honor.

THE COURT: Ma'am, you may step down.

(WHEREUPON, the witness leaves the witness stand.)

MR. STONE: The State calls Demetria Green.

THE CLERK: Would you place your left hand on the Bible and raise your right hand for me please. Do you solemnly swear to truthfully answer all questions ask of you by this court, so help you God?

THE WITNESS: I do.

THE CLERK: Please be seated and state your name and spell it for the court reporter please.

THE WITNESS: Demetria Green G-R-E-E-N.

WHEREUPON,

Demetria Green,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. STONE:

Q You were the lady they call Dee Dee; is that correct?

A That's correct.

Q And obviously you been here through the video, you saw the video yesterday; is that correct?

A Yes, sir.

Q Okay. First of all, where do you live now?

A Beaufort, South Carolina.

Q And how long have you lived in Beaufort?

A Twenty-nine years.
Q You work at some point at the Subway; is that correct?
A That's correct.
Q How long did you work at the Subway?
A Almost three and a half years.
Q And where do you work now?
A Wal-Mart.
Q How long have you been working at Wal-Mart?
A Over a year.
Q In July of 2011, you were working at Subway; is that correct?
A That's correct.
Q And what was your job there?
A Assistant manager.
Q And what did that entail? What were your job duties?
A Basically from security of the whole entire store, monitoring everything, help customers, fixing sandwiches everything.
Q Now, the day that this happened, you were in there with Sierra, the lady, that just testified?
A That's correct.
Q And she had described earlier that you guys handled the customers as they come in and you stayed with them through the process?

A That's correct, unless we're busy, then I'll have her make the sandwiches and I ring up.
Q I see. That day obviously we see in the video there were customers in there. Tell me what the process was or tell me what you did that day?
A Well, that day it was a good bit, I'll say not too much customers, so what she did was she handle one as they go and handle straight through. And I did the same thing when I saw another customer and I just handed that person straight through because it wasn't that much customers.
Q Now, I think what -- and I want to make sure that I got you. You are State's Exhibit -- what we've shown as State's Exhibit 14; is that correct?
A That's correct.
Q And what is showing up on the monitor is -- go back one more there we go -- and we're showing State's Exhibit 14 up on the monitor. This is you -- is that a dark green shirt?
A It's dark green.
Q And there's a person in front of you. Do you know that person?
A Yes, I do, Travis Holmes.
Q Tell me what you recall happening?
A Well, as he came up, I fixed his sandwich. I haven't seen him since -- we did went to elementary school

together, so I haven't seen him since then. And when I saw him, I remember the face. So I was like, oh, hey, how you doing? And I say I haven't seen you in a long time. What's up? Just like that, me and him just conversating. We kept conversating all the way until me, you know, taking his money. And...

Q What kind of mood was he in?

A He was excited to see me, look like. He was happy. He was happy.

Q Go ahead, I'm sorry.

A And as we got to the end, taking his money out, he was just telling me -- so I was like what you doing now? He was like, Well, I'm working, but, you know, I'm waiting on my job to transfer me to Columbia because, you know, I'm trying to start something fresh. I was like that's good, that's real good because it's nothing down here just like that. He was like, yeah. So you have any kids? He was like, yeah, well, I have -- I think he said three, if I'm not mistaken. I think he said three with one on the way something like that. I said, well, that's good congratulations just like that. And as he started to give me his money, that's when -- what's his name?

Q This gentleman in the white shirt.

A The white shirt. Okay, that's when he came back and I thought they was going to dap like guys do ---

Q Let me just stop, you said come back in.
A He came back in because he already done left. He already done purchase food and done left. So he came back in and thought they was about to dap.
Q What do you mean dap?
A Like something guys do like, something like this. I'm not sure how that thing go, but that's a guy thing. I don't do that.
Q Sort of like a greeting?
A Like a greeting, yeah, like, hey, what's up something like that, but that wasn't the case. I mean, I can't say I actually -- well, I can say that, but I say a piece of the gun, but after I heard it shot, that's when I heard it, that's when I saw a piece of the gun. And I just started to run. Something tell me to move, so I move out the way. And then when I went to the back, something said duck, so I just slid down and I landed on my head and that was the end of that.
Q When you heard the gunshot at that point, were you at cash register?
A I was at the register. We was like from -- I could touch him, that's how close we were. I could touch Travis.
Q So you are standing at the cashier ---
A About to take his money.

Q Travis is in front of you at this time?
A Yes, sir.
Q Show me how -- first of all could I get you?
THE COURT: Your Honor, I think she keeps her voice up pretty well.
MR. STONE: Could I ask her to step down please?
THE COURT: Yeah.
BY MR. STONE:
Q Keep your voice up so the court reporter can hear everything.
A Sure.
Q You're at the cash register put me where Travis was?
A Cause we have a counter right here.
Q Okay. Is this correct as we're ---
A I could just lean over and touch you.
Q Okay. And you are talking at this point?
A Uh-huh.
Q Has he paid you for the ---
A Actually, he was about to hand me the money. And as he about to hand me the money, I guess -- well, I ain't gone say I guess. The guy touched him cause I saw him touching him and he look back. And he looked back with a surprise and he was about to push away. But before he could push away, the gun had went off.
Q And so he is facing you as he -- does he turn this

way or did you turn this way?
A He turn this way.
Q I'll tell you what I'll be you. You tell me what he does? What Travis does?
A He turns this way.
Q He turns to his left?
A Right. As he realize, he tries to back off, but before he could, he done got shot.
Q And you're literally standing here when the gun goes off?
A When the gun go off after I heard that shot, I go.
Q Let me show you what's been marked as State's Exhibit 16, can you identify that area in the store?
A That's exactly where I was standing right there right in front of the register and he was standing like right here right in front of this thing right here.
Q And that's a fair and accurate depiction of the register; is that right?
A Yes, sir.

MR. STONE: Excuse me just a moment, Your Honor.

(WHEREUPON, a pause in the proceedings.)

BY MR. STONE:
Q Let me show you what's marked as State's Exhibit 45, is that also a fair and accurate depiction of the scene?

A Yes.
Q Okay. And that is where you were standing when the shot went off?
A Yes.
MR. STONE: Your Honor, at this time we move State's Exhibit 45 and 16 into evidence.
MR. BAX: Your Honor, subject to both prior objections to these pictures.
THE COURT: So note for the record overruled.
MR. BAX: Thank you, Your Honor.
(WHEREUPON, State's Exhibits Nos. 16 and 45 were admitted into evidence.)
THE COURT: Mr. Stone, can you approach for a minute.
MR. STONE: Yes, sir.
Mr. Bax.
(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)
MR. STONE: Permission to publish, Your Honor, this is State's Exhibit Number 16.
THE COURT: Yes, sir.
BY MR. STONE:
Q Okay. This is the cashier stand that you were standing at?

A Yes, sir.
Q Is that correct. And the victim would have been standing right, I guess, right here in front handing you the money; is that correct?
A That's correct.
Q I show you what's been marked as State's Exhibit 45.
MR. STONE: And I publish that, Your Honor, to the jury as well.
Q That is where you were standing when the shot took place?
A That's correct.
Q I call your attention specifically -- I'll show you -- I'll do it this way. This area right here on the right. I'll show that to the jury on here.
THE COURT: What exhibit are you referring to?
MR. STONE: This is State's Exhibit, Your Honor, number 45.
THE COURT: Okay.
BY MR. STONE:
Q Right corner here could you tell me what that is?
A That's a small wall.
Q Pardon me?
A That's a small wall.
Q All right. That is -- that wall there is besides you on the counter?

A Basically, yeah.
Q The individual that -- and you do not know who the other individual is; is that correct?
A As far as --
Q The shooter the person that actually shot?
A No, I don't know him.
Q Could you describe what he looks like?
A Well, at the time he had a hat on. He had dreads, white shirt, had some jean shorts and I remember the tattoo on his neck. And I remember the P-E. All I saw was P-E because I had like the way it look, so I was staring at it.
Q Okay. And that was on his neck?
A Yeah.
Q And when this guy in the white shirt with a hat with the P on his neck, did you see a gun? Did you see him have a gun?
A At that time, he didn't have a gun because he was getting served in the line at that time.
THE COURT: Hold on a minute, Mr. Stone.
MR. STONE: Yes, sir.
(WHEREUPON, a pause in the proceedings.)
THE COURT: Ma'am, you're doing a good job of speaking loud, make sure you speak loud since I cut the sound system off. It's important that she hear you. If

anybody on the jury cannot hear, raise your right hand, so I'll be aware of it. And I make her speak up.

You may continue.

MR. STONE: Thank you, Your Honor.

BY MR. STONE:

Q Ms. Green, so when you saw him the first time the man with the white shirt and a hat and a P, he did not have a gun; is that correct?

A He didn't have a gun at the time.

Q All right, speak up.

A He didn't have a gun.

Q Don't worry about the microphone it's not on.

A He didn't have a gun.

Q And that's when he came ordered sandwich earlier?

A That's correct?

Q After the shooting, did you see him with a gun?

A Well, I can't say after the shooting, but when he was about to shoot him -- when the gun was shot, that's when a saw a little piece of the -- it was silver and that's when I ran because something tell me to move.

MR. STONE: I don't have any further questions of this witness of this time.

THE COURT: Cross-examination.

MR. BAX: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. BAX:

Q Good morning, Ms. Green, how you doing?

A Good.

Q Good. Just a few questions for you please. And same goes for me, if you don't hear my question, please let me know and I'll be more than happy to say it again, okay. The -- well, first of all, you stated that you knew Mr. Holmes, Travis?

A I did.

Q Okay. You said went to elementary school with him?

A That's correct.

Q But I believe you testified that you had not seen him since elementary school?

A I didn't.

Q Okay. Can you give us an idea of how long that period of time is you look very young to me so?

A I'm 29 years old, so it's been a while.

Q It's been a while.

A But I can never forget his face me and him -- like when we were in school we had classes together, we use to get in trouble together and stuff like as far as laughing that class clown and everything thing else like that, so yeah.

Q So as far as elementary school, we're talking maybe up to fourth or fifth grade something like that?

A Like third, fourth grade.
Q Third, fourth grade?
A Uh-huh.
Q Okay. All right. Now, I want to ask you this after this event you talk to law enforcement; correct? Law enforcement responded to scene; correct?
A Actually, I tried to talk to them.
Q You tried to talk to them?
A Well, I did talk to them, but, I mean, all I was getting was blah blah, that was me.
Q Okay. Now, you talking about on the phone with 9-1-1 or talking to an actual officer?
A On the phone. Well, actually, I tried to talk to them, but I was more crying than anything.
Q Okay. Now, during -- did you speak with law enforcement again after that day on subsequent days?
A Before this trial.
Q Okay. Was it immediately prior to this trial or was it right after the incident back in the summer of 2011?
A Immediately prior before this trial.
Q Okay. Did you ever go down to either the sheriff's department or police department and give any kind of statement?
A Uh-uh.
Q No?

A Uh-uh.

THE COURT: Give me a yes or no please?

A I'm sorry, no, sir.

Q Okay. Thank you. And immediately prior to this trial when you spoke with law enforcement or the Solicitor's office, do you know whether it was the Solicitor's office or law enforcement that you spoke to?

A Solicitor's.

Q Solicitor's office, okay. Did you view the video of surveillance from the store during your talks with the Solicitor's office?

A They showed me.

Q They showed you, okay. How many times did you watch through that, do you recall?

A That one time.

Q Just one time?

A Uh-huh.

Q Okay. And you never -- do you recall ever doing a written statement that you signed for any officers that day?

A As far as when the incident happen, I believe I wrote then. I wrote a statement.

Q You did?

A I did wrote a statement.

Q Okay. Do you recall which officer that was that you

may have given that to?
A No, I don't.
Q All right. Now, I'm just going?
MR. BAX: Permission to approach the witness, Your Honor?
THE COURT: Yes, sir.
BY MR. BAX:
Q I'm going to hand you what's been marked as State's Exhibit 16, that's a picture that we've already looked at. Is that -- is there something stick out of the wall there? Can you tell us if you -- see things that aren't usually next to the cash register?
A Well, we had this thing right here holding the counter up. We have the little plaque thing right here and a ruler right here that I'm not use to seeing.
Q You're not use to seeing the yellow ruler that's standing up there?
A Right, right.
Q Can you see what appears to be some kind of rod sticking out of the wall there?
A I don't remember that. I don't recall that being there.
Q You don't recall that being there. Thank you, very much. Now, are you still employed with Subway restaurant?
A I quit, I quit because of it.

Q So when was the last time you were in that Subway sandwich shop there at the Cross Creek Plaza?
A I stick my head in there once -- it's been a while, it's been sometime this year.
Q Okay. And do you recall were you in the store when any officers that night came in and started canvasing the scene or doing anything that look like?
A Actually, they had me, my employee and I believe the Golden Corral lady they had us sitting far far corner where the window is.
Q Okay, while they were looking at things in your store there?
A Yes, sir.
Q Do you recall of them ever sticking anything through the wall?
A No, sir.

MR. BAX: No further questions. Thank you, Your Honor.

MR. STONE: Nothing else at this time, Your Honor.

THE COURT: Ma'am, you may step down. Thank you.

(WHEREUPON, the witness leaves the witness stand.)

MR. STONE: The State calls Jeannie Salleme.

Your Honor, may I approach while the witness is coming in?

THE CLERK: Would you place your left hand on the Bible and raise your right hand for me please. Do you solemnly swear to truthfully answer all questions asked of you by this court so help you God?

THE WITNESS: Yes.

THE CLERK: Please be seated and state your name and spell it for the Court please.

THE WITNESS: My name is Jeannie Salleme S-A-L-L-E-M-E.

THE COURT: Ma'am, that microphone is not working, so I need you to speak loudly, okay.

THE WITNESS: Okay.

WHEREUPON,

Jeannie Salleme,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. STONE:

Q Would you give the reporter your name one more time so we can hear it?

A Jeannie Salleme.

Q So it's Salleme?

A Salleme.

Q Salleme. I apologize I didn't pronounce that

correctly before. Ms. Salleme, what do you do, ma'am?
A I'm a waitress.
Q And where?
A At Golden Corral.
Q Golden Corral in Beaufort?
A Yes.
Q How long have you been a waitress at the Golden Corral in Beaufort?
A Thirteen years.
Q In fact somebody just referred to you as the Golden Corral lady would that be you?
A Yeah.
Q Let me show you what's been marked and already put into exhibit as State's Exhibit 11 and make sure that -- show you that. Is that you in the green apron?
A The black apron, yes.
Q Okay. That's black, sorry. Color blind, black. And that's showing up on the monitor at this time. This is State's Exhibit Number 11, Your Honor. This is you here at the bottom; is that correct?
A Yes.
Q All right. Now, were you working at that time or just gotten off work, going to work or what?
A I just got off.
Q You just gotten offer work?

A Uh-huh.
Q What was your normal shift back then?
A It varies like 11 to three, 11 to five.
Q Tell me -- so what were you going to the Subway for?
A Well, my son was suppose to go in. It was for him, it was his sandwich. And he didn't want to go in because he wasn't dressed.
Q So you went in for him?
A Yes.
Q What time of day was this?
A Can't recall, 4:35.
Q Was it dark outside, light outside?
A It was still light.
Q And you went into the Subway. What time you get off? What time you get off work from Golden Corral?
A Like it varies whenever I'm done with my work.
Q Tell me what you remember when you went into the Subway?
A I just walked in and all of sudden I seen another guy come, my earring flew out and that was it I heard a bang bang.
Q When you first got in there, who was the -- were other people in the restaurant when you got there?
A When I walked in, it was like two people, yeah.
Q Okay. And do you recall if the victim, who has been

identified as Travis Holmes, was he in there at the time you got there?
A Yes.
Q Okay. Is the guy that was wearing the red shirt?
A Yes.
Q Now, the gentleman over here also in State's Exhibit 11 in the white he came in after you got in; is that correct?
A Yes.
Q You did not see -- did you see him in the store earlier or was this the first time you saw him in the store -- in the Subway?
A But when I was coming he was leaving.
Q So you saw him go out first?
A Yeah.
Q Had you ever seen him before?
A Yes.
Q And where had you seen him?
A Golden Corral.
Q How many times -- does he work at Golden Corral?
A No.
Q He was a customer at Golden Corral?
A Uh-huh.
Q How often had you seen him at Golden Corral?
A I see half of Beaufort in Golden Corral.

Q Right. But this individual how many times had you seen him?
A Like five, like a handful of times.
Q Okay. And over what time period?
A Over years. I mean...
Q How would you describe how he looked?
A A tall guy with dreads.
Q When you saw him that day, did you -- when you walked in as you're walking into Subway, did you recognize him as that person that you have seen in the Golden Corral before?
A Yes.
Q And then this is you ordering I'm assuming the sandwich here; is that correct?
A Yes.
Q So he comes back in, did you see him again?
A Yes.
Q When he came back in?
A Uh-huh.
Q Tell me what he does when he comes back in?
A He just goes up to the other gentleman and then I heard a bang and that was it.
Q Did you hear any words exchange, any argument anything like that?
A No.

Q Did you see any fight anything like that?
A No.
Q How far away were you from the gun when it went off?
A Like a couple inches.
Q All right. If I am the guy in the white shirt that you had seen before, how close was he to you when the gun went off?
A Closer.
Q Closer than this?
A Uh-huh.
Q How about now?
A A little bit closer.
Q A little bit closer than this. We are probably what a foot and a half away from each other now, but he was closer than that?
A Yes.
Q Now, what did you immediately do after the gun went off?
A What did I do?
Q Yes.
A I just stood there.
Q Did at some point in time you talk to police about what you saw?
A Yes, right after that we ran in the back room.
Q So you actually went back into the Subway into the

back room after that?
A I never left Subway. Me and the girls went in the back room.
Q And the girls were the two ladies that just testified?
A Yes.
Q All right. At some point did you talk to law enforcement about what you had seen?
A Yes, they wouldn't let us leave.
Q Pardon me.
A The law officers wouldn't let us leave Subway.
Q And when you talk to law enforcement, did you tell law enforcement whether or not you could identify the shooter day?
A Yes.
Q Okay. And what did you tell law enforcement? What did you tell them?
A I told them what I seen, but I didn't see no gun though.
Q Okay. But could you identify the person in the white shirt with the hat?
A Yes.
Q Let me show you what's been marked as State's Exhibit 17 first ask if you could identify this? Can you identify that?

A Yes.
Q Okay. And is this the photo lineup that was shown to you by law enforcement?
A Yes.
Q All right. When you told law enforcement, did you -- is this the same officer I'm assuming is this the same officer that showed you the line up is the one you talk to about this?
A Yes.
Q Speak up a little bit.
A Yes.
Q How did you describe the person to him?
A A tall guy with dreads with a tattoo.
Q What kind of tattoo?
A I don't know.
Q Where was the tattoo?
A On his neck.
Q Did the law enforcement -- did the law enforcement officer ask you if you could identify this person if shown a group of photographs?
A Yes.
Q And did you tell him if you could or not?
A Yes.
Q Did he at this point show you State's Exhibit 17, which I've already shown you?

A Yes.
Q And when he showed you this, did he tell you which one of these individuals depict or anything like that?
A No.
Q Did you choose someone out of this line up State's Exhibit 17?
A Yes.

MR. STONE: Your Honor, at this time we move State's Exhibit 17 into evidence.

MR. BAX: Subject to prior objections in pre-trial.

THE COURT: Overruled. So admitted.

(WHEREUPON, State's Exhibit No. 17 was admitted into evidence.)

MR. STONE: Your Honor, permission to publish State's Exhibit 17.

THE COURT: Yes, sir.

BY MR. STONE:
Q And I will hand this exhibit to you, so that you could get a closer look of it. Did you choose an individual out of that **lineup**?
A Yes.
Q And on State's Exhibit 17 appears that there is a signature at the bottom of one of the photographs; is that correct?

A Yes.
Q And who's signature is that?
A That's mine.
Q And you choose the individual picture is number two; is that correct?
A Yes.
Q Do you see the individual in that photograph and the individual you saw in that Subway that day in the courtroom today?
A Yes.
Q Can you point him out for me please?
A Yes.
Q Can you point to him?
A Yes.
Q One of these individuals here?
A Yes.
Q Which one?
A The third one.
Q This individual here?
THE COURT: I need a verbal ---
A Yes.
THE COURT: Thank you.
MR. STONE: Your Honor, let the record reflect she has identified the defendant Rajerick Knight.
THE COURT: So noted for the record.

MR. STONE: I don't have any further questions at this time, Your Honor.

THE COURT: Cross-examination.

MR. BAX: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. BAX:

Q I believe we still have a few minutes left in the morning. Good morning, is it Salleme?

A Salleme.

Q Salleme, I apologize. Few questions for you. I'm just looking back at what we discussed here already. You testified that you saw Mr. Knight leaving when you came in and then he came back in; correct?

A Yes.

Q And that's when you recognized him as someone you'd seen in your restaurant a couple of times in the past?

A Yes.

Q Okay. Now, as you stated though you see a lot of people at Golden Corral; correct?

A Yes.

Q You testified you've worked there for 13 years?

A Yes.

Q So you seen a lot of faces coming and going through that?

A Yes.

Q Now, just briefly also wanted to ask you did you know -- you've testified that you heard bang bang and you've testified that you heard bang. You said both those two phrases during your testimony. Can you recall exactly how many shots you heard?
A No.
Q No, okay. So you don't know whether it was one or more than one?
A No.
Q Okay. All right. And you testified that you at no time saw a gun of any kind?
A No.
Q Now, when you were -- you've testified on direct with the Solicitor that Mr. Knight was very close to you. Do you recall whether his back was to you or not when you hear the shot?
A No, I can't recall.
Q You can't recall?
A No.
Q Do you recall if you were looking in that direction when you heard the shot?
A No, I was looking at the floor because the young lady was making my food.
Q So you're looking at the food which makes sense certainly, so you weren't looking in that direction when

you heard the shot?

A No.

Q Okay. And do you recall if Mr. Knight ever said excuse me as he pass by you? Do you recall hearing that at all?

A No.

Q Okay.

MR. BAX: Moments indulgence, Your Honor.

THE COURT: Yes, sir.

(WHEREUPON, a pause in the proceedings.)

MR. BAX: No further questions. Thank you, ma'am.

THE COURT: Any redirect?

MR. STONE: Nothing else at this time, Your Honor.

THE COURT: Ma'am, you may step down. Thank you.

(WHEREUPON, the witness leaves the witness stand.)

MR. STONE: State calls Shiecarra Smalls to the stand.

THE CLERK: Place your left hand on the Bible and raise your right hand for me please. Do you solemnly swear to truthfully answer all questions asked of you by this court, so help you God?

THE WITNESS: I do.

THE CLERK: Please be seated, state your name and spell it for the court please.

THE WITNESS: Shiecarra Smalls S-M-A-L-L-S.

WHEREUPON,

Shiecarra Smalls,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. STONE:

Q Miss Smalls, where do you live, ma'am?

A In Port Royal.

Q In Port Royal?

A Yes.

Q In Beaufort County?

A Yes, in Beaufort County.

Q And how long have you lived in Port Royal?

A For like a year.

Q I'm going to have to get you to speak up the microphones not working.

A A year.

Q Do you know Rajerick Knight?

A Uh-huh, yes, sir.

Q How long have you known?

A Since, I was a little girl.

Q Do you know Travis Holmes?

A Uh-huh.
Q And how long have you known Travis Holmes?
A Like that's my family family, so for quite a while.
Q On June the 26th of 2011, did you see Rajerick Knight?
A Uh-huh.
THE COURT: Hold on a minute. When he ask you a question that requires a yes or no, give me yes or no answer please, ma'am.
A Yes.
THE COURT: Thank you.
BY MR. STONE:
Q Tell me how that came about?
A How what came about?
Q You seeing Rajerick Knight?
A He came to pick me up from work.
Q Where do you work or where at that time did you work?
A I was working at Dollar Tree.
Q And the Dollar Tree is -- where is that?
A Right next to Wal-Mart.
Q Is that also in that Cross Creek Plaza?
A Yes.
Q All right. Somewhere in State's Exhibit -- show you what's been marked as State's Number 4 and Number 5 could you tell us where do you -- where is the Dollar Tree in

that?
A It's not really in this part. It's over the next side it's just Wal-Mart and Dollar Tree.
Q Okay. So it's down with the Wal-Mart?
A Yeah.
Q I see, I see. Does -- and how far is that away from the Subway?
A Probably like a five minute walk away.
Q So Rajerick Knight came to pick you up; is that correct?
A Uh-huh, yes, sir.
Q All right. And where did he pick you up in?
A In his car.
Q Let me show you what's been marked as State's Exhibit 6, 7 and 8, is that Mr. Knight's car?
A Yes.
Q And this is the car he picked you up in that day?
A Yes.
Q About what time did he pick you up?
A I'm thinking it was like around five, around like five something maybe.
Q In the afternoon?
A Uh-huh, yeah.
Q And were you getting off from work about five?
A A little before then.

Q And what were you two going to do?
A Well, he was just coming to pick me up and we were going to go over there to Subway.
Q To the Subway?
A Uh-huh.
Q For what?
A To get some subs.
Q Was it for you?
A No.
Q Who is it for?
A Him and his girl.
Q Him and his girlfriend?
A Uh-huh.
THE COURT: Yes or no?
A Yes, sir.
Q What is his girlfriend's name?
A Peanut.
Q Peanut?
A Uh-huh.
Q When you go -- do you actually go with Rajerick -- does he pick you up in the car and then drive you over or did you guys walk over?
A We drove over.
Q You drove over in the car. All right. Tell me what happens when you get there?

A When we arrive at Subway?
Q Yes.
A We went inside Subway. I sat down at first. And he was up there ordering or whatever. He offered me if I wanted something, so I told him, yeah. I came up and got my sub. After that, Travis he walked in the door.
Q And that's Travis Holmes?
A Uh-huh, yes, sir.
Q All right.
A And as we were leaving out, I told him what's up and he spoke back and we left out and went to the car.
Q All right. Now, when Travis Holmes walks in, is there any words exchange, any argument anything like that between Travis Holmes and Rajerick Knight?
A No.
Q Okay. And you speak to Travis Holmes; is that correct?
A Yes.
Q And then you and Rajerick Knight leave the Subway?
A Yes, sir.
Q What is Travis Holmes doing when you leave?
A I guess he was ordering his subs.
Q So he was at the counter when you walked out?
A Uh-huh, yes, sir.
Q Okay. What happened after that?

A We went to the car and I sat in the car and he was ---

Q He being who is this?

A Rajerick.

Q Rajerick Knight?

A Yes. He was standing in like the door way of the car just standing there and he went back in as I sat in the car.

Q Did you ask him anything like why you going back in anything like that?

A Yes.

Q What did you say?

A I asked him if he had -- if it was something going on and he said that, yeah, he was going back in there.

Q Okay.

A And I sat in the car, but in like a little while after that, he came back out and he got in a car and we left.

Q Now, when he comes back out, is he walking, is he running, what is he doing?

A He wasn't running. He was just more less like -- he wasn't really running.

Q Okay, that's fine.

A He was like walking a little.

Q Okay. Then you guys left the parking left?

A Uh-huh, yes.
Q What did you see after that? Did you ever see Travis Holmes again?
A Yes.
Q Where did you see Travis Holmes again?
A He was running back out and he dropped on the ground.
Q And where did he drop?
A Right out the door of Subway.
Q How did you see that?
A Because I was ---
Q Where were you when you saw that?
A In the car.
Q Did you ask Rajerick anything about that?
A Yes, as we were getting like -- as we got away, you know, after riding for a little while and he was on the phone and he told somebody he shot him and that's how I found out.
Q When he said that was he excited?
A No.
Q Let me show you what's been marked as State's Exhibit 15 ask if you recognize that please?
A Yes, I do.
Q Is that a fair and accurate depiction of you and Rajerick Knight in the Subway that day?
A Yes.

Q Now, the writing at the bottom of that is that writing that you made?
A Yes.
Q And the date on it appears to be 7-27-11, is that when you made that?
A Yes.
Q And is that your signature?
A Yes.
MR. STONE: Your Honor, at this time we move State's Exhibit 15 into evidence.
THE COURT: Any objection?
MR. BAX: No objection, Your Honor.
THE COURT: Without objection State's Exhibit 15 admitted into evidence.
(WHEREUPON, State's Exhibit No. 15 was admitted into evidence.)
BY MR. STONE:
Q All right. I'll hand this back to you, so you can see it. I know you're at a different angle. State's Exhibit 15 which is on the monitor now. First of all, this writing at the bottom what does that say?
A My name, his name.
Q And that Shiecarra Smalls that is your writing there?
A Yeah, Shiecarra Smalls.
Q And the next name is?

A Rajerick Knight.
Q And this is your signature at the bottom?
A Yes.
Q And is that a photograph of you and Rajerick walking out of the Subway prior to the shooting?
A Yes.
Q Let me show you what's been marked as State's Exhibit Number 27. Do you recognize that?
A Uh-huh.
Q All right, don't say uh-huh say yes.
A Yes.
Q And is that your signature on that as well?
A Yes.
Q And that is dated also 7-27-11; is that correct?
A Yes.
Q All right. This is a photograph shown to you by law enforcement that you signed?
A Yes.
Q And who is depicted in that photograph?
A Rajerick.
Q Pardon me?
A Rajerick.
Q Rajerick Knight?
A Uh-huh, yes.
MR. STONE: Your Honor, at this time we move

State's Exhibit 27 into evidence.

MR. BAX: No objection, Your Honor.

THE COURT: Without objection State's Exhibit 27 admitted into evidence.

(WHEREUPON, State's Exhibit No. 27 was admitted into evidence.)

BY MR. STONE:

Q Again showing on the board State's Exhibit 27 that is your signature there?

A Yes.

Q And identifying the person that was with you that day as Rajerick Knight; is that correct?

A Yes.

Q Do you see Rajerick Knight in the courtroom?

A Yes.

Q Okay. Can you pick him out please? This individual in the coat with a turtle neck?

A Yes.

Q Is that correct?

THE COURT: Yes or no?

A Yes.

THE COURT: Thank you.

MR. STONE: No further questions at this time, Your Honor.

THE COURT: Cross-examination.

MR. BAX: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. BAX:

Q Good afternoon, Miss Smalls.

A Hello.

Q I just have some question for you as follow up to what you told us so far. Now, you've testified that on this day Mr. Knight picked you up from work?

A Uh-huh, yes, sir.

Q Now, I believe you testified that where you working at the time I believe you said that was the Dollar Tree; is that right?

A Yes.

Q Okay. And that's in the same Cross Creek Plaza?

A Yes.

Q Is it over closer to Wal-Mart?

A Yes, it's right next door to Wal-Mart, it's attached.

Q All right. After you got off of work, did he pick you up straight from your work or did you go anywhere after work before he got there?

A I went to Wal-Mart.

Q You went to Wal-mart?

A Yeah.

Q Okay. What were you doing at Wal-Mart?

A Getting my baby some things.

Q Miss Smalls, how many kids do you have?
A I have two now.
Q Okay.
A At that time I just had one.
Q Okay. So you've had a child since then?
A Yes, sir.
Q Is that boy a or a girl?
A A boy.
Q And when was the boy born?
A October 27th.
Q Of this year 2012?
A Yes, 2012.
Q Okay. All right. Now, was Mr. Knight originally going to pick you up from work or was that just something that you called about after the fact?
A Yeah, something I called about after the fact.
Q Okay. So had he given you rides before?
A Yes.
Q Okay. Now, do you know where -- you stated that you knew his girlfriend; is that right?
A I knew of her.
Q You knew of her.
A I don't know her.
Q Okay. Had you ever been to Mr. Knight's trailer that he had at the time, his house?

A Yes, I have been.
Q Was she there at that time?
A Yeah.
Q Okay. So you visited their home and they were both there at that time?
A Uh-huh, yes.
Q Now, I believe in your testimony to Mr. Stone, you stated something along the line to the fact that Travis maybe related to you or something like that; is that correct?
A No, not related to me.
Q But you knew him for a while as well; correct?
A Yes.
Q Okay. Now, what did you know him -- how did you refer to him, what would you call him when you came up to him?
A Travy.
Q Travy?
A Yes.
Q Okay. Have you ever known him as Melvin?
A No.
Q Okay. And you know his name to be Travis Holmes, right?
A Yes.
Q Okay. Now, you testified that you just said hello as

you guys were walking out, right?
A Yes.
Q Was there any other words exchanged?
A No.
Q Okay. Did he say anything to anybody else that you heard?
A No.
Q Okay. All right. Now, you've also testified that you went to the car with Mr. Knight, his car?
A Yes.
Q Did Mr. Rajerick Knight get anything out of the car when you were sitting there before he went back in the store?
A No.
Q He didn't go in the car and get a gun or anything?
A No.
Q Okay. So did you ever see a gun?
A No.
Q So it's your testimony you never saw a gun?
A No.
Q Now, you also testified that when he came back that he was not running, he was walking Mr. Knight?
A Right.
Q Is that right?
A Uh-huh, yes.

Q Now, you testified that you saw Travis come out of the store behind him or Travy came out of the store; is that right?
A Yes.
Q Okay. Was Travy or Travis was he running?
A Yes.
Q Yes, okay. Were you afraid at that point?
A Yes, I was.
Q Did you ever state to law enforcement you were afraid that Travis was shooting and that he might be shooting up the car in a few minutes?
A Yeah, I thought they were having like a -- something going back and forth and I thought may be he was running out after him, so I was afraid that I was about to be probably having to dodge bullets.
Q And why did you think that Travis was going to come out and be shooting? Why would you think that?
A I mean, just by hearsay in the streets. I mean, and just know that he was going back in there I knew be something, but I didn't think it would be that.
Q Okay. So based on what you knew about Travis from the community, you were concerned that he was going to be shooting at the vehicle as he came out?
A Yes.
Q Now, you also testified in your -- when you were

being questioned by the Solicitor, that once you were in the vehicle that Mr. Knight told someone on the phone that he had shot somebody; is that correct?

A Yes.

Q Okay. So he didn't tell you that?

A No. He was on the phone.

Q Now, originally did you tell law enforcement that he told you that?

A Yes, I have.

Q Okay. So your memory today is is that he told someone else that and he you didn't tell you that?

A Yes.

Q And why do you remember it differently now than you did then?

A Well, because at first I was just nervous. I was like -- I was just like -- I can't even put the word in for it, but I know it wasn't directed to me after I realize that it wasn't directed to me I heard him over the phone because he wasn't saying anything really too much to me.

Q Now, once you realized that that was the more accurate memory, did you contact law enforcement and tell them I remembered it incorrectly when I gave my statement?

A No, I didn't say that, but I stated several times.

Q Stated what several times?

A That he was on the phone and said that.
Q Now, when did you meet with law enforcement and tell them your story?
A The first time I met with them?
Q Yes, ma'am.
A It was the next day. My father took me.
Q Your father took you?
A Yes.
Q Where did he took you to?
A I think it was in Bluffton if I'm not mistaken.
Q Okay. Was it the police department?
A I'm assuming that's what it was. I don't even know what it was.
Q Would it be correct it was a law office, that it was an attorney's office?
A Could have been, yes, I think P.J. Tanner wife.
Q P.J. Tanner's wife?
A Yes.
Q What was her involvement?
A She was there. She was the person that I had spoken with.
Q And you spoke with her before law enforcement?
A Uh-huh.
Q And she was in private practice as an attorney, do you know that?

A No, no.
Q What did she state to you that her role was? What did she say to you that she was talking to you about and what she was there to do for you?
A She was just there basically on -- my dad knows them pretty well. And she was just telling me that the guys who were coming were going to talk to me. They were going talk to me about it.
Q Now, were you ever charged with any crimes as a result of this incident, Miss Smalls?
A No.
Q Okay. Let me ask you this, do you know Antwan Robinson?
A Antwan Robinson?
Q Do you know an Antwan Robinson?
A No.

MR. BAX: Moment beg the Court's indulgence.

THE COURT: Yes, sir.

(WHEREUPON, a pause in the proceedings.)

MR. BAX: Your Honor, I have no further questions.

THE COURT: Any redirect?

MR. STONE: No, sir, I do not have any further questions of this witness.

MR. BAX: Your Honor, I would move for the

defense to keep her under notice of recall would like the ability to recall Miss Smalls at a later time if necessary.

MR. STONE: I don't have any objection to that, Your Honor.

THE COURT: So granted.

MR. STONE: Just to clarify for the record, Your Honor, I made a mistake in opening in referring to the victim as Melvin instead of Travis, that's where the name confusion comes up.

THE COURT: Ma'am, you may step down. Thank you.

(WHEREUPON, the witness leaves the witness stand.)

THE COURT: Is she under subpoena?

MR. STONE: She is, Your Honor, but we can certainly keep her.

THE COURT: She is not released under her subpoena. Everybody on the jury, okay? Anybody need a break?

Call your next witness please.

MR. THORNTON: Just moment, Your Honor, briefly. We have a witness James Powell.

THE CLERK: Would you place your left hand on the Bible and raise your right hand for me please. Do you

solemnly swear to truthfully answer all questions asked of you by this court so help you God?

THE WITNESS: I do.

THE CLERK: Please be seated, state your name and spell it for the Court please.

THE WITNESS: My name is James Powell P-O-W-E-L-L.

WHEREUPON,

James Powell,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. THORNTON:

Q Mr. Powell, where do you live, sir?

A Burton, South Carolina.

Q That's here in Beaufort County?

A Yes.

Q Mr. Powell, on July the 26th of 2011 were you at or near the Subway restaurant here in Beaufort?

A Yes, sir.

Q Is that the one over near the plaza about two miles from here?

A Yes, sir.

Q Mr. Powell, can you tell me if anything unusual happened while you were there?

A Well, actually I went inside, I always check on Dee

Dee and Sierra.
Q Those the two young ladies that came up and testified earlier?
A Yes.
Q All right, sir, go ahead.
A Basically, I was in there bugging them about a hotdog they had got from Sonics. And they got a little busy and so after that, I stepped out and I just stood in front of the store New Yorkers because I be over at New Yorkers all the time.
Q Is New Yorkers a store next to or near the Subway?
A Right next door.
Q All right, sir, go ahead.
A Me and Staff Sergeant Carter and a young lady from Shoe Department we all were just standing in front of the store just talking. And after a while, we heard like a pow sound. And after we heard the sound, we didn't think nothing of it because we saw a little girl down the breeze way was like hitting on something so we just kept on talking.
Q What happened after you heard the sound and went back to talking?
A We just kept on talking and then something just told me to look over in Subway. And I just peeped over and I saw a guy he was coming out -- he was shot. And I could

see him bleeding and everything.
Q Did he make it very far out of the Subway?
A Yeah, he made it -- actually, he walked right up to me and he gently kneeled down and laid on the concrete. And at that time, we was so mixed, we was trying to call 9-1-1 and find a phone and all that stuff.
Q All right. Mr. Powell, let me ask you this, you said on the concrete are we talking about the sidewalk outside the Subway?
A Between New Yorker and Subway.
Q Were you in here, sir, when the video was played that was introduced into evidence? Were you able to see the videotape?
A No.
Q Well, let me ask you this, when I asked you earlier how far did he make it out, did he make it all the way out to the parking lot or did he collapse on the sidewalk?
A On the sidewalk.
Q Mr. Powell, did you see any cars leaving the area in a hurry?
A No.
Q All right. I'm going to ask you was that your voice that we heard on 9-1-1 call?
A Yes.
Q And were you relaying information to 9-1-1?

A Yes.
Q And what was that information did you tell them about a car that had left the scene?
A Right. Actually, I was still dealing with the guy that was shot looking at him. And someone was relaying the relation information to me about the car that was pulling off and giving me some of the license plate -- some of the license plate number and so I was just relying that to the lady on the other end of the phone.
Q All right. And so you were telling dispatch that; is that correct?
A Right.
Q Do you remember the woman who was or the person who was relaying the information to you?
A I think it was the young lady that was from Shoe Department. She was looking at -- well, we was all trying to see what was going on, but I was concentrating more on the guy.
Q All right. And that was your voice we heard, you're the Mr. Powell from the 9-1-1 call?
A Yes.
Q All right. And were you administering whatever aid or helping to administer the aid to the victim in this case Mr. Holmes?
A Yes.

Q All right.

MR. THORNTON: Your Honor, court's indulgence for one moment.

THE COURT: Yes, sir.

(WHEREUPON, a pause in the proceedings.)

BY MR. THORNTON:

Q Mr. Powell, let me ask you something. I want to go back a little bit. If you could go into a little bit more detail when you see the man come out of the Subway, you said he walked close to you on the sidewalk and then kind of -- I don't want to put words in your mouth, but collapsed onto the sidewalk. Tell me what happened?

A Well, like I said when I looked over -- I looked through the window a glass and I saw him coming out toward the door and...

Q Describe how did he look when he was coming out? Was he doing anything in particular?

A No, he was like staggering like and trying, I guess, like say something but...

Q Was he able to communicate with you?

A No.

Q Why was that, sir?

A He was bleeding too much.

Q All right. Go ahead.

A And then he came out of the door and he turn and he

walk right to me. I guess, I was the only person at that time he saw and he walk right to me. And he got right to me and he like I said kneel down gently laid down on the sidewalk.

Q All right. And did you notice what condition he was in? You said he was bleeding. Could you tell where he was bleeding from?

A Yeah, his chest.

Q Okay. And tell me about what you did? What kinds of things that you did? We heard some of it on the 9-1-1 tape? What did you do after that?

A Actually, we start moving around, told my partner Carter to go and get a T-shirt and press it against the wound. And we tilt him up a little bit and he held the shirt on him. And I just stood there with him the whole time until E.M.S. got there.

Q All right. Were they holding pressure on the gunshot wound?

A Right.

Q And was it still bleeding?

A Yes.

MR. STONE: Your Honor, the Court's indulgence for one moment?

THE COURT: Yes, sir.

(WHEREUPON, a pause in the proceedings.)

BY MR. THORNTON:

Q Mr. Powell, I'm going to hand you what's been introduced as evidence as State's Exhibit Number 2. Do you see anything at the very bottom of that picture? Can you tell us what's in the bottom of that picture?

A I see someone feet.

Q All right. Is that about where Mr. Holmes, the victim, in this case fell?

A Yes.

Q And is that where you attended to his wounds?

A Right.

Q Mr. Powell, is it fair to say you were the first person that he would have come in contact with coming out of the store?

A Coming out of the door?

Q Out of the Subway?

A Yes, out the door of the Subway, he turn right to me.

Q Yes, sir. And you indicated that you were with him that entire time until law enforcement got there?

A Yes.

Q All right. Did you see a gun on him?

A No.

Q Did you ever see a gun next to him?

A No.

MR. THORNTON: I don't have any further

questions, Your Honor.

THE COURT: Cross-examination.

MR. BAX: Thank you. Briefly, Your Honor.

CROSS-EXAMINATION

BY MR. BAX:

Q Hello, Mr. Powell.

A How you doing, sir?

Q Good, good. Thank you for coming in here today. Mr. Powell, briefly you testified that you saw Mr. Holmes come out of the Subway, turn and came to you. Was there anybody trying to get into the door when he came out of the door?

A I didn't even see rather someone was going in. All I did was -- my concentration was just totally on him when he was coming out. You know, I said owe, wow, man, this guy been shot. And that was -- basically, I was just watching him the whole time.

Q So you couldn't necessarily say from your memory because of what happened whether there was anybody else right there?

A Right.

Q Okay. All right. One other question, you testified that something made you think that you needed to turn and look at the time Subway. Did you hear a shot or did you just turn and look?

A The time we heard the shot that was like I want to say maybe 60 seconds or something later. We were just talking and I mean we was just standing up talking and something just told me look and I just looked like that and saw the guy coming out.

Q So you did hear a shot, but it was at some other time?

A Right, it was like earlier.

Q Okay. And when the shot happened, you didn't look to the Subway at that time?

A No, because we thought it was a little young girl that was on down the breeze way she was hitting on something down the breeze way, so we thought that where the noise came from. So it didn't bother us, we just kept on talking.

MR. BAX: Thank you, Mr. Powell, appreciate it.

THE COURT: Any redirect?

MR. THORNTON: No further question, Your Honor. Thank you.

THE COURT: All right, sir, you may step down.

(WHEREUPON, the witness leaves the witness stand.)

THE COURT: If there are individuals that want to come back in the courtroom now, they can come back in. Just for everybody in the courtroom, I'm not going to

allow you to exit, come in and out of the courtroom while witnesses are on the stand. If you want to exit between witnesses or come in between witnesses, I'll allow that, but I'm not going to allow you to exit while witnesses are on the stand, come back in while witnesses on the stand.

Call your next witness please.

MR. THORNTON: Tanya Terry.

THE CLERK: Place your left hand on the Bible and raise your right hand for me please. Do you solemnly swear to truthfully answer all questions ask of you by this court so help you God?

THE WITNESS: Yes.

THE CLERK: Please be seated and state your name and spell it for the court please.

THE WITNESS: Tanya Terry T-E-R-R-Y.

WHEREUPON,

Tanya Terry,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. THORNTON:

Q Ms. Terry, where do you work?

A Shoe Department.

Q The Shoe Department. And did you work there on July specifically 26th of 2011?

A Yes.

Q Were you in here just a minute ago when Mr. Powell was testifying?
A Yes.
Q Are you the person he was talking about to?
A Yes.
Q Ma'am, what do you remember from July the 26th of 2011?
A I was going to Subway, but I didn't go into Subway because I saw Mr. Powell and Carter. And we just all standing and we started talking and everything. We was just talking and we heard a noise, but it was this little child she was playing down on the sidewalk with her mom, so we thought that was it. So we just went back to start talking and then not too long after that that's when a guy came out of Subway. And I was standing actually with my back to Subway. And when he came out, Mr. Powell he went like in between me and the window to peep into Subway and that's when a guy was coming out. And I turned around and glanced and I jumped back.
Q All right. Let me ask you something just so I'm clear, you saw someone come out of Subway and then Mr. Powell walked over there and you saw that Mr. Holmes had collapsed on the sidewalk come out; is that correct?
A Yes, sir.
Q The first guy that came out how was -- how did he

come out of the store did you see him?
A Yeah, he came out and he was walking not like at a slow pace, but he was walking kind of fast. But he just went in his car, jumped in his car.
Q Was he yelling or anything or screaming or anything like that?
A We didn't hear the yelling and screaming actually until after he jumped in his car and as he was backing up, that's when you started hearing everybody yelling and screaming at Subway.
Q Did you hear him screaming or people in the Subway?
A People in Subway.
Q All right. And did you see what of kind car he got into?
A Yes.
Q All right. I'm going to hand you, ma'am, what's already been marked and introduced as evidence as State's Exhibits 6, 7 and 8 and ask you if that's the car that you saw him get into?
A I saw it from the back.
Q All right. Well, let me specifically do State's Exhibit Number 7 from the back?
A Yes.
Q All right. Is that the car he got into?
A Yes.

Q All right. Now, I'm going to ask you are you the person who was relaying the information to Mr. Powell who was talking to the dispatcher that we heard on the tape?
A Yes.
Q And are you the one who gave them the tag?
A Yes.
Q Do you remember the tag you gave them? What the numbers were?
A No.
Q Has it been a long time?
A Yes.
Q What happened after if the -- what happened after they relayed the information to dispatch, what did you do then?
A After we relayed the messages, we stood right there with the guy that was on the ground.
Q Okay. And what were you doing at that time?
A Just relaying the messages from Carter, the one that was holding the pressure on the wound, to Mr. Powell.
Q And did you see where he was holding pressure at?
A Yes, on his chest.
Q Okay. Now, we heard Mr. Powell talk earlier about this occurred on a sidewalk. Can you tell me about since you work there where -- is New Yorker right next to the Subway?

A Yes.
Q Is that where you all were standing?
A Yes.
Q All right. And how far away is your store?
A I say five stores up toward Belk.
Q Do you go into that Subway fairly or did you at that time go into Subway fairly often?
A Yes.
Q Okay. Is that shopping center fairly busy?
A Uh-huh.
THE COURT: Is that a yes or a no?
A Yes.
MR. THORNTON: Court's indulgence one moment?
THE COURT: Yes, sir.
(WHEREUPON, a pause in the proceedings.)
MR. BAX: Thank you, ma'am, no further questions. Please answer any questions Mr. Bax has.
THE COURT: Cross-examination.
MR. BAX: Beg the Court's indulgence.
(WHEREUPON, a pause in the proceedings.)
MR. BAX: No questions for this witness, Your Honor.
THE COURT: Ma'am, you may step down. Thank you.
(WHEREUPON, the witness leaves the witness

stand.)

THE COURT: Call your next witness.

MR. THORNTON: Thank you, Your Honor. The State calls Trisha Gutterman to the stand.

THE CLERK: Would you place your left hand on the Bible and raise your right hand for me please. Do you solemnly swear to truthfully answer all questions asked of you by this court so help you God?

THE WITNESS: Yes, ma'am.

THE CLERK: Please be seated and state your name and spell it for the court please.

MR. THORNTON: Your Honor, may I approach briefly I apologize for interrupting.

THE COURT: Yes.

Mr. Bax.

(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)

WHEREUPON,

Trisha Gutterson,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. THORNTON:

Q Ma'am, if you would state your name for the record and spell your last name?

A Trisha Gutterson G-U-T-T-E-R-S-O-N.
Q And who do you work for?
A The Beaufort City Police Department.
Q And what do you do for them at this time?
A At this time, I'm currently an investigator?
Q Did you work for the Beaufort Police Department on or about July 26, 2011?
A Yes, I did.
Q What did you do for that?
A I was a patrolman on team two.
Q Okay, so is that for a lack of a better is that a road officer?
A Yes, sir.
Q And did you respond out to any particular calls on July the 26th 2011?
A Yes, I did.
Q And did you respond out to the location at the Subway here in Beaufort County about two miles here?
A Yes.
Q Is that -- what plaza is that in?
A Cross Creek Plaza. It's what we call 330 Robert Small Parkway.
Q That's here in Beaufort County?
A In Beaufort within city limits.
Q Okay. Let me ask you a question. What did you do

when you got out there?
A I was one of the initial officers to arrive on scene.
Q Were you provided with any information once you got there about a possible get-away car?
A There was a lot of confusion going on when I got there. People had said that a dark in color Crown Vic had driven away from the scene.
Q All right. And were you given some information about regarding a license plate?
A Yeah, at the time we were told that the tag number was GYB 921.
Q All right. And did you have GYB 921, did you have that run through the system?
A Yes, somebody else did. Yes.
Q Did it come back as a black Crown Vic?
A No.
Q Did you have them run anything close to GYB 921?
A No.
Q All right. And did you have them run any alternatives of that license tag at that time?
A Not ---
MR. BAX: Objection asked and answered.
THE COURT: Objection sustained. You asked and she answered.

MR. THORNTON: Your Honor, Court's indulgence one moment.

THE COURT: Yes, sir.

(WHEREUPON, a pause in the proceedings.)

BY MR. THORNTON:

Q Ma'am, were you able to identify any particular car with the defendant in this case Rajerick Knight?

A Yes, sir.

Q All right. And I'm going to hand you what's been marked as State's Exhibit 6, 7, and 8. Can you identify those photographs?

A I can identify number seven that I ran Golf Victor Bravo 921 returning to the registered owner.

Q Let me stop you for those of us not in law enforcement, what is the tag number of the black Crown Vic?

A I'm sorry GBB 921.

Q All right. Earlier I asked you a question about information related to you at the scene and what was the information from the scene given to you?

A GYB 921.

Q So basically somebody gave you black Crown Vic and they were one letter off?

A Correct.

Q So when you ran GVB 921, which is depicted in State's

Exhibit Number 7, what did that come back to or did that come back to anybody in particular as a registered owner?

A It came back to a Rajerick Knight and I believe a 1999 Crown Victoria.

Q And would that be consistent with the photographs depicted in State's Exhibit in 6, 7 and 8, State's Exhibit 6, 7 and 8 already in evidence?

A Yes, sir.

Q And did you pull any photographs associated with Rajerick Knight?

A Yes, sir.

Q And where did you pull that from?

A South Carolina DMV.

Q I'm going to show you what's been marked as State's Exhibit Number 18 identification ask you if you can identify that photograph?

A That's Rajerick Knight.

Q And is that the photograph is that representative of his driver's license photo at the time of July 26, 2011?

A Yes, sir.

Q Has it been altered or changed in any way?

A Not this photo, no.

MR. THORNTON: Your Honor, I ask that State's Exhibit Number 18 be moved into evidence.

MR. BAX: No objection, Your Honor.

THE COURT: Without objection State's Exhibit Number 18 admitted into evidence.

(WHEREUPON, State's Exhibit No. 18 was admitted into evidence.)

BY MR. THORNTON:

Q And can you identify Rajerick Knight in the courtroom today?

A Yes, sir.

Q And where is he?

MR. BAX: Objection, Your Honor. I don't think she has the foundation to do any court ID.

THE COURT: Hold on a minute. The lawyers approach.

(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)

BY MR. THORNTON:

Q Ma'am, as part of your investigation of this case, are you able to identify Mr. Rajerick Knight in this courtroom?

A Yes.

Q And can you identify him, can you point him out for me?

A Yes. He's the second gentleman from the right at that table.

Q All right. And would his appearance today be consistent with his appearance in his driver's license photo?

A No.

MR. BAX: Objection as to relevance, Your Honor.

THE COURT: Objection overruled.

MR. THORNTON: I have no further questions. Thank you very much.

THE COURT: Cross-examination.

MR. BAX: Briefly, Your Honor.

CROSS-EXAMINATION

BY MR. BAX:

Q Officer Gutterson, were you the first person -- were you the first law enforcement officer on scene that was on duty at the time that was responding to dispatch?

A One of the first officers, many officers showed up.

Q Okay. So you don't know necessarily that you were -- you can't necessarily say that you were the very first officer that responded?

A No, sir.

Q Okay. Do you recall who might have already been on scene at that time?

A No, I don't know exactly what units were there at this point. I don't recall.

MR. BAX: No further questions for this witness.

Thank you.

THE COURT: Any redirect?

MR. THORNTON: None, Your Honor, ask she be excused.

THE COURT: All right. You may step down. Thank you.

(WHEREUPON, the witness leaves the witness stand.)

THE COURT: Ladies and gentlemen, that's the witness that we're going to call today before lunch. We going to do now we're going to break for lunch. It's about 12:36 according to the clock on the back wall. I'm going to allow you to go to lunch at this time. I'm going to ask that you be back in your jury room, back in the jury room at two o'clock, at two o'clock. And we will resume the trial of this case at that time, that will give you an hour and 20 minutes for lunch, be back in your jury room at two o'clock. And we will resume the trial of this case at that time.

During your lunch break, my instructions remain the same do not discuss the case with anybody. Do not discuss the case with anybody. Do not do any independent investigation on your own. You are to decide this case based solely upon the evidence and testimony that's presented in this courtroom and nowhere else.

Let me just give you this as well, when you return from your lunch break at two o'clock, I would ask that you all at that time -- I'm going to let you all decide who your foreperson's going to be. So I'm going to ask you all prior to coming back in here when we return from lunch, if you would write down on a piece of paper who your foreperson is and give that to the bailiff. He will give it to me when you all come back in, but I'm going to let you all pick the foreperson when you return from lunch, okay. Everybody else remain seated while the jury exits the courtroom.

(WHEREUPON, the jury is excused for a lunch break.)

THE COURT: All right. I think Mr. Bax he may have had an objection he wanted to put on the record.

MR. BAX: That's correct. Thank you very much, Your Honor. I just wanted to place on the record an objection to the in-court identification by Officer Gutterson. It is the defense's position that the in-court identifications by reserved for those who had some specific knowledge of the incident versus law enforcement who developed a suspect later on. If that were the case, every law enforcement officer who testified in any trial would in-court ID a client. And I been through 30 something trials I lost count, that's generally not how

it's done and that was the basis of my objection, Your Honor.

THE COURT: Anything in response from the State?

MR. THORNTON: Nothing other than what's already been stated at the bench, Judge, which I asked the question. And the question I believe I asked was can you identify Rajerick Knight. There is an issue I understand in his opening Mr. Bax got up and said that they were going to admit that, you know, what Mr. Bax says isn't evidence. And so I identity until such time as we've proven it to the jury beyond a reasonable doubt is in -- could be in dispute in this case. The fact of the matter is, Judge, you got somebody who appears a certain way in his driver's license photo and appears -- not unusual in criminal court, completely different dressed up with his hair cut different here in court. And I think it's important for the jury to know that the officer knows that's the same person depicted in a photograph that is associated with a get-away car is the same person seated at defense table.

THE COURT: All right. Your objection is so note for the record.

MR. BAX: Thank you, Your Honor. I would also like to also put this on the record and just put this as an objection that I would have. And there's been some

reference to this before and I will object to it it comes up again. The fact that someone who is on trial and is in a courtroom has dressed nicely is not indicia of guilt. I would ask that they not refer to my client as being dressed well as an indicia of guilt. When people are out in the community, they're dressed how they're dressed, things happen. They get accused of a crime. You can't expect them to come into the court dressed like they were when they were that day. And that's -- as, Your Honor, as I've said it's not an indicia of guilt and shouldn't be referred to as such.

THE COURT: You're exactly right. You're exactly right. I don't know if I've taken anything that they've referred to as an indicia of guilt, but just so note that.

I will instruct the Solicitor's office with regards to that. Again, I haven't taken anything as such as that, but do note your concern and certainly agree with you.

MR. BAX: Thank you, Your Honor.

THE COURT: And I just want to make it clear too with people entering and exiting the courtroom, I don't have a problem with you all coming in and going out. What I do have a problem with is I don't want any of the witness' testimony to be one not heard by this jury due to

distractions of the door opening and closing. Nor, do I want the jury to be distracted and take away their focus on individuals that are on this witness stand testifying in this case. I don't want that to be a distraction.

Certainly, I want those individuals who are family, friends et cetra, if you want to be here, you have every right to be here. I understand that. But I want you to understand that I'm not trying to be difficult about it. I just don't want there to be a situation where the jury cannot hear what witnesses are testifying to especially in light of the fact that our sound system is not working correctly right now, but I don't want it to be any question as to whether or not this jury has any problem hearing what these witnesses are saying. Nor, do I want the jury to be distracted in any way because of people going in and out of the courtroom, okay. You are free to leave and come into the courtroom as previously stated when witnesses come off the witness stand or when witnesses are coming to the witness stand. I will allow that, okay. I just want to make that clear. I'm not trying to be difficult about it. I just don't want the jury to be distracted. Nor, be in a situation where they cannot hear what these witnesses are saying. Okay, we'll stand down until two o'clock.

(WHEREUPON, a lunch break was taken.)

THE COURT: State's ready to proceed?

MR. STONE: State's ready, Your Honor.

THE COURT: Okay. Defense counsel ready to proceed?

MR. BAX: Yes, Your Honor.

THE COURT: Bring us the jury please.

(WHEREUPON, the jury came into open court.)

THE COURT: All right. Ms. McGinnis, you have been selected or appointed by your fellow jurors as the forelady, that will be your seat throughout the remainder of this trial, okay. Everybody else other than the alternates. Ms. McGinnis and the alternates are the only ones that have assigned seating.

The State ready to proceed at this time?

MR. THORNTON: State's ready.

THE COURT: Defense counsel?

MR. BAX: Yes, Your Honor.

THE COURT: Call your next witness please.

MR. THORNTON: Thank you, Your Honor. The State calls Sharon Madison please.

THE CLERK: Place your left hand on the Bible and raise your right hand for me please, ma'am. Do you solemnly swear to truthfully answer all questions asked of you by this court so help you God?

THE WITNESS: I do.

THE CLERK: Please be seated, state your name and spell it for the court please.

THE WITNESS: Sharon Madison M-A-D-I-S-O-N.

WHEREUPON,

Sharon Madison,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. THORNTON:

Q Ms. Madison, how are you this afternoon?

A I'm quite well. Thank you.

Q Yes, ma'am. Where do you work?

A I work for the Department of Motor Vehicles in Blythewood, South Carolina.

Q As part of the South Carolina Department of Motor Vehicles, what is it that you do for them?

A I'm the deputy director for vehicle services. I manage titles and registration and I am the custodian of the vehicle records.

Q All right. Ma'am, I'm going to show you what has been marked for identification as State's Exhibit 31. Can you identify that for me?

A Yes, this is a current plate on a vehicle?

Q All right. Can you tell me who -- first of all, what is the plate number for the vehicle?

A The plate number is GVB 921.

Q Thank you, ma'am. And what kind of vehicle is it?
A It is a 1999 Ford Crown Victoria.
Q And is that vehicle registered to any particular person?
A It is registered to Rajerick Lovell Knight.
Q All right. Ma'am, is that as part of your job as part of the Department of Motor Vehicles is that a correct representation of the type of records you maintain?
A Yes.
Q Is that done in the ordinary course of your business for the Department of Motor Vehicles?
A It is.
Q Is that a true and accurate copy of the registration of the car with GVB 921 registered to one Rajerick Lovell Knight?
A Yes, it is.
Q Thank you.

MR. THORNTON: At this time, Your Honor, I ask that State's Exhibit Number 31 be entered into evidence?

THE COURT: Any objection?

MR. BAX: No objection, Your Honor.

THE COURT: Without objection State's Exhibit Number 31 admitted into evidence.

(WHEREUPON, State's Exhibit No. 31 was admitted into evidence.)

MR. THORNTON: Thank you very much, Your Honor.

Thank you, ma'am. Please answer any questions Mr. Bax has.

THE COURT: Cross-examination?

MR. BAX: No questions, Your Honor.

THE COURT: Ma'am, you may step down. Thank you for being here.

(WHEREUPON, the witness leaves the witness stand.)

MR. THORNTON: Craig McDonough.

THE CLERK: Sir, put your left hand on the Bible and raise your right hand for me please. Do you solemnly swear to truthfully answer all questions asked of you by this court so help you God?

THE WITNESS: Yes, I do.

THE CLERK: Please be seated and state your name for the court please.

THE WITNESS: Craig McDonough.

WHEREUPON,

Craig McDonough,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. THORNTON:

Q Mr. McDonough, how are you, sir?

A Good. How are you?

Q All right. Mr. McDonough, where do you work?
A I work at Title Max.
Q And what kind of business is Title Max?
A Title Max is a -- gives loans out for title loans of vehicles as collateral.
Q Is that where people would go need if they needed money they would put up their vehicles as collateral on the loan?
A Correct.
Q Could you pull that microphone a little bit closer to you, Mr. Donough. I'm going to ask you did you work for Title max on or about June the 3rd of 2011?
A I worked for them but not at that store.
Q All right. But did you work at Title Max?
A Yes.
Q And what is your current job for Title Max?
A I'm general manager.
Q What store is it that you work at specifically?
A 2447 Boundary Street.
Q Is that here in Beaufort County?
A Yes, sir.
Q I'm going to hand you, sir, what's been marked first as State's Exhibit 30 for identification and ask you if you can identity that for me?
A That is application that we get the customers when

they come in to apply for a loan.
Q Is that application in any specific person's name?
A It says Rajerick Knight.
Q And are those records kept in the ordinary course of your business?
A Yes, sir.
Q And is that an accurate copy of the records you have on file for one Rajerick Knight?
A Yes, it appears to be the same.
Q And I want to also hand you what's been marked for identification as State's Exhibit 28 and ask you if you recognize that document?
A It is a title of a vehicle that we take in for the vehicle that the person using for collateral.
Q And can you give me the description of that vehicle based on the title that was taken in for collateral on a loan?
A It says it's a 1999 Ford Crown belongs to Rajerick Lovell Knight.
Q Does it give a license plate number or anything on it?
A No, sir.
Q All right. But that just list the owner's name who it's registered to and the title; is that correct?
A Correct and the lien holder.

THE COURT: What exhibit number is that?

MR. THORNTON: That is 28, Your Honor.

THE COURT: Thank you.

BY MR. STONE:

Q And is that also kept in the ordinary course of your business, sir, and your records?

A Yes, sir.

Q And has it been altered or changed in any way or is that an accurate copy?

A That's an accurate copy.

MR. THORNTON: All right. Your Honor, I ask that State's Exhibit 28 and 30 be entered into evidence.

THE COURT: Any objection?

MR. BAX: No, Your Honor, no objection.

THE COURT: Without objection State's Exhibit 28 and 30 admitted into evidence.

(WHEREUPON, State's Exhibits Nos. 28 and 30 were admitted into evidence.)

MR. THORNTON: Beg the Court's indulgence, Your Honor, one moment.

THE COURT: Yes, sir.

(WHEREUPON, a pause in the proceedings.)

BY MR. THORNTON:

Q Hand you what's been marked for identification as State's Exhibit 29, sir. Do you -- is that a document

that you're a copy of -- photo copy of something that you recognize?

A Yes, we take a photo copy or we scan a copy of the customer's driver's license to just provide identity to make sure that the correct person that's on the title, so it matches.

Q All right. And is that a copy of any particular person driver's license?

A The name on the license says Rajerick Lovell Knight.

Q And would that correspond to the costumer who got the loan with the Ford Crown Victoria that we just talked about?

A It corresponds to the paper documentation, yes.

Q Thank you, sir. Is that something you keep in the ordinary course of your business?

A Yes.

Q All right. Has it been altered or changed in any way or would that be an accurate copy of your records?

A That's an accurate copy.

MR. THORNTON: Your Honor, I ask State's Exhibit 29 be moved into evidence.

MR. BAX: No objection, Your Honor.

THE COURT: Without objection State's Exhibit 29 admitted into evidence.

(WHEREUPON, State's Exhibit No. 29 was admitted into evidence.)

BY MR. THORNTON:

Q And finally, sir, I'm going to hand you three photographs already into evidence, which is State's Exhibits 6, 7, and 8 and ask you if you can identify those from the records that you normally maintain?

A This appears to be the vehicles that are in our system that we take pictures of. We take three pictures of every vehicle that we do a loan on. These appear to be the vehicle, the same vehicle that we have in our system.

Q All right. And would that be the vehicle based on the paperwork that we just looked at for one Rajerick Lovell Knight?

A Yes, sir.

MR. THORNTON: All right. Thank you. I have no further questions. Please answer any questions Mr. Bax has for you, sir. Thank you, sir.

THE COURT: Cross-examination, sir?

MR. BAX: No cross, Your Honor. Thank you very much.

THE COURT: Sir, you may step down. Thank you. Thank you.

MR. THORNTON: Captain Rob Carson.

THE CLERK: Would you place your left hand on

the Bible and raise your right hand for me please, sir. Do you solemnly swear to truthfully answer all questions asked of you by this court so help you God?

THE WITNESS: Yes, ma'am.

THE CLERK: Please be seated, state your name and spell it for the Court.

THE WITNESS: Robert Carson C-A-R-S-O-N.

WHEREUPON,

Robert Carson,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. THORNTON:

Q Captain Carson, who do you work for, sir?

A Beaufort City Police Department.

Q And did you work Beaufort City Police Department on or about late July of 2011?

A Yes, sir.

Q And on or about excuse me -- about early August of 2011?

A Yes, sir.

Q And on or about August, I believe, the second 2011 did you take a trip to Jacksonville, Florida?

A Yes, sir.

Q And why did you go to Jacksonville, Florida?

A We were notified that a wanted person was there and

we responded to pick that person up.
Q And which wanted person was in Jacksonville, Florida?
A Mr. Rajerick Knight.
Q And who was it that was responsible for his arrest in Jacksonville, what agency?
A Well, I'm not sure exactly which agency.
Q That's fine. I'll ask Investigatory Dowling. Let me ask you a question, did you go to Jacksonville and pick up Mr. Knight?
A Yes, sir.
Q Did anybody go with you?
A Yes, Patrolman Shawn Alford and Investigator Josh Dowling.
Q Captain, I'm going to hand you what's been marked for identification as State's Exhibit Number 48. Can you identify that picture or that -- those two pictures for me on one page?
A Yes, sir. This is two photos. One is a front shot of Mr. Knight's face. And the side shot of his neck displaying the tattoo that he bares on his left side. And this is what the gentleman looked like when we picked him up.
Q All right. And when you say the gentleman who are you referring to?
A Rajerick Knight.

Q And is that how Rajerick Knight appeared when you found him in Jacksonville, Florida on August the 2nd of 2011?
A Yes, sir.
Q Is that a fair and accurate depiction of how he appeared that day?
A Yes, sir.
Q And can you -- I know it's a little blurry. Can you read what the tattoo says?
A Yes, sir. It's capital P and then it says peanut.
THE COURT: What exhibit number is that again?
MR. THORNTON: It's 48, Your Honor.
BY MR. THORNTON:
Q Captain, is that an accurate representation of how Mr. Knight appeared on August the 2nd 2011?
A Yes, sir.
Q Has it been altered or changed in any way?
A No.
MR. THORNTON: Your Honor, at this time I ask that State's Exhibit Number 48 be entered into evidence.
MR. BAX: Your Honor, I would object as I previously state to the Court 403 and relevance.
THE COURT: So noted for the record. Defense counsel's objection is noted for the record exhibit 48 is admitted into evidence over defense counsel's objection.

(WHEREUPON, State's Exhibit No. 48 was admitted into evidence.)

MR. THORNTON: Your Honor, I'm publishing to the jury now with the Court's permission.

BY MR. THORNTON:

Q And, Captain, let me ask you is that obviously accurate representation of State's Exhibit 48?

A Yes.

Q And the tattoo you referred to is the tattoo on the left side of the left side neck; is that right?

A Yes, sir.

MR. THORNTON: Captain, I have no further questions for you. Thank you very much, sir.

THE COURT: Cross-examination.

MR. BAX: Moments indulgence, Your Honor.

(WHEREUPON, a pause in the proceedings.)

MR. BAX: No questions for the witness, Your Honor.

THE COURT: Sir, you may step down. Thank you.

(WHEREUPON, the witness leaves the witness stand.)

THE COURT: Your next witness.

MR. THORNTON: Josh Dowling.

THE CLERK: Place your left hand on the Bible and raise your right hand for me please. Do you solemnly

swear to truthfully answer all questions asked of you by this court so help you God?

THE WITNESS: I do.

THE CLERK: Please be seated and state your name and spell it for the court please.

THE WITNESS: My name is Joshua Dowling, last name is spelling D-O-W-L-I-N-G.

WHEREUPON,

Josh Dowling,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. THORNTON:

Q Investigator Dowling, who do you work for?

A I'm employed with the City of Beaufort Police Department.

Q And did you work for the City of Beaufort Police Department in late July and early August of 2011?

A That is correct.

Q And as part of your job with the City of Beaufort Police Department, did you go to Jacksonville, Florida to pick up one Rajerick Knight?

A That is correct.

Q And when you went to pick up Mr. Knight, do you recall about what time he was incarcerated in Jacksonville?

A It was in the early morning hours.
Q And do you remember what day it was?
A Let me reference my notes and I'll be able to give you the exact date. He was arrested on July 29, 2011.
Q All right. You said sometime in the morning hours?
A That is correct.
Q Did you -- were you one of the people that picked up Mr. Knight in Jacksonville?
A I was present when he was picked up correct.
Q Did you then transport Mr. Knight to the Beaufort County Detention Center?
A Yes, he was transported back to Beaufort Detention Center, yes.
Q Were you present when any property from him was removed or taken from his person and placed into property envelopes at the detention center?
A I was present for that.
Q And was there a phone put into his property?
A There was.
Q And did you subsequently get a search warrant to search that phone?
A It was a search warrant obtained to seize the phone from the detention center and a search warrant to search the contents within the cell phone, that is correct.
Q Did you personally go and seize the phone out of the

property bag with that was belong to Mr. Knight?
A I did.
Q Is it the same phone that was placed in that bag in your presence?
A Yes.
Q I'm going to hand you what's been marked as State's Exhibits ---
MR. THORNTON: Court's indulgence, Your Honor.
THE COURT: Yes, sir.
(WHEREUPON, a pause in the proceedings.)
BY MR. THORNTON:
Q First is State's Exhibits 36, 37, 38 and 39. Would you look at those for me please and just answer if you can identify them?
A Yes, I can identify these photographs.
Q All right. And I will also ask you, sir, about -- I'm going to hand you 41, 42, 43 and 44 ask if you can identify those as well?
A Yes, I can identify those photographs as well.
Q And finally, sir, photographs 34 and 35?
A Yes, I can identify those photographs as well.
Q As to all of the photographs, I just referenced what are those photographs of?
A Those are photographs of images I took of the defendant's cell phone text message correspondence he had

on his cell phone.
Q All right. And are these accurate representations of the text messages -- the text messages pulled from that phone?
A That is correct. That's all those text messages were displayed in that photograph.
Q And have they been altered or changed in any way.
A No.
MR. THORNTON: Your Honor, at this time -- and forgive me I know there's several of them, Your Honor, I would ask to put into evidence and I'll take them to defense counsel momentarily State's 34, 35, 36, 37, 38, 39, 41, 42, 43, and 44 I believe are the reference numbers I have, Your Honor, ask that they be moved into evidence.
THE COURT: Any objection by defense counsel?
MR. BAX: I just want to verify those, Your Honor. No objection, Your Honor.
THE COURT: Without objection State's Exhibits 34, 35, 36, 37, 38, 39, 41, 42, 43 and 44 are admitted into evidence.
(WHEREUPON, State's Exhibits Nos. 34, 35, 36, 37, 38, 39, 41, 42, 43 and 44 were admitted into evidence.)
MR. THORNTON: Thank you, Your Honor. I will need to beg the Court's indulgence for one moment while I

get these back in order.

(WHEREUPON, a pause in the proceedings.)

MR. THORNTON: With permission, Judge, I'm going to publish these to the jury?

THE COURT: Yes, sir.

BY MR. THORNTON:

Q Now, with regards, sir, to 36 and 37, I'm going to hand you what's been marked and entered into evidence as 36 and 37. If you will look at 37. This an accurate representation of what appears in State's Exhibit 37?

A That is correct.

Q All right. And just in case someone in the back can't read it, what does that cell phone message say?

A Says at the bottom of it says, What's up with Karra.

Q All right. And is Little Jay the person that's it's to?

A That is correct.

Q I'm going to hand you, sir, what's been -- actually the rest of them I think, Investigator Dowling, are pretty clear. Let me just run through these.

A Yes, sir.

Q Now, Investigator Dowling, and can you see this from where you are?

A Not the first word, no.

MR. THORNTON: Your Honor, may I ask him to come

down briefly?

THE COURT: Yes, sir.

BY MR. THORNTON:

Q Investigator Dowling, just one question really. These messages there's -- saw that in State's Exhibits they are some with words and some just with other information would that be showing the time and the number of called and called from.

A That's correct. It's showing the same time incoming and outgoing times as depicted by the date and time.

Q All right. Thank you very much, if you take your seat. If you would go through these that are now into evidence and in the order that I have them, would you publish to the jury just in case they could not see some of it. What the information contained in those text messages outgoing from Mr. Knight was?

A The first one starts out with, What's up with Karra.

Q And I'll just go through. If you'll give me a moment to catch up, I'll go through them with you. All right, go ahead.

A This message was sent to Little Jay. The number is depicted above it. And it states, What's up with Karra. This was sent on July 28th 2011 at 12:55 p.m.

Q All right. What's next?

A The next message was sent on July 28th 2011 at

1:13 p.m. This was a message to Little Jay. It reads you sure Little Bro they hadn't questioned her?

THE COURT: What exhibits are you referring to there?

THE WITNESS: That's exhibit 38 and 39, Your Honor.

THE COURT: Thank you.

BY MR. THORNTON:

Q Investigator Dowling, if you would --

MR. THORNTON: I apologize, Judge.

BY MR. THORNTON:

Q Investigator Dowling, if you would when you read off what the information contain in it just reference the number on the front?

A Yes, sir.

Q Thank you. What's next?

A And on State's Exhibit Number 43 this was a message to Little Jay. And on State's Exhibit Number 44, it indicates that it was sent on July 28, 2011, at 2:57 pm and the message reads, Keep a close eye on Karra, Bro.

Q All right, sir. What's the next one?

A And referring to State's Exhibit Number 34 which indicates a message sent on July 28, 2011, and 3:01 p.m. in regards to Little Jay it reads, Don't let her see it, but watch her.

Q All right. And earlier you testified did you not Investigator Dowling that sometime in the morning hours of the 29th of July that Mr. Knight was arrested in Jacksonville, Florida; is that correct?
A That is correct.
Q Is there any text message that you show outgoing from that time?
A I do and that's going to be on State's Exhibit Number 41.
Q And what does text message say?
A It's a message to a -- it sent to a area code of 912 and it reads they got me. And this was sent July 29, 2011 and it was received -- it indicated it was sent out at 12:17 p.m.
Q Investigator Dowling, with connection with this case several of those text messages reference a Karra, are you familiar with who that is?
A I am.
Q And who would that be?
A Let me just reference her name one moment. I don't have her name immediately available. I believe her last name was Smalls.
Q All right. Would that be Shiecarra Smalls that you testified earlier?
A That is correct, yes.

MR. THORNTON: Other than that, I have no further questions. Thank you very much, Investigator Dowling.

THE COURT: Cross-examination.

MR. BAX: Thank you, Your Honor. May it please the Court.

CROSS-EXAMINATION

BY MR. BAX:

Q Good afternoon, Mr. Dowling?

A Good afternoon.

Q A couple questions for you. Were you assigned as -- I guess, you would refer to it as lead investigator on this case, Mr. Dowling?

A I was what's known as I was the on-duty investigator during this call week where we're assigned on a weekly basis to answer any calls that happened outside of the work hours or any violent calls or felony level cases during the day time, so I was on duty that week correct.

Q Okay. And I'm sorry so that is yes you were the lead -- you were assign this case to supervise this case as investigation; is that correct?

A I was the investigator who work that case correct.

Q Okay. As a result of that, did other officers give you the information that they found?

A Well, the case was broken up where different

investigators or different officers did different investigative routes to work on the case. There was various investigations that occurred.

Q So obviously, it just wasn't you working on the case. A lot of the other members of the Beaufort City Police Department also worked on aspects of this case; correct?

A Yes, it was several investigators and officers.

Q As the investigator in charge though, was that information relayed to you whenever someone else who had been delegated something to do they did it? Did they relay that they had done it and what it resulted in to you?

A For the most part, they would document in a police report and I could read that at a later date.

Q Okay. And so you had access to any reports that were made by other officers in relation to this case; correct?

A Yes, I did.

Q Okay. And did you review all the reports that were filed by other officers in this case?

A In respect to the City of Beaufort case?

Q Yes. The case that the investigation of the incident at Subway restaurant that we're talking about here today, did you review all the incident reports that were filed on that case?

A Yes, any documented evidence was consolidated into

one report where everybody's involvement is documented.
Q Okay. Now, you've testified that -- you said that Karra is Shiecarra Smalls. Where did you get that information from?
A Shiecarra Smalls she came forward to provide a voluntary statement about the events that had unfolded on that evening.
Q And were you present for the statement that she gave that was recorded?
A No, sir.
Q Okay. Have you listen to that recorded statement that she made?
A No, sir.
Q You haven't listened to the recorded statement that Miss Smalls made?
A No, I have not listened to the recorded statement, no, sir.
Q So you wouldn't know whether or not during that recorded statement that Miss Smalls made whether she ever said that she goes by Karra?
A Any information that I had received in regards to Miss Smalls would have been relaid by the investigators that dealt with that particular interview.
Q Do you have your files with you today, Mr. Dowling?
A I do.

Q Okay. Can you tell me -- can you show me in your incident reports where you were referred to talking to the investigators that did talk to Miss Smalls and them telling you that she said she goes by Karra? Can you show me that?

A Show you that specific sentence?

Q Yes. Yes, sir.

A Well, whatever is documented would be the -- whatever that particular investigator documented would be just simply in what's known as a supplemental report.

Q Did you ever read or were you ever provided a supplemental report by any investigator that said when they were discussing or when they were taking the statement from Miss Smalls that she identified herself as Karra said that she goes by Karra. Did you ever read a report that says that?

A It's a lot of information within this report. I can't remember that worded specifically.

Q Okay. And you testified that as lead investigator you never listen to the recorded statement of the witness that was supposedly with Mr. Knight at this incident; correct?

A That is correct. Typically, what we do on a major case especially like a murder case or attempted murder case, we have meetings with the other investigators to

discuss an overview of what they learned from their respected interview, some of these interviews can go on for extremely extended period of time. And it would just not be feasible to listen to every interview in great length. We have -- typically, we'll meet every morning on a case, especially a murder case and discuss what was learned during our investigation.

Q Well, despite those meetings, Officer, is it your testimony that you did not ever hear Shiecarra Smalls say that she goes by Karra nor can you tell us where you got that information from?

A Well, in respect to that text message, there was -- I can't recollect specifically, but I do remember that on correspondence on the phone. And based upon what information was relayed in regards to what Miss Smalls had relaid to those respected to investigators, that's the information we derived.

Q Which officers did she relay this too?

A If memory serves me correctly, I believe that Lieutenant Darrell Gruel and Tony Re were present for the interview of Shiecarra Smalls.

Q Okay. Which one -- did Detective Re tell you that he asked her if she goes by Karra and she said, yes, I go by Karra? Did Detective Re tell you that?

A I cannot recollect specifically. I ascertain that

specific information.
Q And you don't recall ever reading anything that says that?
A Not to my recollection.
Q And did Detective Gruel tell you that?
A Once again, I can't recollect specifically where I had ascertained that from. There was such an in flux of information coming during this time period, that I cannot recollect specifically who had told me that.
Q And I understand there was a lot of information, Officer. You understand this is a murder trial; correct? And that this person has been charged with murder; correct?
A Yes, I'm well aware of these charges.
Q And that we are trying this case to a jury and we have to go through the details of that; correct?
A Correct.
Q Okay. And that the details which could lead to the conviction of a person for murder, the highest crime in this state ---
MR. THORNTON: Objection, Your Honor.
Q --- is based on the details?
THE COURT: Hold on a minute. He's made an objection.
MR. BAX: I'm sorry I wasn't finished with the

question, Your Honor.

THE COURT: Can you all approach a minute?

(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)

BY MR. BAX:

Q Let me back up, Investigator Dowling. Obviously, in preparing for or investigating this case, you were aware that it could have gone to trial; is that correct?

A Yes, any charges that we make obviously stand a chance of coming to trial correct.

Q Okay. And you have testified to these exhibits that are still up here that reference someone name Karra spell with a K; correct?

A Yes, correct.

Q But can you specifically tell us where you got the information that Shiecarra Smalls, which by the way is not spelled with a K goes by Karra spelled with a K?

A I cannot recollect specifically, but that's the information that I was made aware of. I just simply do not recollect where I ascertain that from.

Q And your testimony is that you did not listen to the audio recording of Miss Smalls' statement, so you couldn't tell us that she actually never makes that statement during her recorded statement. You can't testify to that

because you didn't listen to it; is that correct?
A That's correct. I didn't have an opportunity to listen to the audio recording; correct?
Q And my client, Mr. Knight, was you arrested as you've already testified to on the 29th of July 2011; correct?
A That is correct. He was arrested down in Florida.
Q Okay. After, Mr. Knight, was arrested, did you do anything else on this case at that point?
A Yes, we -- after his arrest in Beaufort Detention Center, we had executed a search warrant for a cell phone, yes, in that respect.
Q Now, ask you couple other questions. Now, at any time, did you conduct any searches of any vehicles in this case, Investigation Dowling?
A I did.
Q Okay. Did you at any time investigate or search the vehicle that belong to Mr. Travis Holmes?
A I did.
Q Can you tell us what you found in that car please?
A There was narcotics, suspected narcotics that was found?
Q Can you tell us exactly what you found please?
A I believe it was suspected crack cocaine that was found.
Q Anything else?

A I believe suspected marijuana was founded.
Q Okay. Now, Investigator Dowling, at any time during your leading up to the arrest of Mr. Knight in this case you've already testified to, were you ever contacted by anybody who told you they were Mr. Knight's mother asking about how he could turn himself ---
MR. THORNTON: Objection, Your Honor, that's hearsay.
THE COURT: Objection sustained.
BY MR. BAX:
Q Were you ever contacted by anybody saying they were with Mr. Knight's family?
MR. THORNTON: Objection, Your Honor, it's still hearsay.
MR. BAX: Your Honor, I'm not asking for him to say what she said.
THE COURT: Objection overruled.
MR. BAX: Thank you.
BY MR. BAX:
Q I'll rephrase the question or restate the question. Were you ever contacted by anybody who was Mr. Knight's family?
A There was a party that had contacted me alleging to be a family member, yes.
MR. BAX: Moment's indulgence, Your Honor.

THE COURT: Yes, sir.

(WHEREUPON, a pause in the proceedings.)

MR. BAX: Moments indulgence, Your Honor.

THE COURT: Yes, sir.

(WHEREUPON, a pause in the proceedings.)

MR. BAX: My apologies trying to find a piece of paper. Let me ask if I can approach the witness, Your Honor?

THE COURT: Yes, sir.

MR. BAX: Thank you.

BY MR. BAX:

Q Okay. I'm going to hand you this to see if you recollect -- in case you need to refresh your memory. You've testified that you read through all the incident reports that were filed in this case even the ones filed by other officers. Do you recall ever looking at a report like that from Officer Erdel.

A Yes, I recollect those as part of the extensive investigative notes correct.

Q Okay. Did you ever contact -- as a result of that, you became aware of the fact that the sheriff's deputy John Gobel had contacted Erdel; is that correct?

A That's what Investigator Erdel had indicated, yes.

Q Did you ever make contact with Investigator John Gobal with the sheriff's department to follow up on that?

A There had been correspondence in regards to this case with the Beaufort County Sheriff's Office?
Q Did you ever contact the sheriff's department Investigator John Gobal about the matter that you hold in your hand? Yes or no?
A I can't recollect whether I spoke to him specifically. I had spoken to several investigators over there.
Q Okay. Let me ask one more time, can you recall if you ever spoke to Investigator John Gobal with the sheriff's department about that matter?
A There had -- as I stated before, I had spoken to several investigators during this case over at Beaufort County Sheriff's Office, so if I spoke to him specifically I just can't recollect.
Q So you can't recall whether you spoke to him. I'm just trying to clarify your answer. I'm confused.
MR. THORNTON: Objection, Your Honor. I don't think there's anything confusing. He said three times he didn't recollect specifically that investigator.
THE COURT: Question has been asked and answered.
BY MR. BAX:
Q Investigator, did you ever attempt to look for Darrien Hutchinson?

A No.
Q And why not?
A Because I had no need to speak to him.
Q Okay. So if you gotten information from another officer during ---

MR. THORNTON: Objection, Your Honor. It's hearsay and relevance.

THE COURT: Can you all approach please?

(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)

THE COURT: All right. Ladies and gentlemen, I'm going to have to ask you to step to your jury room for just a minute while we take up a matter of law outside of your presence. Do not discuss the case until instructed to do so. We will get you back out here as quickly as possible.

(WHEREUPON, the jury retire to the jury room.)

THE COURT: Restate your question again, Mr. Bax.

MR. BAX: Your Honor, since we are outside the presence of the jury, I was asking Investigator about a supplemental report that would have been filed on this case by another officer in the Beaufort City Police Department who I intend to call as a witness. I have

under my own subpoena. I think he's probably under state subpoena as well. I was asking him about a supplemental report that provides information about another person providing information on the case name Darrien Hutchinson. I was asking whether he followed up with that. And when he stated no, I was trying to ascertain why.

As to the issue of third-party guilt that's been raised by the Solicitor, Your Honor, it does not have anything to do with third-party guilt because if they had -- and I'm certain that it's one of those things that's in the discovery. I don't know if they recall reading. I'm sure they looked at it before. And I can reference the page number of the discovery if I can look back at the document, but it references information provided to a sheriff's officer about the background of the case name Darrien Hutchinson not somebody who's guilty of it or even that I'm going to say is guilty of it. The page, Your Honor, for purposes of discovery is 162.

MR. THORNTON: Your Honor, if I could have a moment that would have been nice to know ahead of time. We turned over about 700 pages, so it's kind of hard for me to be able to accurately reference something that he didn't show me before he gave it to the witness. I'll be happy to pull that out.

THE COURT: If you will give the State, let them

look at what you're looking at or holding in your hand.

MR. THORNTON: Your Honor, and this is -- there was one -- I took a guess. I had a 50/50 shot and I guessed incorrectly. This document relates to the information -- relates to allegedly getting the information regarding a prior shooting, which Your Honor hasn't even admitted into evidence yet and that's exactly the kind of back dooring in of information that I was concerned with, you know, for the first part. I got to object blindly because he's attempting to get in and say that somebody -- a random person that he's named now in the report calls in a detective and says, Oh, this shooting stems from a prior shooting involving a girlfriend. And this is exactly the kind of incident that we're talking about where he's going to attempt to assassinate the character of the victim and you haven't even allowed it into evidence yet, so I've got to object blindly.

In addition, it's double hearsay. He's asking him about a conversation between another person and a third person. So I would object on hearsay grounds. I would object on the fact that we haven't had any hearings about the evidentiary or whether you're going to admit this prior incident or prior shooting or not if this references a different shooting, I would also ask the

Court to take note of the fact that this is -- that Mr. Bax indicated that the only shooting or the only other incident of conduct he would be talking about would be the May 2011. So if it is that one, we haven't gotten there yet. If it isn't that one, then that's not what Mr. Bax referenced when we were in chambers. Those will be my objections, Your Honor.

MR. BAX: Your Honor, in response, I certainly I strenuously disagree with the idea of back dooring, this is their discovery. This is straight from the investigative file on this case from Beaufort City Police Department that was provided to me by the State. I'm not exactly sure how I'm going to back door their own information in on them first and foremost.

Second of all, Your Honor, this is information that was provided to the lead investigator prior to me ever becoming the attorney on this case. I think it's absolutely fair for me to ask whether or not he followed up on it and why not. That goes to the integrity of the investigation and it goes to the heart of this case. We don't know exactly what Mr. Hutchinson was referencing or what he was talking about with the deputy because he never followed up on it. And this is within the law enforcement community that investigated this. And this is information I been provided by the Solicitor's office. This is stuff

that I would have had before getting anywhere else from my own investigation this is right here. And I think that the defense has the right to an investigator especially the lead investigator about what they did and did not do, that's the core of any criminal case whether I have an affirmative defense or whether I just want to seek to cast reasonable doubt,that would be the core of any defense.

MR. THORNTON: Your Honor, briefly in reply, when I'm referencing back dooring something in, we turn over everything. Just because I've turned it over to him, doesn't make it admissible in court. And it's patently ridiculous to get up and argue that double hearsay out of a report that he didn't write is admissible because we gave it to him in discovery. The rules of evidence still do apply. We turn over all documents.

MR. BAX: And, Your Honor, just briefly, when it comes to the hearsay issue, I don't think I gotten into hearsay. For one thing, I'm not trying to introduce any statement made for the truth of the matter asserted. Your Honor, what I'm trying to do is find out what he did and what he didn't do and why he didn't do it because that goes to the core of the integrity of the cases being put up by the Solicitor's office.

THE COURT: Well, I don't know, Mr. Bax, you've conveyed to the Court that you're simply trying to

determine what he did and what he didn't do in his investigation.

MR. BAX: That's correct, Your Honor.

THE COURT: Whether or not he spoke to Darrien Hutchinson.

MR. BAX: Your Honor, I'll be happy to pass this document up just in case you need to take a look at it. I know it's difficult to make rulings blind as Your Honor said before. I apologize.

THE COURT: I mean, you're not moving to introduce it.

MR. BAX: I'm not moving to introduce it. I'm merely asking him based on that information, that's correct, Your Honor. And, obviously, as I've said, Officer Erdel is available for me to call, which I intend to do.

THE COURT: Mr. Thornton, do you have an objection to him even asking if he spoke to a Darrien Hutchinson?

MR. THORNTON: I don't, Your Honor. What my objection to was when he said -- again, Your Honor, I have to try to step in front of it. The way the question was being phrased it appeared to me what he was going to ask him is did you talk to this person about -- and if he's going to be able to read through the document. I mean,

it's no different than admitting it into evidence.

THE COURT: I'm not going to allow you to testify or bring out what the second and third party said. I will certainly allow you to ask whether or not he spoke to this individual in his investigation, but that may be something that you can clear up through this other officer depending upon what I ruled at that time. I mean, I will allow you to ask him whether or not he spoke to Darrien Hutchinson.

MR. BAX: Thank you, Your Honor.

THE COURT: Am I clear on that?

MR. THORNTON: Yes, sir.

MR. STONE: Thank you, Your Honor.

MR. THORNTON: I don't object to that, Judge.

THE COURT: Okay. Anything else at this time?

MR. BAX: No, Your Honor.

MR. THORNTON: No, sir.

THE COURT: We will stand down for few minutes. You can step down, but you are not to discuss your testimony with anybody. When I come back in, you need to take the stand before the jury comes back in. I'm going to stand down for a few minutes.

(WHEREUPON, a break was taken.)

THE COURT: State's ready to proceed?

MR. THORNTON: State's ready, Your Honor.

THE COURT: Defense counsel ready to proceed?

MR. BAX: Yes, sir.

THE COURT: Any questions about my ruling that? I mean, I think you're on the same page. It's just a matter of getting there, okay.

I remind you you are still under oath, okay.

MR. DOWLING: Yes, Your Honor.

THE COURT: Bring me the jury please.

(WHEREUPON, the jury came into open court.)

THE COURT: All the jury present, Mr. Bax, you may continue cross-examination.

MR. BAX: Thank you very much, Your Honor.

THE COURT: Yes, sir.

CROSS-EXAMINATION CONTINUED

BY MR. BAX:

Q Going back to what we are on before the jury exited, Investigator Dowling. And I can hand this back to you. It is not evidence in the case, but it's for your purposes. Did you speak with Darrien Hutchinson?

A No.

Q Why not?

A There was no reason to speak to him.

Q Okay.

MR. BAX: And I'm going to get that back from you if that's all right. Thank you very much.

No further questions, Your Honor.

THE COURT: Any redirect?

MR. THORNTON: None, Your Honor. Thank you.

THE COURT: Sir, you may step down.

(WHEREUPON, the witness leaves the witness stand.)

MR. STONE: The State calls Investigator Tony Re to the stand.

MR. BAX: Your Honor, if I could and I meant to say this before. We would ask that Investigator Dowling be subject to recall if there's no objection from the State?

MR. THORNTON: No objection from the State, Your Honor.

THE COURT: So granted.

MR. BAX: Thank you, Your Honor.

THE CLERK: Would you place your left hand on the Bible and raise your right hand. Do you solemnly swear to truthfully answer all questions asked of you by this court, so help you God?

THE WITNESS: Yes, I do.

THE CLERK: Please be seated, state your name and spell it for the Court please.

THE WITNESS: Tony Re, last name is R-E.

WHEREUPON,

Anthony Re,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. STONE:

Q Investigator, you are with the City Police Department; is that correct?

A Yes, sir.

Q How long have you been with them?

A Six and a half years.

Q You were working in July of 2011 as an investigator?

A Yes, sir.

Q Okay. And in your capacity, did you view the crime scene, did you take -- not necessarily take photographs, but were you present when photographs were taken of the crime scene after the event?

A Yes, sir.

Q Okay. Let me show first of all what has been marked ---

(WHEREUPON, State's Exhibits Nos. 50 and 51 were marked for identification only.)

MR. STONE: And, Your Honor, I've just shown this to the defense as State's 50 for identification. We plan on using this as demonstrative aid. It is not going to be a piece of evidence, but let me show you this and ask did you create this?

A Yes, I did.
Q Would that aid and assist you in your testimony today?
A Yes, it should.
MR. STONE: Your Honor, permission to use this as an exhibit again. I will not be admitting as evidence.
MR. BAX: No objection to demonstrative purposes, Your Honor.
THE COURT: Without objection, yes, sir, you may step down.
MR. STONE: If I could get you to step down from the stand, Your Honor, permissible.
THE COURT: So granted.
BY MR. STONE:
Q This again I'm showing you what has been marked as State's Exhibit for identification only Number 50. Could you tell us what this is? This is a drawing, obviously, it's not to scale but something you created; is that correct?
A Yes, it is.
Q Okay. Could you tell -- point out please and I'll give you this if you need it to show the jury what this is?
A This right here will be the entry to Subway. This, of course, is the dining area. This area in here will be

where you order the food. The area back here is where the workers prepare the food. This area back here is where refrigerator is one right here what I call refer (sic). And this is just a hallway in here that goes back to an employee area of the back room.

Q Now, while you were there, let me show you what has been marked as State's Exhibit 20 ask if you can identify that please?

A That will be the entry for the bullet closest to the cash register.

Q All right. And is that a fair and accurate depiction of how that scene looked the night when you were there?

A Yes, sir.

Q Let me show you also what's been marked as State's Exhibit 21 ask if you can identify that?

A That will be the opposite side of the wall in the area where the refer (sic) is, that will be the exit hole from that same hole.

Q Okay. And State's Exhibit 22?

A That would be the refrigerator, the refer (sic) and that would be where the bullet struck the ---

Q The door?

A Yes, sir.

Q These three that I just showed you are they fair and accurate depictions of the scene as you saw them that

night?
A Yes, sir.
MR. STONE: Your Honor, at this time we move State's Exhibit 21 and 22 and 20 into evidence.
THE COURT: Any objection?
MR. BAX: If I can look at those real quick to make sure I remember which ones they are. No objections, Your Honor.
THE COURT: Without objection State's Exhibit 20, 21, and 22 admitted into evidence.
Investigator Re, I would ask that if you are utilizing that demonstrative evidence make sure that you're not blocking the view of any of the jurors, forelady and those right there directly behind you please, sir.
(WHEREUPON, State's Exhibits Nos. 20, 21 and 22 were admitted into evidence.)
BY MR. STONE:
Q All right. What is showing on the monitor is State's Exhibit 20, could you tell me first of all where is it on this drawing? And you're pointing to this X that's right next to the left of the cash register; is that correct?
A Yes, sir.
Q Now, previously we entered into evidence State's Exhibit Number 45, which is now showing on the monitor as

well. Could you point out exactly where this bullet hole is?
A It was the same spot right there.
Q And can you direct us to this on this photograph? Is that this right here?
A Yes, sir, that would be that hole right there.
Q Okay. All right. State's Exhibit 21 which has been entered into evidence. If you could and I'll show you the monitor. Could you tell me what this is?
A This will be the exit hole on the opposite side of this wall.
Q That's where the bullet passed through going out?
A Yes, sir.
Q And this is this mark that you have indicated bullet hole exit from wall hole number two; is that correct?
A Yes, sir.
Q Then again I will go now to State's Exhibit 22. Tell me what that is please, sir?
A That will be where the bullet struck the refrigerator.
Q All right. And that is indicated on the diagram as bullet incident that refer hole number three; is that correct?
A Yes, sir.
Q Now, sir, I'm going to show you what's been marked as

State's Exhibit 16. This has already been introduced into evidence. If you could tell, sir, what that depicts?

A What it depicts is this is this side of the wall where the bullet entry was observed in the photo ---

Q And this is indicating -- and I don't mean to interrupt you, but that's hole number one?

A Yes, sir, I identify it as hole number one and I stuck a green rod very similar to this through that hole and it went through the hole exit out the hole number two on the other side.

Q Straight through?

A Yes, sir.

Q And this is that there?

A No, sir, it was a metal rod that's to figure out bullet trajectory.

Q And you put that in?

A Yes, sir.

Q And you also have a ruler or a yardstick in this as well?

A Yes, sir.

Q Tell me about that?

A We used the yardstick to show the height from the counter to where the bullet struck into the wall.

Q Okay. All right.

MR. STONE: And that, Your Honor, has already

been admitted into evidence as State's Exhibit Number 16.
BY MR. STONE:
Q We show you what has been marked as State's Exhibit 46A and 46B. Could you tell me if you could recognize those two photographs?
A This was done at the same time as that photo. This will be the opposite side into the refrigerator and room. The string was tied to the end of that rod and brought forward to where the bullet struck into the refrigerator.
Q And are these fair and accurate depictions of these scenes after you put those strings -- strings put through the holes?
A Yes, sir.
MR. STONE: Your Honor, at this time we move State's Exhibit 46A and 46B into evidence.
MR. BAX: Your Honor, subject to my objection.
THE COURT: Subject to defense counsels prior objections State's Exhibits 46A and 46B are admitted into evidence.
(WHEREUPON, State's Exhibits Nos. 46A and 46B were admitted into evidence.)
BY MR. STONE:
Q Okay. We go to 46A first of all and that's on the monitor now. Tell me what this string -- what is this showing?

A The string, of course, is connected to the other side of the rod what I did was I just set the camera up ---
Q Let me interrupt you and I apologize. You talking about the rod that you just referred to the green rod that you stuck into the hole?
A Yes, sir.
Q Go ahead?
A And I took a camera and placed it on top of the string where it indented at the refrigerator and took that picture up the line.
Q So this is basically a line from where the bullet exited the wall and then hit the refrigerator?
A Yes, sir.
Q Is that correct?
A Yes, sir.
Q And then the next photograph would be State's Exhibit 46B. Tell us what that is, sir?
A That would be opposite the view at the bottom of the screen, that would be the end of the rod, the tip of it where the string is tied to it. Then at the end I put the camera on top of the rod and the string. And then took a photo towards where the bullet -- the trajectory went and struck the refrigerator.
Q As I'm looking at this exhibit that's the only thing, I think it's 46B. Is this the handle of the refrigerator

here?
A Yes, sir.
Q Basically almost at the very center of the photograph; is that correct?
A Yes, sir.
Q Where is that as far as the body is concern? How tall is that?
A It's probably about up here.
Q About mid chest or almost the lower part of the chest?
A Being close to four feet, three half feet, four feet.
Q And the spring, the orange string is indicating the bullet path in that direction?
A Yes, sir.
Q Show you what's been marked as State's Exhibit 24 and State's Exhibit 25 ask if you can recognize those photographs?
A Yes, sir, when I was taking photos of the scene, one picture this picture here 25 would be the bullet that was found on the floor, which was indicated bullet jacket, that came through the wall had refer and ended up at that spot.
Q And the other photograph?
A That's just a farther away photo of it, which encompasses we see part of the refrigerator down there.

Q All right. And this is a fair and accurate depictions of the scene that you saw that day?
A Yes, sir.
MR. STONE: Your Honor, we move at this time State's Exhibit 24 and 25 into evidence.
MR. BAX: No objection, Your Honor.
THE COURT: Without objection State's Exhibit 24 and 25 into evidence.
(WHEREUPON, State's Exhibit Nos. 24 and 25 were admitted into evidence.)
BY MR. STONE:
Q Let me go first to State's Exhibit 24 and I know you showed this to me, but tell the jury if you would what is this again?
A This is a picture from back further where the bullet jacket was at and found it located on the ground next to number three?
Q On your chart, where is that?
A Bullet jacket.
Q This appears to be in a different room; is that correct?
A It's in the same room.
Q This front area here which you have written across bullet hole entry and the hall, that is the front of the counter; is that correct?

A Yes, sir.
Q And then this box here what is that?
A That would be the cash register.
Q I see. And then the wall that separates the cash register from this other area in here; is that correct?
A Yes, sir.
Q All right. And then that is a separate ---
A That's open wall right there.
Q I see. So we go back to State's Exhibit 24 and be clear this is the cash register looks like the drawer is open here?
A Yes, sir.
Q This is how you found it when you got there?
A Everything was as I took pictures of it. I believe SLED took this photo, that depicts what I observe.
Q This is the wall here and this is the section behind that wall?
A Yes, sir.
Q And then going next to State's Exhibit 25, tell me what that is please, sir?
A That would be the bullet jackets found on the floor and, of course, the cup is next to it everything is found where it was at.
Q That has already -- that's what appears to have pass through this wall here and landed here; is that correct?

A Yes, sir.
Q And I say here, but for the record, that's where you have a marked bullet jacket?
A Yes, sir.
Q And that is the floor basically right in front of the refrigerator?
A Yes, sir, and, of course, this is approximate.
Q I see. Let me show you what has been marked as State's Exhibit Number 26 ask if you can identify that please, sir?
A That was a photo taken, I believe, by SLED again. These are there numbers that they place down and it was used to determine or show some of the spots of blood and also some of the shadows because the foot impressions on the floor leading from the cash register area all the way out the front door and they mark those areas.
Q Now, the markers are in SLED's markers. Were you there when this is done?
A Yes, sir, I was. I was there the entire time.
Q All right. Is that a fair and accurate depiction of the crime scene?
A Yes, it is.
Q Okay.
MR. STONE: We move at this time, Your Honor, State's Exhibit Number 26.

MR. BAX: No objection, Your Honor.

THE COURT: Without objection -- what number is it again?

MR. STONE: This is State's Exhibit 26, sir.

THE COURT: State's Exhibit 26 admitted into evidence without objection.

(WHEREUPON, State's Exhibit No. 26 was admitted into evidence.)

BY MR. STONE:

Q On your chart, can you just make sure that I'm on the same page on this. What we're showing up on the chart is State's Exhibit Number 26. What area is this showing here on your diagram?

A This would be the customer area if that's what you're asking?

Q Yes.

A If you're looking at that photo, of course, reading right down the line A is close to this chair here.

Q Which is out in the front and this goes all the way back to the cash register?

A You can tell it goes from A on up right down to the cash register.

Q All right. Let me show you what's been marked as State's Exhibit Number 23 ask if you can identify that please?

A Yes, sir, that would be the shell casing that was left behind from the suspect.
Q And that is a fair and accurate depiction of where that was found the night of this crime?
A It appears to be. It's a close up shot.
Q Is it a fair and accurate depiction of the scene as you saw it?
A Yes, sir.

MR. STONE: Move at this time, Your Honor, State's Exhibit Number 23.

MR. BAX: No objection, Your Honor.

THE COURT: Without objection State's Exhibit 23 admitted into evidence.

(WHEREUPON, State's Exhibit No. 23 was admitted into evidence.)

MR. STONE: Go back one please.

BY MR. STONE:
Q That is number two back in the back. Is that the same number two depicted that is depicted in State's Exhibit 23?
A Yes, sir, it is.
Q And that is the shell casing?
A Yes, sir.
Q All right. And that on your diagram is what?
A It is right here.

Q This is what is listed as a .40 caliber bullet casing here?
A Yes, sir.
Q And I show you State's Exhibit Number 32 and ask if you can identify that please?
A This was a $20 bill that was found on the floor right next to the chip stand, which is the chip basket here and it had blood on it.
Q And this is a fair and accurate depiction of the scene as you saw it?
A Yes, sir.
MR. STONE: State's Exhibit 32, Your Honor, we move that into evidence.
MR. BAX: No objection, Your Honor.
THE COURT: State's Exhibit 32 admitted into evidence without objection.
(WHEREUPON, State's Exhibit No. 32 was admitted into evidence.)
BY MR. STONE:
Q Okay. Let me go back State's Exhibit Number 26. I see in the top left up here is the -- it's right in front of the cash register number one. Is that correspond to State's Exhibit Number 32?
A Yes, sir.
Q And that's the number one marker there?

A Yes, sir.
Q And that's the $20 bill as you saw it that day?
A Yes, sir.
THE COURT: Ma'am, you on the end can you see okay?
I didn't know, Mr. Bax, if your arm holding that right there.
MR. BAX: I'm trying not to obstruct the view, Your Honor.
MR. STONE: Thank you, Investigator, if you will answer any questions Mr. Bax has.
THE COURT: Cross-examination.
MR. BAX: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. BAX:
Q Okay. Investigator Re, I want to go to a couple of the exhibits that we talked about here today. Specifically, the exhibits that show the -- I think you refer to it as a trajectory rod or trajectory kit; is that accurate?
A Yes, sir.
Q And where does that kit come from, is that something that SLED provide?
A At the time of the incident, we didn't know we had one, but we did locate one in one of our storage

facilities. And when I was asked by the Solicitor's office to write the check, we do have that on hand at the police department store now, so that's what I used.

Q And that's what's shown in State's Exhibit 16 and then 46A and 46B; is that correct?

A Yes, sir, and the only thing from the kit is the rods and the strings and the rollers was extra.

Q Now, Investigator Re, what was the date that -- what day was it when you went to the Subway restaurant and used that kit and put it through the wall and tied a string on to the pictures?

A The 20th of this month.

Q November 20th 2012?

A Yes, sir.

Q Okay. So roughly sometime last week if I'm; correct?

A Yes, sir.

Q This incident when SLED was taking the photographs that we've talked about that occurred according to the testimony on July 26th 2011; is that correct?

A Yes, sir.

Q Okay. In the intervening time between July 26th of 2011 and November of 2012, was there any police presence at the Subway?

A Not on a continuous basis, no, sir.

Q Was there anything left to mark off that pole and say

don't touch this, don't mess with this, don't stick pencils in it?
A When we returned on the 20th, when you look at the refer pictures that tape that was around the string that was actually left there by SLED?
Q Okay. So that ---
A So that was still in place.
Q Let me refer to that, I think that's in this one right here. This is the tape and that tape just has measurements like inches or centimeters on it; is that correct.
A Yes, sir, we just use that tape for photographic purposes to determine the size of the hole and plus it also has the white and black on the tape itself, so it helps the picture, but that's the exact same tape that was used that night.
Q Does that tape that has the measurements on it, does it say police don't mess this, does it say police do not remove?
A No, sir.
Q Does not say that. And let me ask this again cause I don't know if we got to the answer. Around the hole in the wall the one that has the facade because I think that's a brick facade; correct? That's not actual brick?
A It's not, it's like a wallpaper.

Q Okay. So with the wallpaper that looks like brick on one side and the interior of the wall on the other side, was there anything marking that to the public to say don't mess with that?
A No, there wasn't.
Q And it was not -- was there any instructions ever given to Subway to say make sure nobody messes with this when I come back?
A Not that I'm aware of, no.
Q So has anybody mess with that hole in the intervening year and a half?
A I would not have a clue on that one.
Q Are you aware of anything that might have -- I mean, are you aware of anybody else having done that? Are you aware of anybody else having done that?
A Made the holes?
Q No, telling Subway to maintain it in any kind of way?
A I'm not aware of it, no.
Q All right. Now, and you were there as you testified before you witness SLED officers from SLED, agents, I guess, we should call them conducting a crime scene investigation on sight; correct?
A Yes.
Q Okay. Did you ever to speak to any of them about whether they had a trajectory kit with them?

A I didn't. All I was doing was observing everything that they did, no. That was their scene and they conducted all of that so...
Q Investigation Re, let me ask you this, were you present for an interview that was conducted at a law firm in Bluffton of Shiecarra Smalls?
A Yes, I was.
Q Was that interview was it recorded in any way?
A Yes, sir, it was recorded on a little recorder that we use.
Q Okay. That recording do you have any personal knowledge about what happened to that recording, was it placed into evidence or not, do you know?
A Yes, sir, a similar recorder like that one I brought back to the police department and downloaded it on the computer and then transferred it to a CD which I put into evidence.
Q Okay. During the course of that interview, did you ever ask Miss Smalls if she goes by Karra?
A No, I did not.
Q And did you ever inform Investigator Josh Dowling, we recorded the interview and it's on the computer?
A I'm sure I did tell them that we do have a recording of it, yes.
Q Okay. And did you ever discuss with Investigator

Dowling the interview, go and tell him we conducted this interview have a meeting with them about it?

A I would assume, yes.

Q Do you recall if you ever told him that Shiecarra Smalls says she goes be Karra?

A No.

MR. BAX: Moment beg the Court's indulgence, Your Honor?

THE COURT: Yes, sir.

MR. BAX: No further questions. Thank you, Investigator.

THE COURT: Any redirect?

MR. STONE: Just very briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. STONE:

Q State's Exhibit 50 and that is an exhibit. When did you prepare this one?

A I do not remember the exact time it was shortly thereafter.

Q Thereafter when?

A After July 26.

Q After the incident?

A Yes, sir.

Q And these other items that are depicted except for the stringed items those are photographs taken that night

of the event?
A Yes, sir.
Q And any other bullet holes through that wall that you be confused about if you picked the right one?
A No, sir, it appeared bullet less throughout the whole wall except for that one.
Q Can you tell me -- and I show you State's Exhibit 16 the defense show you. Can you tell me -- I see you have a yard stick there. Can you tell me what inch that is where the hole goes in?
A Appears to be 13.
Q And that's 13 inches over the top of the counter; is that correct?
A Yes, sir.

MR. STONE: I don't have anything else?

MR. BAX: Briefly, Your Honor.

RECROSS-EXAMINATION

BY MR. BAX:
Q Investigator Re, one quick question. Did you measure how high the counter was, sir?
A I believe there is a picture in there with the yard stick next to the counter.
Q Do you recall what the measurement was, sir?
A I believe it was right there at the top of the yard stick 36 inches.

Q So roughly three feet?

A Yes, sir.

MR. BAX: Okay, thank you very much. No further questions.

THE COURT: Sir, you may step down. Thank you.

(WHEREUPON, the witness leaves the witness stand.)

MR. STONE: Your Honor, the State calls Dr. Nicholas Batalis to the stand.

THE COURT: While he's approaching, could the lawyers approach please.

(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)

THE CLERK: Do you solemnly swear to truthfully answer all questions asked of you by this court, so help you God?

THE WITNESS: I do.

THE CLERK: Please be seated and state your name and spell it for the court please.

THE WITNESS: My name is Nicholas Ike Batalis B-A-T-A-L-I-S.

WHEREUPON,

Dr. Nicholas Ike Batalis,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. STONE:

Q What did you say your name is? What's your middle name?

A Ike.

Q Ike I-K-E?

A Yes.

Q That's my son's name. I just had to ask that, I apologize. I did not know that. Dr. Batalis, what do you do, sir?

A I'm a forensic pathologist.

Q And what exactly is a forensic pathologist?

A Pathologist is a medical doctor who specializes in an area of forensic pathology. Pathology is a medical specialty that involves the study and diagnosis of disease, so a general pathologist would be one who would look at a biopsy if a surgeon takes something out to determine if there's cancer or not or help your doctor interpret blood test if you have that sort of thing done. Forensic pathology is a subspecialty of that which deals with the legal side of medicine. And usually for the most part performing autopsies to determine the cause and manner of death.

Q This something you have done for how long?

A I've been on staff at MUSC for about five years now.

Q And that is the Medical University of South Carolina in Charleston; correct?
A Yes.
Q All right. Now, what type of educational background did you have in order for you to be a forensic pathologist?
A So after completing college, then went on to four years of medical school. After that, then completed a four year residency in general pathology down in Charleston at the Medical University of South Carolina. After those four years, then past a board examination, become board certified in general pathology. And then went on to do a one year specialize training or will be called fellowship in forensic pathology in Dallas, Texas, Dallas County Medical Examiner's office. Again after that year, I took another board examination become board certified at that point and then return to Charleston to take my current position.
Q Have you been qualified in court before as an expert in the field of forensic pathology?
A Yes, several times in South Carolina and also in North Carolina and Texas.
MR. STONE: Your Honor, at this time we offer Dr. Batalis as an expert in the field of forensic pathology.

MR. BAX: No objections, Your Honor.

THE COURT: All right. Before you go any further, let me tell you all, ladies and gentlemen, normally a person cannot give opinion testimony. Normally, when a person testifies, they must testify as to what they either saw, heard or sensed by smell or something of that nature.

However, there is an exception when someone is qualified because of education or experience. They are permitted to give their opinion in certain areas if the court qualifies them that way. This witness is being qualified as a forensic pathologist to give opinion testimony in that area, that does not mean, ladies and gentlemen, that you must accept the opinion, but it is evidence for you to use in any way that you see fit and give it the weight and credibility you believe is appropriate.

Mr. Stone.

MR. STONE: Thank you, Your Honor.

BY MR. STONE:

Q Did you do a forensic interview or not interview, but forensic evaluation of Travis Holmes?

A Yes, I did on July 27th 2011.

Q And that was at the Medical University of South Carolina?

A Yes, it was.
Q Charleston?
A Yes.
Q What were your findings as to that?
A The major finding in this autopsy was a gunshot wound of the left side of the chest.
Q Was that the cause of death?
A Yes, it was.
Q Now, let me first show you what has been marked as State's Exhibit 33 ask if you can identify that photograph, sir?
A Yes, this is a photograph I took of the body before we did any exceptions after the body was cleaned up of the photograph of the left side of the body where -- specifically of the gunshot entrance wound.
Q That is a fair and accurate depiction of the body as you saw it that day?
A Yes.

MR. STONE: Your Honor, at this time we move State's Exhibit 33 into evidence.

THE COURT: Any objection?

MR. BAX: Your Honor, I just want to take a look to make sure I remind myself which one that is, Your Honor. No objection, Your Honor.

THE COURT: Without objection State's Exhibit 33

admitted into evidence.

(WHEREUPON, State's Exhibit No. 33 was admitted into evidence.)

MR. STONE: Dr. Batalis, if I could with the Court's permission ask you to come off the stand please, sir.

THE COURT: Yes, sir.

MR. STONE: Thank you, Your Honor.

BY MR. STONE:

Q If I could please, sir, I'll get out the way and let you handle this. This has been marked and entered into evidence as State's Exhibit 33. If you could tell the jury what that is please, sir?

A This photograph is taken from the left side of the decease's body. The head would be up in this area, the left arm coming down this side. So this is the left nipple here. And what we have basically in the middle of the left side of the chest is a gunshot entrance wound, circular wound here in the middle. It's also surrounded by this black area this abrasion or imprint. And what that tells us is the range of the weapon, that the weapon -- that the gun was pressed against the body or in contact of the entrance wound as oppose to being a foot away, three feet away or ten feet away. If the gun was further away from the body, you would not have that

imprint or abrasion around it.
Q What causes that imprint?
A It's when the muzzle of the gun is pressed up against the skin and when the gun is fired, it again presses more against the skin leaving that kind of stamp or imprint.
Q Now, inside the chamber of a gun, I know there's certain explosions going on outside the head of the gun. Does that show anything on that wound as well?
A So when a gun is fired not just a bullet comes out, but in just the bullet, you get burn up flakes of gun powder what we call soot and also unburn flakes of gun powder that also come out. If a gun that's further away from the body, you could see that soot deposited on the skin. In this case, we don't have any of that on the skin, but in the tissues underneath the skin the muscle and that sort of stuff, we did have the soot deposited there, so that explosion that happened and the bullet came out that's pressed against the skin so all that material was pushed into the body.
Q So when Mr. Holmes was shot then, the gun was pressed right up against the chest?
A Yes.
Q Okay. Now, let me ask you if you will please, sir, before I get you to sit down. This is a -- just a mannequin, but I wanted to ask you if you could help me

with the bullet. Do you have your report or need it, tell me about the bullet trajectory?

A I don't need the report.

Q If you will tell me, I'll try to -- where first of all was the entrance wound? That bends, so move it any way you need to.

A So the entrance wound was in the middle, we call the mid axillary line. Basically,the middle of the armpit, just a couple inches below the nipple, so the entrance wound would have been right about there.

Q Okay, mark that go ahead?

A Then after the bullet went into the body and then through the lung causing significant bleeding around to the left side of the chest. And then past just above the heart and behind the aorta, the big blood vessel throughout your body. Then went through the right lung causing a lot of bleeding on the right side of the chest. And then ending up coming out in the -- just on the backside of the right shoulder.

Q Let me show you -- well, first of all, that wire that I've got through there is that pretty close to what we're talking about?

A Yes, it is.

Q All right. Now, the entrance then would be here in the side; is that correct? The left side; correct?

A That's correct.
Q And then the exit is out the shoulder?
A Yes, this will be the exit wound right here.
Q We had testimony earlier and I think -- were you here -- you been here for about an hour; correct?
A Yeah, half an hour, 45 minutes.
Q Okay. The last witness I believe testified as to State's Exhibit -- if you would give me this please 32 on your number. State's Exhibit Number 16 and that actually being 13 inches of the counter. The counter being roughly three feet. So from that standpoint, the bullet entering here. How would the body have to be positioned in order for the bullet to go that the distance and that size? And again, this bends so whatever you need to do.
A So for entrance wound here then. This entrance wound was 19 inches below the top of the head. And the decedent was approximately 69 inches tall, so five foot nine, so that means this mark is roughly four foot two inches over the ground.
Q So for it to go into three feet -- excuse me just a moment. This was roughly 36 inches here and then another 13 making it right here. How would the body have to be positioned for this bullet to enter in an area right here at this height, which would be roughly my chest?
A As the counter is 36 inches, the counter is here and

the bullet went 13 inches, that would be 49 inches from the ground. And the entrance wound here was 50 inches above the ground, so that would be the same level. If the bullet passed -- know it came in at this level that came out here at that same level, the body would have had to be basically leaning over in that direction.

Q So basically away from the shot; is that correct?

A Right.

Q Something like that?

A When vertical, it appears that it's traveling upward, which begin in the body placed here traveling upward, leaning toward that direction because essentially comes straight across, but still travel upward of the body just because the way the body is twisted.

Q Correct.

MR. STONE: Thank you, Doctor, if you'll take the stand.

No further questions at this time, Your Honor.

THE COURT: Cross-examination.

MR. BAX: Thank you, Your Honor.

MR. STONE: Excuse me just a moment, Your Honor, just one more question.

DIRECT EXAMINATION CONTINUED

BY MR. STONE:

Q I think we had covered this, I just want to make

sure. Is difference between manner of death and cause of death? What's the difference between the two?

A The cause of death is simply the reason the person died. So in this case, it was the gunshot wound of the chest. The manner of death is how that comes about, so a gunshot could be a suicide, if it's a sel-inflicted wound. It could be an accident. Maybe, if you're out hunting and go to shoot a bird and somebody happens to be up in a tree or could be a homicide if it's at the hands of another person with some volition or intent.

Q So from your scientific evaluation, the question I guess I have is the cause of death; is that correct?

A The cause of death in this case is a gunshot wound to the chest.

Q And that was Travis Holmes was the victim in this case; is that correct?

A Yes.

MR. STONE: Thank you, Your Honor.

THE COURT: Cross-examination.

MR. BAX: Thank you very much, Your Honor.

CROSS-EXAMINATION

BY MR. BAX:

Q Briefly, Dr. Batalis, first of all, good afternoon, how are you?

A Good afternoon, good.

Q Thanks for coming down. You come from Charleston?
A I did.
Q You didn't speed on the way here, did you?
A Just a little bit.
Q Okay. I think they'll forgive you. Thank you for being here. As a result -- well, let me ask you this, in the normal course of conducting autopsies in cases such as these generally is there also request for a toxicology report?
A Yes, it's for the majority of our faculties we do during the process of the autopsy we will collect blood or some other tissue, send it up to a toxicology lab to see if there's any drugs in the system whether they're illicit drugs or prescription medications.
Q And did you receive back in this case a toxicology report in this case, Doctor?
A Yes, we did.
Q And what did it indicate, sir?
A This toxicology report had a chemical Delta 9 THC or tetrahydrocannabinol. Basically is the active ingredient in marijuana also a metabolite or break down product of marijuana was detected as well as some nicotine.
Q Anything else found, sir?
A One other chemical is detected is called cotinine or cotinine and it's a break down product of nicotine.

MR. BAX: Moments indulgence, Your Honor.

THE COURT: Yes, sir.

(WHEREUPON, a pause in the proceedings.)

MR. BAX: No further questions, Doctor. Thank you very much.

THE COURT: Anything further?

MR. STONE: Thank you, Dr. Batalis. Thank you.

THE COURT: Sir, you may step down.

(WHEREUPON, the witness leaves the witness stand.)

THE COURT: Approach please.

(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)

THE COURT: Ladies and gentlemen, there's some matters that we need to take up outside your presence and rather at this time of the day, you all have been here since nine o'clock this morning. We've gotten a lot accomplished today. A lot of witnesses have come up here and testified today. Rather than send you all back there at this time and pull you back out later not knowing how long it's going to take, I'm going to excuse you for the balance of today, for the balance of today. I'm going to ask that you be back here tomorrow morning at nine o'clock, be back here again tomorrow morning at nine

o'clock. We'll begin promptly at nine as possible. My instructions remain the same. You are not to discuss this case at all with anyone, with anyone. If anybody tries to talk with you about this case, you let your forelady know when you get back here in the morning and she'll let one of the bailiffs know and let me know I'm going to handle it accordingly. My remaining instructions remain the same as well. No independent investigation, nothing online on TV, text, blogs et cetra. You are not to do any independent investigation about this case. You are to decide this case based solely, solely upon the evidence and testimony that's presented in this courtroom and nowhere else. At this time and if there's nothing further from the State?

MR. STONE: Yes, sir, I'm sorry.

THE COURT: Is there anything further from the State?

MR. STONE: One witness, we can't get that witness until tomorrow morning.

THE COURT: Anything at this time before I release the jury at this time from defense?

MR. BAX: Nothing at this time.

THE COURT: If you all will be back nine o'clock in the morning. You all are excused for the balance of the day. Thank you.

(WHEREUPON, the jury dismiss for the day.)

THE COURT: Bear with me just a second here. It's my understanding the State has one witness left to call in this case -- and that is who, Mr. Stone?

MR. STONE: SLED Agent Ricardo Prince.

THE COURT: Has he been advised to be here at nine o'clock in the morning?

MR. STONE: Yes, sir. Yes, sir.

THE COURT: All right. Mr. Bax, shortly thereafter at the conclusion of Mr. Prince's testimony, I would ask you and instruct you to make sure that your witnesses here, okay. I think we moved quicker than both of you anticipated today and that's why I like to deal with a bunch of pretrial stuff as we can, so when we start, we can move. So I would ask that you instruct your witnesses -- I think you had indicated there was one witness that could not be here until Thursday morning; is that right?

MR. BAX: That's correct. That's Dr. Thomas Martin, Your Honor. He's currently testifying in federal case in Syracuse, New York. Then I believe he has a trial that he's to testify to in the morning on Wednesday and Richland County South Carolina. He says the earliest he can get on his way down here would be after business hours on Wednesday evening, which would put him here at best in

the morning for testimony of Thursday, Your Honor.

THE COURT: Well, we move through 16 witnesses today. Your list is 21 potential witnesses long.

MR. BAX: That's correct, Your Honor. I'm sorry I think I stated 19 before that's correct. We have 21 witnesses on here. As I've stated before, there's a few that I can say I don't think I'm going to be able to call purely because I've not been able to locate them. I put them down with the intention of if they happen to be located and I was able to serve them that I would already have them on my witness list.

However, Your Honor, the -- a lot witnesses on my list with Beaufort County Sheriff's Office, they're all on phone stand by. I'm going to be giving them a phone call as soon as we get done here today. And then let them know to please be here tomorrow morning. And probably as best as I can, I would say I'm probably going to start with a lot of those individuals.

THE COURT: Oaky, make sure your witnesses are here, I don't want that to slow up or hinder progress of trial, okay.

MR. BAX: Yes, sir.

THE COURT: Anything else from the State at this time?

MR. STONE: No, sir.

THE COURT: From defense counsel?

MR. BAX: No, sir.

THE COURT: We'll stand at ease until nine o'clock in the morning.

(WHEREUPON, the proceedings were concluded for the day to be reconvened on November 28, 2012.)

(WHEREUPON, Court's Exhibit No. 2 was marked for the record.)

THE COURT: Is the State ready to proceed?

MR. STONE: The State's ready, Your Honor.

THE COURT: Defense counsel ready to proceed?

MR. BAX: Yes, Your Honor.

THE COURT: All right. I see some familiar faces in the courtroom this morning as far as family of victims and defendants. I see some maybe unfamiliar faces as well. I'm going to go ahead make this announcement as I did yesterday. You will not be allowed to leave this courtroom when a witness is on this stand and I don't want anybody coming into the courtroom from my officers in the back while witnesses on the stand. Certainly, you are allowed to leave and come when witnesses are coming off the stand or coming to the stand, but I don't want the jury in any way to be distracted by people entering and exiting the courtroom at their leisure, okay. So having said that, bring me a jury please.

(WHEREUPON, the jury came into open court.)

THE COURT: Madam forelady, ladies and gentlemen of the jury, I trust that you all had a good evening last night and are ready to proceed here this morning. Is that correct, Madam Forelady?

MADAM FORELADY: Yes, sir.

THE COURT: All right. Mr. Stone, you recognized call your next witness please.

MR. STONE: State calls Ricardo Prince to the stand.

THE CLERK: Would you place your left hand on the Bible and raise your right hand for me please. Do you solemnly swear to truthfully answer all questions asked of you by this court, so help you God?

THE WITNESS: Yes, ma'am.

THE CLERK: Please be seated and state your name and spell it for the court please.

THE WITNESS: My name is Ricardo Prince, that's R-I-C-A-R-D-O and common spelling Prince P-R-I-N-C-E.

WHEREUPON,

Ricardo Prince,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. STONE:

Q Now, you're actually Special Agent Prince; is that

correct?
A Yes, sir.
Q And what job do you hold? What do you do, sir?
A I'm special agent for South Carolina Law Enforcement Division in crime scene investigations.
Q How long have you been -- and that's SLED, that's what's commonly known as SLED?
A Yes, sir.
Q And how long have you been with SLED, sir?
A It's going on five years.
Q And what did you do prior to that?
A I was a deputy sheriff for Richmond County Sheriff's Office in Augusta, Georgia.
Q How long were you a sheriff's deputy there?
A For three years.
Q So in the area of crime scene, how long have you worked in crime scenes?
A Going on five years.
Q Were you called to the Subway down here on Cross Creek Plaza in Beaufort County on July 26, 2011?
A Yes, sir.
Q And your job at that time was what?
A Basically analyze crime scene, document evidence and collect it.
Q Okay. And as -- so that point you're the SLED agent,

you're working by yourself or with somebody?
A I was working with my partner Vickie Hallman.
Q She's also with SLED as well?
A Yes, sir.
Q All right. So a number of the photographs that we introduced yesterday and specifically I'll hand you what has been marked as State's Exhibit 23 have -- and I'll show you this photograph. Have these yellow markers with numbers on them, what is that?
A It's a number marker. We mark our evidence with numbers and pretty much is how we pretty much keep up and maintain where evidence was and where we collected it.
Q Do you do that for any particular reason?
A Pretty much so when we do diagrams and everything we can just pretty much keep up with the evidence?
Q Okay. And does that also help you preserve the scene so to speak?
A Yes, sir.
Q All right. Let me show you what I have marked and let me show this back to the defense attorney.
MR. STONE: Your Honor, we're going to use this. This is State's Exhibit 51 for identification. We plan on using this as a demonstrative aid much like we did in State's Exhibit 50.
THE COURT: Any objection by defense counsel?

MR. BAX: Demonstrative no objection.

THE COURT: Thank you.

BY MR. STONE:

Q If I could get you to come off the stand for me please. I'll let you take that which is the pointer. First of all, let me show you what's already been entered into evidence as State's Exhibit 20, which is on your number -- Mr. Hightower, that will be number 29. This has already been introduce into evidence, but if you could tell me -- coordinate that with the diagram that you're using this 51 for identification.

THE COURT: Agent Prince, as you utilize that demonstrative evidence, please make sure that you don't block the view of my jurors so they can see, okay. Thank you.

A This is the counter right here. This is the entrance of the bullet hole, which is against this wall right here.

Q Okay. Show you been what's been marked as State's Exhibit 16 ask if you show us that as well. Is that the wall that you're referring to?

A Yes, sir. The same wall just got a scale in it, it measure the distance from the counter in the same area.

Q Show you what's been marked as State's Exhibit 21, which your number numbers 30. You tell me what that is please?

A This is the exit hole on the backside of this wall right here.
Q And also State's Exhibit Number 46A?
A This right here has the dial rod showing the same thing, but it just has a little laser pointing to showing you the direction of travel.
Q Okay. And that is here in this area which I think is indicated as bullet holes exit from wall number two?
A Yes.
Q Then finally I show you State's Exhibit 22 ask if you tell me what that is please?
A This is the freezer right here, pretty much stopped the projectile, which is coming on as the bullet and stopped it. This is the direction travel and it stop right here and it fell on the floor?
Q And State's Exhibit 46B?
A Same thing with a laser just showing direction of travel.
Q I think we testified earlier that that is actually a orange string. It looks like a laser orange string.
A Yes.
Q All right. All right, sir. Now, at this crime scene, how many bullets actually did you find when you get there?
A Just one.

Q And where did the bullet -- is there any indication of where the bullet started?
A From right here.
Q From this area here in front?
A Where the counter was. It was a bunch of blood and it was a hole in this wall entry, exit and I could see where it stop right there and the projectile was found on the ground?
Q I know you weren't here yesterday, but Dr. Batalis put as the mannequin over there that the shot actually went through -- all the way through the victim out of the shoulder at this angle striking approximately what appears to be 13 inches above the counter here. Can you tell us from this scene and with that information actually how that bullet traveled.
A The bullet started right here. It went through this wall, exit this wall and this freezer right here stopped it pretty much in a straight line just like this right here.
Q And is there anyway to tell, I guess, we could look from -- you were actually at the scene, were you not?
A Yes, sir, I was there.
Q 46B indicates the freezer with the freezer handle. Can you put on your body about where that bullet is striking?

A Thinking it's probably right above my waist area.
Q So it's a straight shot through this wall through this room striking ---
A It stop right here.
Q The refrigerator, freezer?
A Yes, sir.

MR. STONE: Thank you. I don't have any further questions for you.

THE COURT: Cross-examination.

MR. BAX: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. BAX:

Q Agent Prince, good morning.
A Good morning.
Q Just a couple of questions for you, Agent Prince. You had already testified to this, but you found only one projectile like you said also known as a bullet; correct?
A Yes.
Q You found one shell casing; correct?
A Correct.
Q And you and your fellow agent you were able to canvas the entire Subway restaurant; is that correct?
A Yes, sir.
Q If there been any other projectiles, do you think that you would have found them?

A Yes, sir.

MR. BAX: No further questions, Your Honor.

THE COURT: Any redirect?

MR. STONE: No, sir, the State rest, Your Honor.

THE COURT: Agent Prince, you may step down. Thank you.

(WHEREUPON, the witness leaves the witness stand.)

THE COURT: State rest?

MR. STONE: State rest at this time, Your Honor.

THE COURT: Ladies and gentlemen of the jury, the State has rest its case. Therefore, there is a matter of law that I need to take up outside of your presence. I'm going to ask you to step to your jury room while we take up this matter of law. And I'll get you back in here as quickly as possible. Do not discuss the case. Thank you.

(WHEREUPON, the jury retire to the jury room.)

THE COURT: Okay. Mr. Bax, any motions?

MR. BAX: Thank you very much, Your Honor. At this point, I would obviously make the usual motions, Your Honor. I would move for a directed verdict in favor of the defendant. I make the motion to protect the record, Your Honor. I don't like to stand up in front of the Court and try to make arguments that don't have any real

flesh to them, but at the same time Your Honor knows I have to the protect the record on this end.

THE COURT: Absolutely.

MR. BAX: I do feel like there's a very good defense for my client, but we haven't really had the opportunity to put that up yet. So at this point, I would make my motions to protect the record and protect my client's rights. I would certainly reiterate all the objections that I have made throughout the course of the State's case including those of foundation that we've already been through and that have been put on the record as basis for that directed verdict motion -- and moments indulgence. I think that's it, Your Honor.

THE COURT: Anything in response from the State?

MR. STONE: No, sir.

THE COURT: All right. As you all know, there's any evidence -- any direct or substantial circumstantial evidence tending to prove the guilt of the accused. The matter should be submitted to the jury. The trial court is not concerned with existence of evidence or trial court is concerned with its existence not its weight, not its weight. Therefore, I believe there is substantial and circumstantial evidence and warrant this case being submitted to the jury. I certainly understand your responsibility and roles, Mr. Bax, in protecting the

record for your client, but I'm going to respectfully deny your motion for a directed verdict.

MR. BAX: Thank you very much, Your Honor.

THE COURT: Now, at this time I want to advise your client of his right to testify as far as his rights.

Mr. Knight, if you would stand, sir?

Madam clerk, will you swear the defendant please?

THE CLERK: Would you raise your right hand for me please. Do you solemnly swear to truthfully answer all questions asked of you by this Court, so help you God?

THE DEFENDANT: Yes, ma'am.

THE COURT: Sir, you may put your hand down. You are Rajerick Lovell Knight?

THE DEFENDANT: Yes, sir.

THE COURT: All right. We have reached or at this time, I'm going to explain to you certain of your rights. The State has rested in this matter and I'm going to explain rights that you have. If you do not understand anything that I say, please let me know. If you want me to explain anything in more detail, please let me know as well when we go through this.

Now, I want you to understand Mr. Knight that you have a right to claim the protections given to you by the Fifth Amendment to the United States Constitution.

This amendment states in part that no person, no person shall be compelled in any criminal case to be a witness against himself. This means that you cannot be required to testify in this case.

You have the right to testify on your own behalf. However, no one can make you testify. This is a personal right. And no one can waive this right except you. If you decide to testify, you will be subject to the same rules that govern other witnesses. And you may be examined and cross-examined on any relevant issue in this case. In addition, if you have any convictions involving dishonesty or false statements or for crimes punishable by imprisonment for more than one year. And this court determines that the probative value of admitting this evidence outweighs its prejudicial effect to you, the Solicitor will be able to introduce your record to attack your credibility. If you decide to testify, this decision on your part must be freely, voluntarily and intelligently made with the knowledge of the protections given to you by the Fifth Amendment and consequences of your decision to testify.

If you decide not to testify, I will instruct the jurors that they cannot, that they cannot give the fact that you did not testify any consideration whatsoever. And that there is to be absolutely no

prejudice to you because you did not testify. It is left entirely up to you whether or not you testify. You may talk with your attorney, your family, your friends or anyone else, but the final decision as to whether or not you testify is your decision. Do you understand what I have explain to you?

THE DEFENDANT: Yes, sir.

THE COURT: Do you have any questions about what I have explain to you?

THE DEFENDANT: No, sir.

THE COURT: Have you discussed with your attorneys whether you should or should not testify?

THE DEFENDANT: Yes, sir.

THE COURT: Do you need any more time to talk to your attorneys about it?

THE DEFENDANT: No, sir.

THE COURT: Do you wish to testify in your trial?

THE DEFENDANT: Yes, sir.

THE COURT: All right. You may be seated, Mr. Knight. What we're going to do at this time is I'm going to stand down for a few minutes. And I want to talk to the lawyers in chambers and then we'll come back in here and we'll start with defense counsel.

MR. STONE: Yes, sir.

(WHEREUPON, a break was taken.)

(WHEREUPON, Defendant's Exhibits Nos. 1-47 were marked for identification.)

THE COURT: All right. Is state ready to proceed?

MR. STONE: State's ready.

THE COURT: Defense counsel ready to proceed?

MR. BAX: Yes, Your Honor, defense counsel is ready to proceed. Your Honor, we have premarked a number of exhibits and I like the Solicitor's office to take a look at those. They are up on the counter, Your Honor.

THE COURT: Any objection to those exhibits?

MR. STONE: Our understanding, Your Honor, is that they plan on introducing evidence from the shooting that took place on May the 30th 2011. In accordance with your previous ruling, we have no objection to that. Now, if we're going into other matters, then we have not consented by any stretch of the imagination to anything else.

THE COURT: Those exhibits which are premarked do they relate to the May incident?

MR. STONE: My understanding they do. And we have agreed to the chain of custody on the evidence and not requiring individual officers to approve that. But that is defense exhibits that have given us and that's

their assurance to us.

THE COURT: Mr. Bax, also want to put on the record from my understanding in discussions with he and Mr. Thornton and Mr. Stone back in chambers about 2008 or 2009 incident. I told him I would not -- did not think it was relevant to this case and would not allow him to go into that. I will be happy to allow you at this time, Mr. Bax, to put on the record what you wish to put on the record with regards to that ruling.

MR. BAX: Thank you, Your Honor. And first and foremost, I believe Investigator Kelleher is here present in the courtroom, just to let you know he's here. And for the record that he is here and is in compliance with the subpoena by the defense for that purpose. And I believe, obviously, Investigator Kelleher hears me saying anything that he wouldn't necessary agree with, I invite him to let us know that. I don't want to misrepresent anything.

Your Honor, basically in -- I will be calling Investigator Kelleher to the stand for Your Honor would be to lay the foundation due to the fact that he was the lead investigator that the individual that investigated the situation involving a James Odom and Travis Sentel Holmes, who is the victim in this case, Your Honor. My understanding from reading the discovery that we got through our own investigation of those cases in part from

subpoenas to the Sheriff's Department, Your Honor, but also in part due to subpoenas that we sent to the Public Defender's office that we actually had a hearing on in front of Judge Mullen some many months ago and she ruled that I was entitled to get those documents from the Public Defender's office as long as they didn't contain any privileged information between Mr. Holmes' attorney and himself, which of course it did not. It did not contain anything other than the discovery, so if you rule to be something that I could obtain. Once I obtained that and we through look that, Your Honor, the -- there was one incident in 2008, Your Honor, where based on the investigation of Mr. Holmes was charged in relation to a shooting into a house that Mr. Odom was in or residence. As a result of that, he received the charges -- I think it was assault and battery with intent to kill, discharging a firearm into a dwelling and possession of a weapon charge. From our investigation possibly, the possession of a weapon charge might have gone away at prelim, but the rest of them were still existing.

Those charges were pending and Mr. Holmes made bond and was released from pretrial detention. He was currently out on that pretrial release in February Your Honor of 2009. I would further have proffer Investigator Kelleher's testimony to the fact that he was also the

assigned officer to investigate from investigation stand point. The allegations that were made that Mr. Holmes saw James Odom in February of 2009, at a gas station. The fact that they see each other is on a VHS tape from the surveillance system of that gas station. We have that tape as well. He saw him and then went out to his car, got a weapon according to the allegations.

THE COURT: Mr. Holmes did?

MR. BAX: Mr. Holmes, did, yes, sir. And that he then followed Mr. Odom who was being driven Cassandra Simmons, who was I believe according the information I been provided, Mr. Holmes' cousin. He followed them down the road until he was closer to where Mr. Odom was living. And he opened fire out the driver's side window of his car and he struck the white SUV being driven by Cassandra Simmons with James Odom as a passenger several times. There was also photographs of the white SUV glass was then shattered by the projectiles and there were several bullet holes in the car. So that was an event that occurred both in 2008, 2009, Your Honor.

THE COURT: Can I ask you a question?

MR. BAX: Yes, sir.

THE COURT: And my understanding of this is all relating to the incident between Mr. Holmes and Mr. Odom?

MR. BAX: That's correct.

THE COURT: Not your client?

MR. BAX: That's correct, Your Honor. To bring that in though for the record in order to show why the argument is relevance, Your Honor, Mr. Knight would be able to testify that he knows James Odom. Also, I would assert that any testimony I would present by Mr. Knight would not be hearsay about that knowledge because it would not be being offered for the truth of the matter asserted. It would be offered for the state of my mind of my client. It don't matter whether or not what Mr. Odom told him about the incident was true or not. It's the fact that he had that knowledge of Mr. Holmes and what he does, what his reputation for peacefulness or lack thereof, that is important in this case. I would site this both State vs. Mekler in arguing for the entrance of that testimony from my client.

In fact, in I believe State vs. Mekler, one of the issues that was ruled upon by the Court was that the Court ruled that the defendant in that case Ms. Mekler should have been allowed to testify to her knowledge about the defendant -- the victim excuse me in that case kicking down the door of the other female that was involved in a prior case. That case as, Your Honor, I'm sure is aware because I know you read it as well as I did was about a woman who was on her porch with another woman and that

woman's boyfriend or husband comes up to them with a knife in a threatening manner and she gets a shotgun as a result, that gentleman is shot and subsequently died.

Part of the discussion of the facts and the discussion of the law in that case involved the fact that the prosecutor in that trial of Ms. Mekler asked why didn't you just go back into the house and close the door, rather than shooting this gentleman. Her response was that would have done no good. He would have come through the door at me. The door would not have stopped him something to that effect, Your Honor. She was not allowed to testify to the fact that she had been told by the victim of that other case that when she close the door on her boyfriend or husband whoever he was, that he just kicked in the door and came in and committed the domestic violence case that she was speaking of. And the Court found that to be error at the trial level not to allow Ms. Mekler to testify to what she knew through being told by the victim of that other case that the door had been kicked down because it bore on her state of mind as to whether or not actions were reasonable or not reasonable. So the idea of going in and closing the door was not reasonable in her mind because she knew that he already kick through the door.

I would argue this is perfectly analogist here

Your Honor because this is a situation where my client will be able to testify that he had direct knowledge that or he had knowledge to that Mr. Holmes in prior instances where he had been alleged to have shot at someone in their house, then sees them in a public place, waits until they have left that public place, follows them after they have left that public place and fires on them again. And it does not matter that he's under pretrial detainment, that he's already facing charges for it, that that was something that he had done in the past. And I think it bears directly in this case, Your Honor.

One thing is the allegation from the State is that my client and it is borne out by the evidence that's been shown that Mr. Holmes comes into a public place once again and sees my client. So the idea that that is the evidence that we intend to present, we would argue that needs to be presented in this case is that my client had that in his mind when he sees Mr. Holmes in a public place. This is a man who in the past has seen someone he didn't like in a public place and follow them to shoot at them again. And I would argue that despite the timing of what happened to Mr. Odom in relationship to this, the knowledge of that that Mr. Knight had is absolutely relevant under the defense that we are presenting and is absolutely relevant to his state of mind, which is going

to be crucial for the jury in deciding a verdict in this case.

THE COURT: Mr. Thornton, Mr. Stone.

MR. THORNTON: Your Honor, State vs. Day and State vs. Mekler both make it perfectly clear that if the incident that someone seeks to introduce is a specific act of conduct is not directed against in this case it would be the defendant. It has to be so close in time and State vs. Day is four months. Mekler is three months. In this case, you're talking about two and three years 2008, 2009.

Additionally, in Mekler, Judge, the act in question specifically deals with, well, it was a locked door and he's coming back in. In this case, what he wants to argue is because he sees somebody in a gas station and follows him later in a vehicle that that somehow analogist to his client leaving the Subway retrieving a pistol and coming back in while he's ordering sandwiches and guns him down. The situation isn't even analogist, but the most important part is you don't even get there because it's a timing issue. It has to be so close in time and both Day and Mekler you talking three months and four months. In this case, you're talking about '08 and '09 three year and two years respectively. The State's position is, Judge, that they are too far in time to be allowed into evidence in this case.

MR. BAX: Your Honor, briefly in response, two things I would like to state to the Court. In my reading of both the Mekler and the Day case, I did not see -- and, of course, I would defer judges reading of those cases, but I did not see where the Court said a bright line rule about the time. It is in the Court's discretion to decide under the facts that have been presented of whether or not that is important enough to and probative enough for the State of mind of the defendant to be able to present their defense, if something that passes that 403 test. There is not a bright line rule about time.

Your Honor, and that is borne out about the fact that these types are different. There's a three month, there's four months. And in my reading of it, the Court doesn't focus on time as being a bright line rule. They did not say once you hit six months, it doesn't matter whether you hit this doesn't matter. What I read from those cases is a repeated discussion by the Court that the trial court must look at these cases on a individual basis and the facts to see if there's a close enough relationship in the facts and in the impact on the knowledge of the defendant as far as state of mind to make it more probative than it is prejudicial and whether it is relevant to the case. And I think that where Your Honor's ruling would fall necessarily.

And secondly, there's been no -- just to clarify the record, there's been no evidence presented that my client went out to the car and got a gun. He actually -- the testimony from the State's witnesses that he didn't get anything from the car. Obviously, that leaves the inference he already had it. I don't know that that actually helps me, but just to clarify the record, Your Honor.

THE COURT: Well, your objection is so noted. My previous ruling stands with regards to the 2008, 2009 incident. I agree with you, Mr. Bax, that the Court does not have a bright line, bright line rule as to the timing of that. However, I believe that based upon the Court's analysis as previously noted on the record, I believe that this matter so far removed from time and place as to this particular case as it relates to your client -- bear with me just a second here.

MR. BAX: Yes, Your Honor.

THE COURT: Okay. And again, I would just reemphasis the language from State vs. Day evidence of other specific instances of violence on the part of the deceased are noted admissible unless they were directed against the defendant which I think everybody can agree here, they were direct -- this 2008, 2009 incident was not directed at your client or if directed against others or

if directed against others, were so closely connected at point of time or occasion with the homicide as reasonable to indicate the state of mind of the deceased. And the Court's analysis and what I made a determination is that this was not so closely connected at a point of time or occasion with a homicide that your client's being tried here for that would indicate the state of mind of the deceased at the time of the homicide or produce reasonable apprehension, great bodily harm by your client. And therefore, that's why I've ruled that your objection is so noted for the record. And I think that's the appropriate ruling in this case. All right.

Anything else at this time?

MR. STONE: No, sir, not from the State.

THE COURT: Let me ask this, we talked about when we broke after the State rested, I asked the lawyers to come back in chambers because I wanted to discuss after Mr. Knight indicated that he wish to testify. I wanted to talk to the lawyers to find out what, if any, record Mr. Knight had and determine whether or not there was any agreement -- first and foremost, there was a record there was an agreement to what the State could ask him about in cross-examining about. And based upon my discussions with the lawyers in chambers, Mr. Knight does have a prior record. From my understanding and what was conveyed to me

in chambers he has 2005 convictions for break and entering three counts, three counts of larceny, in 2007 pointing and presenting a firearm, and 2008 a possession of crack, 2010 unlawful carrying of a pistol; is that correct, Mr. Solicitor?

MR. STONE: It is, Your Honor.

THE COURT: All right. It was questions that defense counsel as to whether or not there any objections to the State cross-examining your client as to his record.

MR. BAX: Thank you, Your Honor. And as I stated before, I been over that. We're just double checking a breaking and entering because my partner and I had originally thought it was one count. I'm double checking what I have here and I want to make sure we're on the same page about that. It's a little bit hard to read, Your Honor, because it's a North Carolina rap sheet and every one of them is different and it is hard to find where you are suppose to look to see whether a conviction or this and that. It's a little bit difficult to read. I believe they are asserting that it was more than one. I think it was three counts.

THE COURT: Yes, sir.

Mr. Stone, if you all could help. Mr. Bax, is right some of these rap sheets have come from other states?

MR. STONE: Yes, sir, we went to Mecklenburg and got a certified record.

THE COURT: If you could hand that ---

MR. STONE: I will let him take a look to make sure that's correct. They are three separate houses. I believe they were prosecuted or they were handled at the same time.

THE COURT: While Mr. Bax is looking at that, does the State have anything other than argument on the law with regards to the facts that Mr. Bax put on the record concerning the '08, '09 incident?

MR. THORNTON: Your Honor, I have no objection to the facts. Based on your ruling, I don't think it's important.

THE COURT: Mr. Bax, certainly indicated or recognized a law enforcement officer. Who was it?

MR. BAX: The one I was talking about at proffer?

THE COURT: Yes, sir.

MR. BAX: Investigator Kelleher, Your Honor.

THE COURT: Certainly reference Investigator Kelleher before he went through recitation of the facts about '08 and '09 matter and indicated if there was any discrepancy from Mr. Kelleher to speak up. I just want to note for the record that Officer Investigator Kelleher did

not speak up. And for the record, I want to be clear that the State nor law enforcement had any discrepancy in what the facts were stated by Mr. Bax on the record.

MR. THORNTON: And, Your Honor, on the record, I would say this I have no discrepancy that's what Mr. Bax's -- the recitation of the facts would have been what people he would have called would have testified to I'm not saying those were all encompassing truthful facts as Your Honor knows different witnesses often say different things.

THE COURT: Well, and that's the jury's determination as to what the true facts are.

MR. THORNTON: But certainly the facts he referenced would have been facts that in those two cases people could have to testified.

MR. STONE: And just so you know what I was just doing. I asked Investigator Kelleher to make sure he was here and heard the testimony. We would have no objection.

MR. BAX: Your Honor, I reviewed the records that the Solicitor has provided. Before I get to that just to make sure I don't forget, just noting for the record that my presentation was in place of a proffer just want to say that that was still to preserve the record and then that's something that we discussed with the Court and the Court's fine with me making that statement versus

actually proffering the testimony.

THE COURT: Absolutely, we discussed that in chambers.

MR. BAX: Thank you, sir. The only thing that I see that just gives me a little bit of concern and I'm not exactly sure how to deal with it and seeing as how it is -- it is an out-of-state record is and I will show this to Mr. Stone and Mr. Thornton. On the back of the page -- this is from State of North Carolina Mecklenburg County on the back of the page entitle transcript of plea, Your Honor. There is a paragraph, handwritten paragraph under 14. The paper that was signed off on by the judge apparently. It indicates that the defendant will plead guilty to three counts of breaking and entering. The cases shall be consolidated says defendant will plead guilty to three counts of breaking and entering and three counts of larceny after break and entering. The cased shall be consolidate under one breaking and entering with a split sentence, credit for time serve, followed by intensive probation and then it gives the restitution amount, that's just a little odd as far as records because it says it will be consolidated under one. I don't know what Your Honor want's to rule on that. I'm not sure what it means. But I do just want to bring that to the Court's attention and make sure that I want to put it on the

record.

THE COURT: Mr. Stone.

MR. STONE: Yes, sir. This is just the sentencing was consolidated just as a normal guilty plea would have been. I don't know what the rules are in North Carolina, but I think the important thing is that the first of the writing that he says the defendant will plead guilty to three counts of breaking and entering and three counts of larceny any after breaking and entering. And I believe it was basically given -- he was given one sentence at the same time.

THE COURT: I'm going to allow him to ask that.

MR. BAX: Certainly. And, Your Honor, based on that, I believe that we agree to the record as stated. I, of course, want to make sure that I am clear as defense counsel that no way means that we agree to any facts beyond the fact that there's a conviction unless we have some further hearing on that. I would still contend that merely the fact of those convictions is all that would be admissible. Going into the background facts, I would certainly have strenuous argument as to that being in any way allowable under our rules or case law.

THE COURT: Anything in response to that from the State?

MR. STONE: As far as the breaking and entering,

Your Honor, no, sir, I have no objection to that. There is something that concerns me, Your Honor. Quite frankly, this is a concern that I've had from the very beginning. It depends a great deal on what the defendant says. Depends a great deal on whether or not the defendant gets up and says I was afraid of him and I'm a peaceful guy and he's out shooting people. Because his record is not just the record concerning whether or not he is to be believed in one instance and this will be the only one that I will be concerned about.

A man by the name of Michael Singleton flagged down the Beaufort County Sheriff's Office and said -- pointed to the defendant said that guy just drove by and shot at me. So I think a lot of this is going to depend on how far the defendant opens that door to his own peacefulness and his own character versus the victim in this case. I just want you to know about that before hand. I don't know where we're going, I don't know what he's going to testify to obviously.

THE COURT: Well, and, Mr. Bax, certainly taking into consideration what Mr. Stone says. I know you've advised your client. And I advised him on the record his right to testify and the ultimate decision is his. The State's right to cross examine him on the record.

MR. BAX: And I agree with that, Your Honor, I

have discussed that with him. I understand what the Solicitor is saying. If he does say something that is completely contradictory to that fact, I understand that that would open the door to that and I've discussed that with my client. I don't anticipate that happening. I don't anticipate my client standing up and saying. I'm a good guy and I don't do bad things necessarily.

THE COURT: Well, as long as you know and I know you advised him and he's sitting right here while we discuss this matter. He certainly can open the door ---

MR. BAX: Yes, sir.

THE COURT: --- that other information coming in.

MR. BAX: Yes, Your Honor.

THE COURT: All right. Anything else?

MR. BAX: No, Your Honor, defense is ready to proceed.

MR. STONE: No, sir.

THE COURT: All right. Bring us the jury please.

Before the jury comes in, I want to caution Mr. Knight. Mr. Knight, you been sitting in here while I made my ruling about this prior incident. I want to make it abundantly clear to you that if you testify, your lawyer's put on the record what he needed to protect your

right, but you are not to discuss the 2008, 2009 incident; am I clear on that? Am I clear on that?

THE DEFENDANT: Yes, sir.

THE COURT: Thank you.

(WHEREUPON, the jury came into open court.)

THE COURT: Ladies and gentlemen of the jury, as I previously told you before you exited the courtroom, the State has rested. The State has presented its case. It's now the defense's opportunity to present its case. So therefore, I'm going to recognize defense counsel.

Mr. Bax, you recognize, sir.

MR. BAX: Thank you very much, Your Honor. At this time, the defense would call Investigator George Erdel. Sorry, Your Honor, Officer Erdel stepped out of the courtroom, call him back in.

THE CLERK: Place your left hand on the Bible and raise your right hand for me please. Do you solemnly swear to truthfully answer all questions asked of you by this court, so help you God?

THE WITNESS: I do.

THE CLERK: Please be seated and state your name and spell it for the Court please.

THE COURT: Mr. Bax.

MR. BAX: Thank you, Your Honor.

THE WITNESS: George Erdel, last name is

E-R-D-E-L.

WHEREUPON,

George Erdel,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BAX:

Q Good morning, Investigator Erdel, how you doing today?

A Good morning.

Q Just a few brief questions for you. First of all, can you tell us where you are employed, sir?

A Beaufort Police Department.

Q How long have you been working there, Officer?

A Since 2003.

Q Okay. And what position do you hold right now? What are your duties with the Beaufort City Police Department?

A I'm an investigator.

Q Okay. Is there a rank associated with that, sir?

A It's what's called investigator two, which is corporal patrol division.

Q All right. Investigator Erdel, do you recall being involved with the investigation of the incident that's been testified to that occurred at the Subway sandwich shop in Cross Creek back in July of 2011?

A Yes.

Q That was a homicide case; correct?
A Correct.
Q Okay. Now, you weren't necessarily what you would call the lead investigator, but you had duties in this case and you did some things in this case; is that correct?
A I call them preferable duties but, yes, I would say I was involved.
Q All right. What kind of things did that involve just to let the jury know?
A Basically, the extent of my involvement in this investigation was I pulled the video from the machine at Subway. And I was liaison with the U.S. Marshall service who apprehended Mr. Knight.

MR. BAX: Permission to approach the witness, Your Honor?

THE COURT: Yes, sir.

MR. BAX: Thank you.

BY MR. BAX:
Q Just handing you this to refresh your recollection. As a result of your -- well, let me ask you this, in your general duties when you are working on a case whether it's this case or any other case, you try to make notes and file reports about things that you do?
A Yes.

Q Okay. And in this case, did you do that about the things that you did in this case?
A Yes.
Q Okay. Now, looking at, do you recognize that as one of the notes that you made in this case?
A Correct, yes.
Q Let me ask you really quickly, in you all's system there at the Beaufort City Police Department, is that something where reports are put on a computer?
A It's a computerize system, yes.
Q Okay. And once you've put that in the computer system, how do other detectives or investigators access that?
A Everybody has access to the system, so any individual officer can -- as long as they have the case number, can look in that system and they can see everything that's been associated with that case.
Q Okay. Is there any way that you alert a particular officer if you want to make sure say a lead investigator knows that you put in a report, is there a particular way you do that tell them or do you e-mail them, how do you do that?
A It could be any of those ways. There's no standard protocol as far as do you have to do it by e-mail or verbally or by telephone. It's just which ever method you

chose at the time.
Q Okay. Now, without going into what anybody said, did you receive information that caused you to make that report?
A Yes.
Q Okay. And it involved information about a potential person that might have information about the case?
A Correct.
Q And that person that was reported to you is Darrien Hutchinson who might have information about the case; is that correct?
A That was the information reported to me.
Q As a result of getting that, you did this report; is that right?
A Correct.
Q Okay. Can you tell us what you did with that report? You said you put it in the computer. Anything else that you did with that report?
A With the report here that I wrote or...
Q Did you -- do you remember if you call the lead investigator or any other investigators and said, hey, look at this?
A It's entirely possible and probably even likely, but I couldn't swear to it. I don't recall.
Q Okay. So you don't have any independent recollection

of necessarily talking about it with any other officer per se?

A No, sir.

Q Okay. But it would have been there and it would have been available for any investigator including Investigator Dowling to look at under your understanding of the computer system?

A Correct.

Q Okay. Just a couple of brief follow-up questions. Now, you investigated this or you worked on this case as you testified in getting video and doing some other things; correct?

A Yes, sir.

Q Would it be accurate to say there was a lot of people in the Beaufort City Police Department that chipped in and helped out with this case?

A Absolutely, yes, sir.

Q Now, you and I have discussed this case as well; correct?

A Correct.

Q Okay. Was it something that shocked you the way it went down and the fact that this was broad daylight and that the defendant would just go in front of all these cameras ---

MR. THORNTON: Objection, Your Honor.

THE COURT: Overruled. State your objection?

MR. THORNTON: Calls for an opinion.

THE COURT: Can the lawyers approach?

(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)

THE COURT: Objection overruled.

BY MR. BAX:

Q Okay. Let me re-ask the question. We had a discussion about this, but you know were you surprised at the fact this was in broad daylight in a public place, in a place with cameras?

A Yes.

Q That was something you saw as atypical?

A Very unusual.

MR. BAX: Moments indulgence, Your Honor.

THE COURT: Yes, sir.

(WHEREUPON, a pause in the proceedings.)

BY MR. BAX:

Q Okay. Investigator, I'm sorry to keep you on the stand there just wanted to ask you, this was based on your experience in having investigated cases involving shootings before; correct?

A Yes.

Q Okay. And based on the fact that you investigated

cases that involved shootings usually at night out of car windows and things like that; correct?

A Yes.

MR. BAX: Thank you, no further questions.

THE COURT: Cross-examination.

MR. THORNTON: Yes, sir.

CROSS-EXAMINATION

BY MR. THORNTON:

Q Detective Erdel, that piece of paper that Mr. Bax handed you earlier, did you follow up on whatever lead that was?

A No.

Q And did you feel it was relevant at all?

A I did not.

MR. THORNTON: Thank you.

THE COURT: Any redirect?

MR. BAX: No redirect, Your Honor. And at this time, I'd ask that Investigator Erdel be released from his subpoena.

MR. THORNTON: Without objection, Your Honor.

THE COURT: Sir, you can step down. You free to go. You have no further responsibilities under your subpoena. Thank you for being here.

(WHEREUPON, the witness leaves the witness stand.)

THE COURT: Call your next witness.

MR. BAX: Thank you, Your Honor. Defense would now call Officer B. Johnson to the stand please with the Beaufort County Sheriff's Office.

THE CLERK: Would you place your left hand on the Bible and raise your right hand for me please. Do you solemnly swear to truthfully answer all questions asked of you by this court, so help you God?

THE WITNESS: I do.

THE CLERK: Please be seated, state your name and spell it for the Court please.

THE WITNESS: Lance Corporal Blake Johnson Beaufort County Sheriff's Office Enforcement Division.

WHEREUPON,

Blake Johnson,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BAX:

Q Thank you, Officer. I been wondering what the B. stand for. I appreciate that. Thank you for being here this morning. I'll try to get you in and out of here. I know you got to be on road duty, so I want to get you back out on the road. Officer Johnson, do you recall being one of other the officers who responded to an incident or a report of a shooting on May 30th responded to the shooting

on May 30th of 2011?
A I do.
Q Okay. And was -- do you recall where that was at, what address it was?
A One Donaldson Drive in Burton.
Q In the Burton neighborhood?
A Burton area.
Q And tell us what you understood that call to be about?
A We received a call or we got dispatched to One Donaldson Drive. We had -- while in route we had heard that the mobile home had gotten -- shots were being fired and then several shots had come through the trailer.
Q When you respond, were you the first officer on the scene, Officer Johnson?
A No, I was not. There was several of us there.
Q Okay. And so there were other officers present at the scene with you when you were there?
A Yes.
Q Okay. When you were there at the scene, did you take any pictures or photographs?
A We did.
Q Okay. And that was in conjunction with other officers supervising you and saying I want a picture of this, picture of that?

A Yes.
Q Who was that officer?
A Staff Sergeant Fraiser.
Q Staff Sergeant Fraiser, okay.
MR. BAX: Approach the witness, Your Honor?
THE COURT: Yes, sir.
MR. BAX: Thank you.
BY MR. BAX:
Q I'm going to pass you a packet and this is going to be kind of a large packet, so I'm going to pass it to you in pieces.
THE COURT: Those been marked?
MR. BAX: Yes, they have, Your Honor. They have been marked defense ---
THE COURT: Stickers on the back? I see them.
MR. BAX: It's in the corners, Your Honor. And for the record, it's Defendant's Exhibits marked through one through 44.
THE COURT: State's reviewed those exhibits?
MR. STONE: We reviewed them, we have no objection to them coming in.
THE COURT: Thank you.
BY MR. BAX:
Q I'm just going to go ahead and pass you the packet please. If you would, take as much time as you need.

Review those and see if those are the pictures that you took that night, if those accurately represent what you took a picture of and whether there's been any changes to them? Take your time I know there's a lot of photos.

A Yes, they are.

Q Thank you, Officer Johnson for taking the time to do that for us. Now, that you've looked at those pictures, are those fair and accurate representations that you took that night?

A Yes, sir, they are.

Q Have they -- do they look like they been changed or altered in any way?

A No.

Q Okay. And there are some exterior shots and shots of the interior of the residence at One Donaldson Drive; is that correct?

A Yes, sir.

MR. BAX: Your Honor, at this time I would move to have these introduced Defendant's Exhibits 1 through 44.

THE COURT: Any objection?

MR. STONE: We don't have any objection, Your Honor.

THE COURT: Well, without objection Defendant's Exhibits one through 44 admit into evidence.

(WHEREUPON, Defendant's Exhibits Nos. 1-44 were admitted into evidence.)

MR. BAX: Thank you, Your Honor.

BY MR. BAX:

Q I'm just going to hand you back Defendant's 1 and 2, that appears to be a picture of a grassy area. And there's a lot of the plastic markers with numbers on them; correct?

A Yes.

Q Can you tell us what those are marking?

A This marks the spread of shell casings that we located in the adjacent property at 78 Pine Grove Road.

Q Is that directly behind the trailer or house that's there on One Donaldson Drive?

A Yes.

Q Okay. And was that accessible by going through another wooded lot back behind One Donaldson Drive?

A The drive way is pretty much adjacent to the back of One Donaldson Drive. If you went down the driveway, you would see the back of One Donaldson Drive.

Q Okay. And so those plastic markers that you can see in those photographs, those represent where you found shell casings, each one of those represent where a shell casing is found; is that correct?

A Yes.

Q Can you tell the jury how many shall casings were found on the scene?
A We found seven .45 caliber shell casings and ten .9 millimeter shell casings.
Q So for a total of 17 different shell casings in those two different calibers?
A Yes.
Q Okay. Thank you.
MR. BAX: Permission to publish these to the jury, Your Honor.
THE COURT: So granted.
BY MR. BAX:
Q And then in the -- some of these subsequent photographs which I'm going to show you now, these are just closeup shots of those very markers that are shown in the first two photographs?
A Yes, sir.
Q Okay. And there's actually one that has a L-shaped thing. Let me just ask you real quickly, what is that L-shape there?
A Just to get a size.
Q So that's a ruler?
A Yes.
Q And that would have been on one of the ones that had a numbered marker, but the numbered markers been moved to

put a ruler there?
A Yes.
Q Okay.
MR. BAX: And that's Defense Exhibit 18, Your Honor, for the record that I was asking him about.
BY MR. BAX:
Q I'm going to hand you Defense Exhibit 3 through 17 just ask you if those are closeups of those markers that we just talked about?
A From yes one through 15.
Q Thank you.
MR. BAX: Your Honor, permission to publish those exhibits that he's just looked at to the jury?
THE COURT: Yes, sir.
MR. BAX: Thank you.
THE COURT: If you want to for the record reference those, the ones that he just looked at reference exhibit numbers.
MR. BAX: Certainly, Your Honor, he just looked at pictures marked Defendant's Exhibit 3 through Defendant's Exhibit 17 showing the plastic markers he also looked at Defendant's Exhibit 18 with the ruler on them and that's why I'm publishing them to the jury at this time.

THE COURT: Okay, thank you.
BY MR. BAX:
Q Now, you obviously found these shell casings in this area and marked them and took photographs of them. Did you also take photographs of the actual residence itself?
A I believe that we did.
Q Okay. And were those photographs -- were you found what appear to be bullet holes?
A Yes.
Q Okay. All right. And one of these is a little dark, so if you can -- I'm going to actually pass that one to you individually. Can you tell us exactly if you can recall it's a little dark?
A This one the flash didn't work, but we submitted it. It's the other.
Q So it's just this picture here?
A Yes.
MR. BAX: Just for the record purposes, Your Honor, Officer Johnson was referring to Defendant's Exhibit 22.
BY MR. BAX:
Q And your testimony is that Defendant's Exhibit 23 is just that with the flash having gone off; is that correct?
A Yes.
Q Okay. And those were pictures of a bullet whole that

you found in the house near the ground; is that correct?
A Yes.
Q And then I'm going to hand you what's been marked as Defendant's Exhibit 19 through 27 and ask you take a look at those that you previously reviewed. Are those also shots of bullet holes that were found in that residence?
A They are.
Q Okay. Those are taken on the exterior of the house; is that correct?
A They are.
Q Were they condensed into one spot on the house or were they kind of generally along the whole back and side of the house?
A They were scattered throughout the outside.
Q Okay. Thank you very much, Officer.
MR. BAX: Your Honor, I'm passing -- I would ask to publish Defendant's Exhibits 19 through 27 to the jury?
THE COURT: So granted.
MR. BAX: Thank you.
BY MR. BAX:
Q Now, Officer, do you recall if you all had an opportunity to go inside the residence and look for any other evidence?
A We did.
Q Did you have an opportunity to take photographs of

what you found inside the house?
A We did.
Q Okay. I'm going to pass you what's been marked as Defendant's Exhibit 28 and I think it goes through the end of these exhibits, actually with execution of this one.
MR. BAX: So that's going to be Defendant's 28 through 38, Your Honor, I'm going to hand to Officer Johnson. And then I'm also handing him exhibit -- Defendant's Exhibit 40, 41, 43 and 44, Your Honor.
THE COURT: Okay.
BY MR. BAX:
Q Officer Johnson, do those appear to be the photographs you took of the interior of the resident at One Donaldson Drive?
A They do.
Q Okay. And those are photographs taken of where you saw bullet entry holes or what appear to be bullet entry holes?
A Yes, sir, from where they came through the dry wall of the trailer.
Q Okay. And if you can as you're looking through those pictures, can you identify the photographs and the exhibit numbers of where you took pictures or what appeared to be projectiles?
A These are the two different shots of the two

different projectiles.
Q Okay. And those would be exhibit 40 and 41; is that correct?
A 43 and 44 is the other one.
Q And then these are Defendant's Exhibits 43 and 44. So the 40 and 41 are different shots of one projectile that was found?
A It's just two different angles.
Q And then 43 and 44 it looks like there's one shot out and then one shot closer in the same projectile?
A Yes.
Q Thank you. Can you hand me those other ones.
MR. BAX: Your Honor, permission to publish to the jury those exhibits that I just showed to him?
MR. STONE: No objection.
THE COURT: Yes, sir.
BY MR. BAX:
Q And finally, I think these are also exteriors that we missed before. I just want to make sure that we cover them. I'm going to hand you Defendant's Exhibit 42 and 39. Those appear to be pictures that were taken on the exterior of the home; is that correct?
A They are.
Q The one is marked as one a shell casing with a plastic marker of one; is that correct?

A Yes.
Q And the other picture is what appears to be a bullet hole in a window; is that correct?
A It is.
Q Okay. Thank you very much.
MR. BAX: Permission to publish these last two Defendant's Exhibit 39 and 42 to the jury?
THE COURT: Yes, sir.
MR. BAX: Thank you.
BY MR. BAX:
Q Now, as a result of finding this evidence at this scene, did you collect the shell casings that you found?
A We did.
Q Okay. I like to pass to you what's been identified or has been premarked as Defendant's Exhibits 45 and 46 and ask you if you can identify these for me please?
A These are seven .45 caliber shell casings that we found. And these are the ten .9 millimeter shell casings that we found at Donaldson Drive?
Q Okay. And those are in the evidence bag; is that correct?
A They are.
Q And that was -- well, let me ask you this, that was sealed on scene after being placed into the bag?
A Yes, it was sealed.

Q Does it appear that that seal has been broken in any way?
A No.
Q Okay. Do they appear as you recall putting them in the bag originally on May 30th 2011?
A They do.
Q Okay. And for the court's information and for the jury's information, I have Exhibit Number 46 which appears to be .45 shell casings; is that correct?
A They are.
Q And then I have Defendant's Exhibit 45 which appears to be the .9 millimeter shell casing; is that correct?
A Yes, sir.

MR. BAX: Permission to publish to the jury, Your Honor. Well, actually, I would ask to move these into evidence as Defendant's 45 and 46 first.

MR. STONE: Judge, we don't have any objection and there's no necessity to call a chain of custody, either, we stipulate to that as well.

MR. BAX: Thank you very much.

THE COURT: Without objection 45 and 46 admitted into evidence.

(WHEREUPON, Defendant's Exhibits Nos. 45 and 46 were admitted into evidence.)

MR. BAX: Thank you, Your Honor. Permission to

publish.

THE COURT: Yes, sir.

BY MR. BAX:

Q And finally, Officer, and I appreciate all your patience as we go through all this. I know you got stuff to do here and thank you very much for coming. I have Defendant's Exhibit marked 47. Can you take a look at that and see if you can identify that for me please?

A Two bullets that have been spint.

Q And that would be like what the SLED crime scene investigator referred to as projectiles as well; correct?

A Yes.

Q Okay. Do those appear to be in the same condition that they were when you place them in the bag on May 30th?

A They appear to be.

Q Okay. And does it appear that they there sealed as well; correct?

A Yes.

Q Does it appear that that seal has been broken in any way?

A No, it does not.

MR. BAX: Your Honor, I move to have this introduced as Defendant's Exhibit 47 into evidence, Your Honor?

THE COURT: Any objection?

MR. STONE: No, sir.

THE COURT: Without objection Defendant's Exhibit 47 in evidence.

(WHEREUPON, Defendant's Exhibit No. 47 was admitted into evidence.)

MR. BAX: Permission to publish to the jury, Your Honor.

THE COURT: Yes, sir.

BY MR. BAX:

Q And I know that the -- we've gone through the pictures, but I just want to ask you the -- and we can refer back to these if you need to. One projectile that was found on the floor, what was that -- do you recall what was near, what kind of furniture that was near?

A One projectile was found by the kitchen sink and the other one was found on a TV cabinet ---

Q An entertainment center or where you would put a television?

A Yes.

Q Okay. In fact, it was found where it look like it had struck some DVD's?

A Uh-huh.

Q Is that correct?

A Yes.

Q And those were children DVD's; is that correct?

A As I recall, yes.
Q Okay. And I think that we talked about this. I just want to make sure I ask you again. You were with Staff Sergeant Fraiser during the time you took these photographs; correct?
A I was.
MR. BAX: Okay. Moments indulgence, Your Honor.
THE COURT: Yes, sir.
BY MR. BAX:
Q Now, Officer Johnson, while you were at the -- this scene, did you find out from the other officers or from anybody that was there who resided in the trailer?
A I don't recall who actually live there, no.
Q Do you recall doing any kind of report to memorialize that you had been there and what you did?
A I did a supplemental report to the actual incident report done by Corporal Snow.
MR. BAX: Permission to approach the witness, Your Honor?
THE COURT: Yes, sir.
BY MR. BAX:
Q I just pass you this to see if it refreshes your recollection. After having reviewed that, does it refresh your recollection as to who might have been the resident at that location?

A Miss LaShaunica Allen.
Q Okay. Thank you very much. While you were on scene, was there any other individuals you remember that you talk to or saw around?
A Not me personally, no.
Q Not you personally. So there would have been other officers that might have been doing interviews or talking to any potential witnesses?
A Yes, there were several of us out there.
MR. BAX: Thank you very much.
No further questions at this time for Officer Johnson.
THE COURT: Cross-examination?
MR. STONE: No, sir, Your Honor.
MR. BAX: I ask that he be released from his subpoena, so he could go back to his job, Your Honor.
THE COURT: Any objection?
MR. STONE: No, sir.
THE COURT: Sir, you are free to step down. And you have no further responsibility under your subpoena. You free to go. Thank you.
(WHEREUPON, the witness leaves the witness stand.)
THE COURT: Call your next witness.
MR. BAX: Thank you very much, Your Honor. The

next witness for the defense would be Corporal Chris (sic) Seronka. If I'm saying that correctly, I apologize.

THE COURT: The forelady's raising her hand on the jury box over there. You asking about the evidence?

MADAM FORELADY: Yes, can we just have a minute to catch up cause it's distracting us from listening to everybody.

THE COURT: Can the bailiff grab that evidence and give them an opportunity to look at it again.

Thank you, ma'am.

Go ahead and swear this witness and let him have a seat, but do not begin your questioning until they finish looking at those.

THE CLERK: Put your left hand on the Bible and raise your right hand. Do you solemnly swear to truthfully answer all questions asked of you by this Court, so help you God?

THE WITNESS: I do.

THE CLERK: Please be seated and state your name for the court please.

THE WITNESS: Corporal Chad Seronka Beaufort County Sheriff's Office.

THE COURT: Hold on.

(WHEREUPON, a pause in the proceedings.)

THE COURT: You all as you look at a piece of

evidence, a picture, pass it down to the next person rather than holding all 10 or 15 or however many photographs you have, if you would. Thank you. Make it go a lot faster.

(WHEREUPON, a pause in the proceedings.)

THE COURT: I will tell the jury this that these items that have been introduced into evidence, they will go back to the jury room with you for your viewing as well, okay.

(WHEREUPON, a pause in the proceedings.)

THE COURT: All those items of evidence have been reviewed by the jury pursuant to defense counsel's request, collected by the bailiff and placed here by the court reporter.

Mr. Bax, you are now recognized at this time.

MR. BAX: Thank you very much, Your Honor.

THE COURT: Yes, sir.

WHEREUPON,

Chad Seronka,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BAX:

Q Corporal, thanks for being here this morning.

A Yes, sir.

Q All right. And you are Chad Seronka; is that

correct?
A That is correct.
Q I was informed by the department there are two Seronka's over there at the Beaufort County Sheriff's Department?
A Correct.
Q Okay. And let me ask you this, do you recall responding to an incident on May 30th 2011 at One Donaldson Drive?
A I do.
Q How did you get attached to that investigation, did you get dispatch to it?
A Yes.
Q Okay. And what was your understanding of what the incident was?
A I believe the initial complaint was by a female stating that she was in a residence and someone had just shot at it.
Q Okay. Now, do you recall when you arrived on scene was there any other officers already there?
A I believe Officer Johnson and I arrived relatively about the same time.
Q Okay. What did you do there on scene when you got on scene, Corporal?
A Made sure that the complainant was okay, no injuries,

check the welfare of everyone in the residence.
Q Who all was in the residence, Corporal?
A It's my recollection it was the female complainant and her four-year-old son.
Q Four-year-old son, okay. Were you the first to enter the residence?
A Positively, no. It's plausible that I was to initially go in and assure their safety. I would say that's accurate.
Q Okay. Do you recall where the residents were Miss Allen and her four-year-old son? Where were they when they came in?
A When I arrived, I believe they were in the living room.
Q Okay. And you don't recall whether another officer had been in there by that point or not; is that correct?
A I know that no one had been in there at that point.
Q All right. And what did -- once you saw them and ascertain they were safe, what else did you do inside the residence, Corporal?
A Gathered basic information the who, what, where, when, issued her a written statement to which he completed.
Q Okay. And this was based on shooting into the residence. Were you able to see physically any evidence

of that inside the home?
A Initially, no. That wasn't my initial concern. My initial concern was more along getting information for responding officers. She was able to get -- if she's able to observe the suspect, see who it was so that I could notify those responding officers as to who they needed to look for.
Q Okay. Later on during your investigation, did you then see some evidence of the gunshots?
A Yes.
Q What did you see?
A Pretty much what Officer Johnson detailed, that the casing on the TV stand, found one in the kitchen on the counter.
Q Those were the projectiles inside the residence?
A Correct.
Q And through your investigation, you ascertain where the residence -- the woman and her four-year-old son were they were during the time that the shots being fired, did you determine that from looking around?
A I believe she was in a back bedroom and the young child was in the living room.
Q Okay. And did you ascertain whether or not they got together during this time or anything like that?
A Upon hearing the gunshots, she crawled to the living

room to ensure the safety of her son.
Q Okay. All right. Did you ascertain whether she had gone anywhere prior to law enforcement coming or did she stay right there?
A To my knowledge, she stayed in the residence until we arrived.
Q And obviously, as you've testified, you observed a lot of the things that Officer Johnson's already testified to; correct?
A Yes.
Q Okay. Did you aid in putting any of those markers or finding any of those things initially?
A I believe we went out and did the initial search for casings together at which point they were identified by the markers photographed and then collected by him.
Q Okay. And obviously, as law enforcement, you have taken these situations and deal with them because it's your job, but obviously something like this can cause some emotion. Can you tell us from your observations what was the state of mind of Miss Allen and her four-year-old son?
A Nervous, scared, more so for her child I believe.
Q What about the four year old, what was his state, can you recall?
A I believe he was asleep at the time on the couch. She had done a pretty good job of calming him down by the

time I got there. He was just like most four year olds. He was -- he didn't really understand what was going on, but he knew that something was going on.

Q So he had been upset and she had to calm him down?

A I believe so.

Q Okay. Was he crying when you got into the house or had he stopped?

A I don't recall.

Q And you did testify that your first duty obviously was to check them for injuries. You checked the four year old and he didn't have any injuries?

A She verbally stated to me he wasn't injured and neither was she.

Q Okay. So you didn't do a physical examination yourself?

A Hands on, no. It was taken by her verbal.

Q And then visually looking at them?

A Correct.

Q Okay. Do you recall if E.M.S. or anybody was called out to the scene?

A To my recollection, no. Based on her, they obviously had no -- they were not the victim of a gunshot and by her stating so, E.M.S. was not called to the scene.

Q Okay. Do you recall -- and I know it's been sometime we're talking, you know, well over a year here. Do you

recall what Miss Allen was dressed in? What kind of clothing?
A I don't.
Q What about the boy do you remember what he was wearing?
A Not off the top of my head.
Q Do you remember the name of the boy?
A I believe it was Malcolm.
Q And as a result of your involvement in this, did you do either a supplemental or an incident report?
A I wrote the initial -- the incident report.
Q Okay. All right. I'm just seeing if there's something to refresh your memory in here or not. And let me ask you this about how long were you or law enforcement in general at this residence at night investigating this case?
A Say no less than an hour, maybe an hour and hour and a half.
Q And I don't know that I establish this, what time did you arrive on scene? Do you recall?
A Not off top of my head, no.
MR. BAX: Approach the witness, Your Honor?
THE COURT: Yes, sir.
BY MR. BAX:
Q Just going to pass you this, just to refresh your

recollection, see if that helps you.
A Eighteen minutes after midnight on the 30th.
Q Okay. So it was late at night around midnight time?
A Correct.
Q And do you recall -- what time did you receive your dispatch call to go out there?
A Eighteen minutes after midnight I was dispatched and I arrived seven minutes later.
Q Okay. And you said that you guys were out there about an hour. Were you the last officer to leave or were there still officers when you left the scene, sir?
A To my recollection, I was the last one I believe.
Q Do you recall if Miss Allen was going to stay there at the residence or was she going to leave based on everything that had happened?
A I don't remember.
Q Okay. All right. Thank you very much.
MR. BAX: Moment's indulgence, Your Honor.
THE COURT: Yes, sir.
(WHEREUPON, a pause in the proceedings.)
MR. BAX: No further questions for this witness at this time.
THE COURT: Cross-examination?
MR. THORNTON: Nothing from the State, Judge.
THE COURT: Sir, you may step down.

MR. BAX: We ask that the Corporal be excused from his subpoena, Your Honor.

MR. THORNTON: Without objection.

THE COURT: Without objection witness is excused with no further responsibility under the subpoena.

(WHEREUPON, the witness leaves the witness stand.)

THE COURT: Call your next witness.

MR. BAX: Thank you, Your Honor. At this time, Your Honor, the defense would call Staff Sergeant Fraiser to the stand.

THE CLERK: Place your left hand on the Bible and raise your right hand. Do you solemnly swear to truthfully answer all questions asked of you by this court, so help you God?

THE WITNESS: Yes, ma'am.

THE CLERK: Please be seated and state your name and spell it for the court please.

MR. BAX: May it please the Court, Your Honor.

THE COURT: Yes, sir.

WHEREUPON,

J.L. Frasier,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BAX:

Q Sergeant Fraiser, good to see you. You been present for the testimony so far today. Were you one of the officers who responded to a shooting incident on May 30th of 2011?

A Yes, I was.

Q And that was at One Donaldson Drive; is that correct?

A Yes, sir, I was.

Q And were you with Officer Johnson when the evidence was found and photographed?

A Yes, sir, when I arrived as the investigator, I reviewed the entire scene. Officer Johnson is what we call a crime scene technician. He assisted me in collecting the evidence. I identified the evidence with him. He collected that evidence for me.

Q Okay. And did you also have an opportunity to talk to anybody on scene the residents?

A I did. I did canvas of the neighborhood. There were people outside. We located some juveniles in the area. I did -- I talk to several people.

Q Okay. Did you have the opportunity to ascertain who were the residence of One Donaldson Drive?

A From what I stood, it was Miss Allen and her son. And I believe his name [redacted].

Q [redacted] Okay. And is there anybody else that you

talk to that said they lived at One Donaldson Drive?
A I don't believe so.
Q Okay. Do you recall ever speaking to Rajerick Knight that evening?
A I don't.
Q Okay. Did you ever talk to Miss Allen about anybody else living there besides her and her son?
A I don't believe I did. I asked her who stayed there and she stated it was her and her son I believe. I don't believe anybody else was identified.
Q Okay. Now, obviously, and I think you've alluded to this. Originally, officers detained three juvenile suspects; is that correct?
A Yes, it is.
Q Was it later determined that those suspects didn't have anything to do with the shooting?
A It was. Three juveniles were found in the area. Upon the officers arrival, they fled. The three juveniles were located. I conducted interviews with all them in the presence of their parents, completed gunshot residue kits and they were cleared.
Q Okay. And they were young and had basically ran away when they saw law enforcement; is that correct?
A That's right.
Q After the three juveniles were basically cleared for

lack of a better word, did you continue to investigate who had shot into this house?

A I did.

Q And what were you able to determine from your remembrance?

A Most of what I was able to determine was involving an Antoine Robinson. The information that I developed mostly through Miss Allen herself was that Antwan Robinson was responsible for the shooting. He had pulled up into the residence at [redacted] Pine Grove Road. He had fired the shots. It was -- it appeared that there was at least two people with two different casings and that's judging by how the casings were found in two separate piles.

Q Okay.

A Antoine Robinson was the one that I identified as the most probable. However, I wasn't able to get anybody to come forward for testimony and prosecution.

Q Okay.

MR. BAX: Permission to approach the witness, Your Honor?

THE COURT: Yes, sir.

BY MR. BAX:

Q I just want to show you a couple things here, Sergeant. First of all, you've referenced shell casings in your testimony. I'm going to pass these to you and see

if you can identify those and just want to ask you if those are the shell casings that you been speaking of?
A They are, yes, sir.
Q And for the jury some may know this, some may not, but I want to make sure we're clear. Those are two different calibers of bullets or shell casings; is that correct?
A That's correct one is a .9 millimeter caliber and one is a .45 caliber.
Q Okay. And I don't want to play down to anybody, but I have to make sure I'm clear. Can you fire a .45 caliber bullet out of a .9 millimeter gun?
A No, you cannot.
Q Okay. So based on what you have in front of you, Officer, and with your experience as an investigator, were there had to have been two guns present in order to have shots from both a .45 and a .9 millimeter?
A Yes, sir, there would have.
Q Okay. So there's indication there that there would have been potentially two shooters?
A That's correct.
Q Okay. And I think you also testified that -- and let me reference the pictures if I can. I'm going to start with Defendant's Exhibit 1 and 2 and hand those to you. You stated that the shell casings were kind of in two

piles; is that right?
A That's correct.
Q Can you see -- can you determine that from that picture, does that show kind of the differentiation and where the .45 versus the .9 millimeters were found?
A It does and that's why I ask that these photos be taken.
Q Okay. And so for the jury -- and, of course, they're going to be able to look back at these pictures. There's some shell casings to one side of that photo and then shell casings kind of in a line on the other side of the photograph?
A That's correct.
Q Okay. So the, Sergeant Fraiser, the .9 millimeters were grouped in one of those groups together?
A Yes, sir.
Q And then the .45's were grouped in another group?
A That's right.
Q Let me also ask you this, there were ten .9 millimeter cartridges found; is that correct?
A That's right.
Q Now, standardly what is the range from your experience of the amount of ammunition a standard .9 millimeter can hold?
A Typically, it's ten rounds.

Q Okay. So potentially -- well, let me ask you this, were any firearms ever recovered in the investigation of this case?
A No, there was not. I had a K-9 officer on scene that I asked to do an area search for specifically for firearms. When we arrived on scene, we found the juveniles in very close proximity, so the area search was conducted between where what we found the shell casings and where the juveniles had fled to. In case the juveniles were in fact responsible for the shooting, we would have found the guns if they would have tossed them. No firearms were found.
Q And obviously, as we stated, you ended up finding out those juveniles were negative for any gunshot residue and really didn't do anything other than run away?
A That's correct.
Q And so there was no wider search for firearm beyond that range that you testified to?
A We conducted a search. It was essentially a 360, what's called a 360, so an area of 60 degrees around the area where the juveniles were found, the shell casings were found. So all the yards, bushes, driveways everything was searched.
Q Okay. And also going back to the firearm .45 caliber guns in your experience, are those generally carry less

ammunition capacity because of the size of the round?
A They do.
Q Okay. What is generally in your experience as an investigator with the Sheriff's Department the ammunition capacity of a .45?
A Typically, it's seven rounds.
Q Okay. And there were seven rounds found on scene -- seven cartridges found on scene?
A That's correct.
Q Now, let me also pass you ---
MR. BAX: Approach the witness, Your Honor?
THE COURT: Yes, sir.
MR. BAX: Thank you very much.
BY MR. BAX:
Q What's been marked and introduced into evidence as Defendant's Exhibit 47 and ask you if you recognize that as well?
A I do.
Q And what are those?
A These are projectiles.
Q Can you tell us by looking at those what caliber those are?
A I cannot.
Q But there is how many in that bag, sir?
A There are two.

Q Okay. Obviously, and let me ask you this and you recall those were found, sir?
A These were the two recovered from the residence, I believe.
Q Okay. So obviously, let me ask you this obvious question I apologize. Were there other projectiles that weren't recovered?
A Obviously, there were as if there were in fact that many bullets fired, then there's obviously more than two. But these are the only two that we were able to recover.
Q Now, obviously, I think we testified to this, but I want to go over it again. This was a residence. Did it involve a trailer or a regular house? How would you describe the residence?
A The residence at One Donaldson was a single wide mobile home, I believe.
Q Okay. All right. Is it possible through your experience in looking at the scene as you did, that some of these might have continued on pass the house and been lost into the distance as far as projectiles?
A It is likely, yes, sir.
Q Were you able to determine that there were any corresponding holes from one side of the residence to the other?
A I don't believe so. I believe most of the

trajectory's were in an upward trajectory. I don't believe they were.

Q Okay. But as far as your investigation that night, those were the projectiles you were able to find?

A That is correct.

Q Now, there also photographs of bullet holes in the exterior of the home; is that correct?

A There is.

Q From your remembrance and I can certainly show you the photographs if you need. Were they in one place or were they spread out across the trailer generally?

A I believe, I recall that the pattern was very sporadic. It was spread all the way across a residence. It wasn't one particular area that was being shot at, it was the whole residence.

Q Okay. And you had already stated that a lot of these were in an upward trajectory. Is that one -- is that a mobile home that sits up on a little bit of a foundation, a little bit above the ground.

A It was. I believe it was somewhere around 50 inches above the ground.

Q Okay. Would that upward trajectory be consistent with somebody standing on a ground outside and firing at the residence at an angle?

A Yes, sir.

Q Did any of those -- from your remembrance and being with Officer Johnson, did any of those bullets pass through the home or enter the home at a level where they would have struck someone if they were standing in a normal way near where the bullet went into the house?
A I believe so.
Q Okay. And I believe one of the projectiles were found in the kitchen near the kitchen sink?
A That's correct.
Q And then the other was recovered in an entertainment center and it impacted some DVD's?
A That's correct.
Q Okay. And they were children's DVD's in the home at around where that bullet was found; correct?
A I don't recall what type of DVD's.
Q Okay. Let me see if I can reference an exhibit for you and I apologize I know it's been a long time, so I can't expect for you to remember everything.

MR. BAX: Moments indulgence, Your Honor.

(WHEREUPON, a pause in the proceedings.)

MR. BAX:
Q I'm going to hand you what's been marked and entered into evidence as Defendant's Exhibit 44 and 43. It's to show you that. In your recollection, does that accurately represent where one of the projectiles was recovered?

A It does.
Q Okay. And is that around some DVD's?
A It is Charlotte's Web.
Q Okay. Were there any -- from your remembrance, you went inside One Donaldson Drive?
A I did. I conducted a follow-up interview with Miss Allen in there as well.
Q Okay. And obviously, as you testified, she had a four year old at that time; correct?
A She did.
Q Okay. Did she at all tell you whether she was pregnant or not at that time?
A I don't recall, I think she did.
Q I think she did say she was?
A I believe she did, yes.
Q Okay. Was there any other items in there to -- as far as having a child whether there other items like children's furniture or children's toys around the residence?
A I believe there was.
Q Okay. All right. Now, getting back to the investigation, did you continue to follow up on trying to ascertain who had done this after May 30th of 2011 after that night?
A I did, yes.

Q I know you have testified that you were looking at an Antwan Robinson as a potential suspect. Did you ever come across information that Travis Sentell Holmes also could be a potential suspect in this case?
A I came across information that of a Travis Holmes.
Q A Travis Holmes?
A Yes, sir, there are two Travis Holmes, both reside in the same general area. I wasn't able to identify Travis Sentell or Travis Javarn.
Q And so there's two Travis Holmes'. One is Travis Sentell Holmes and one is Travis Javarne Holmes; is that correct?
A That's correct.
Q Are they related to each other or do you know?
A I don't know. I don't know for sure, they may be cousins.
Q Did you have any information that would tend to show that it might have been Travis Sentell Holmes that was involved with this?
A Miss Allen had stated to me that in talking to people in the area that given her the name Travis Holmes as a possible suspect. I asked her or I informed her that there was two Travis Sentel Holmes and I advised her that one was substantially taller than the other. She said she believed it would have been the shorter of the two, that

would have been Travis Sentell.
Q So from your information Travis was the shorter of the two. Do you know what the difference in height was?
A Some where around 5 inches.
Q Okay. Do you recall what height Travis Sentell was suppose to be, what his height was suppose to be?
A I think he was some where five foot seven.
Q Okay. And so Travis Javarne Holmes was some what taller than that?
A Yes.
Q Okay. All right. Now, as a result of that information, did you talk with Antoine Robinson?
A We attempted to identify or I'm sorry we attempted to locate Antoine Robinson several times. We took several different measures to get him. We were never able to interview him in this case. We were also never able to get anybody else to come forward with specific information about him either.
Q Did you ever have an opportunity to talk with Travis Holmes or Travis Javarne Holmes?
A No.
Q Did you have an opportunity to try to locate them?
A Yes.
Q Were they -- did you know where they were?
A No not specifically. They had several listed

addresses.
Q Okay. Did you ever speak with anybody that said that they knew Travis Holmes and tell him we're looking for them?
A I don't believe so.
Q Okay. Is there any way based on your investigation that Mr. Holmes would have known you were looking for him?
A No.
Q Okay. But let me ask you going back Mr. Robinson, you said there were several attempts to speak with him or get in touch with him. Tell us about those and what happened with that?
A I went to his house several times. I never could get him at his residence. His vehicles were there. I put up officers around and his residence to try to get him to coming out. We were never able to get him.
Q Okay. Was it based on evasion? Did he evade y'all?
A I don't know if he did. I think he did. In one instance, I been surveilling the residence and I observed two vehicles at the house. One was a Tahoe, a white Tahoe, one was a black Civic. I left the residence and got together with several other officers to try to set up in the area to conduct a traffic stop at some point if he left. As we were coming back through the back entrance of Battery Creek High School, a black Honda Civic was pulling

out. We attempted to make a traffic stop on that Honda Civic. However, pulled in behind a barbershop on Jennings Road. When we got him behind the barbershop, the car had got out on to, I believe, it's county shed and fled the area where we weren't able to identify him. It wasn't that that was him. I didn't get a really good look at the driver. After that, I went back to the house and the black Honda Civic was gone.

Q Okay. Based on any information that you had from this investigation or prior investigations, was there any known association between Travis Holmes and Antoine Robinson?

A I don't know if there was.

Q Don't know whether there was or not?

A Not that I'm aware of, no.

Q But you once again, you never got a chance to talk with Mr. Robinson and ask him any of those questions?

A That's correct.

Q And you never got a chance to talk with Travis Sentell Holmes or either of the Mr. Holmes and ask them those questions?

A No, sir.

Q What ultimately happen with that case?

A The case was administratively closed.

Q Okay. Can you tell me when that happened, when it

was administratively closed?
A I can. On June 22nd of 2011.
Q June the 22nd, okay. And let me ask you this, you stated already that some of the information that you got was from Miss Allen. Did Miss Allen come to see you or did you go see her?
A Both. I went back to her residence again to go over the crime scene again to talk to her again, talk to anybody else in the neighborhood that may have had information again. I also brought her into my office to talk with me.
Q Okay. Do you recall about how many times you met with Miss Allen?
A In person?
Q Either by phone or in person at your office?
A Several times.
Q Several times. Okay. Did you make contact with Miss Allen immediately prior closing the case?
A I did.
Q Okay. And you informed her that -- did you inform her that you were closing the case?
A What I informed her was that the case will be closed pending further information. And in an administrative closure, the case doesn't necessary go away. It just stops until we obtain more information to further pursuit

of the case.
Q Okay. Did you have an opportunity to inform Miss Allen you're difficulties in being able to talk with Mr. Robinson or Mr. Holmes?
A I did. I encourage Miss Allen to talk to the people in the neighborhood that were giving her information to come forward and make statements to me help out prosecution.
Q Okay. So today or to that date on June 22 had anybody come forward other than Miss Allen to tell you anything?
A No.
MR. BAX: Moments indulgence, Your Honor.
THE COURT: Yes, sir.
(WHEREUPON, a pause in the proceedings.)
BY MR. BAX:
Q Just a few more questions and thank you for your patience, Sergeant. First I like to reference you to a couple of exhibits from the State ---
MR. BAX: Permission to approach the witness, Your Honor?
THE COURT: Yes, sir.
MR. BAX: Thank you.
BY MR. BAX:
Q I'm going to hand you what's been marked as State's

Exhibit 28, 29, 30 and 31. See if you can just look at those?

A Yes, sir.

Q First of all, have you ever seen those before?

A No.

Q And those appear to be -- well, let me ask you this -- those appear to be a copy of his license, copy of the car title, copy of the Title Max loan and the D.M.V. records of the registration of the vehicle?

A It does.

Q Okay. Can you tell what residence -- let me ask you this, those are the copies of Mr. Rajerick Knight's information; correct?

A Yes, sir.

Q In relationship to a vehicle; correct?

A Yes, sir.

Q Okay. What residence do those item -- what residence do those records list as his resident?

A One Donaldson Drive.

Q Okay. Does the license list him down as One Donaldson Drive?

A It does.

Q And the car title?

A It does.

Q Okay. Now, I think in there than -- this is one

again the State's exhibits that I pass up to you. In the car title, that's a car title for a dark in color Crown Victoria; is that correct?

A I don't know about the color, but, yes, '99 Ford Crown Victoria.

Q Do you recall seeing any Crown Victoria's at the Donaldson Drive address the night of the shooting when you were investigating?

A Outside of the sheriff's office Crown Victoria's?

Q No, sir, a non-police vehicle Crown Victoria of some non-police vehicle that was a Crown Victoria like -- I'm sorry I'm saying this incorrectly a personal vehicle?

A I don't recall.

Q Could there have been one there?

A There could have been, I don't recall.

Q Okay. And I know you testified that you don't recall if you ever talk with Mr. Knight that evening. Was anybody sitting -- any African American gentleman sitting on there vehicle that night in the lot in front of that residence?

A There was. There was -- I talk to an individual. I assume from the next trailer over, who refused to give me his name. And I talk to two other individuals on the other side of the road who also refused to give their names.

Q Okay. And that brings us to a good point. So obviously, there was a lot of people in this area and they just didn't want to tell you who they were?
A That's correct.
Q Did they tell you why they didn't want to tell you who they were?
A No, sir.
Q Did they appear to be scared or frightened in any way?
A No, they didn't.
Q Did they appear to be cooperative?
A They were cooperative with the questions that I asked about if they had seen anyone, if they had seen anything, if they had heard the gunshots, but as far identifying anybody, they weren't able to identify anybody or give any vehicle descriptions. They seem forthcoming, they just didn't want to provide their names. I believe the comments were I don't want to be involved.
Q I don't want to be involve.
MR. BAX: Thank you very much. Thank you, sir.
BY MR. BAX:
Q As a result of your investigation both that night and on through the rest of the time up until June 22nd either through Miss Allen or otherwise, did you develop any suspect vehicles? Was there anything you were told about

this that might have been the vehicle used?
A I did, a white Tahoe or a white truck was identified. Antoine Robinson does drive a white Tahoe, that's what led me to his residence, that's why I sat on the residence trying to get a traffic stop on him.
Q Okay. All right.
MR. BAX: Thank you very much. Moments Court's indulgence, Your Honor.
(WHEREUPON, a pause in the proceedings.)
MR. BAX: No further questions on direct, Your Honor.
THE COURT: Cross-examination.
MR. STONE: Please the court, Your Honor.

CROSS-EXAMINATION

BY MR. STONE:
Q Investigator, I'm looking through your report here and I don't see anything where this man, Rajerick Knight, ever gave you any information?
A He did not.
Q He never called and said, Hey, somebody shot at my house or shot at my girlfriend and what are you doing about it?
A No, sir.
Q Interesting. Let me ask you a question, most of the information that you talk about today and suspects that

you develop, they're all coming from Miss Allen; correct?
A That's correct.
Q And actually not from Miss Allen's first-hand knowledge, this is Miss Allen saying I heard so and so might be involved. I heard this happened. I heard that happen; is that correct?
A That's correct.
Q The fact that the first suspect that she gave you was to make sure I get this right Antoine Robinson; is that right?
A That's correct. According to her, she was told by family members who stay in the Possum Hill area, which is where Antoine Robinson is from that they overheard Antoine Robinson talking about shooting up the residence.
Q Okay. So Antoine is A-N-T ---
A O-I-N-E.
Q Robinson?
A Yes, sir.
Q And I believe also that Antoine Robinson according to Miss Allen in fact shot the wrong house. He was trying to shoot another house; is that right?
A That's correct.
Q Some guy name Day was the target; is that correct?
A That's correct.
Q Cause Mr. Robinson is trying to send a message to

Mr. Day?
A That's correct.
Q Then six days later Miss Allen said, Hey, I heard somebody else was involved, didn't she?
A I believe she gave a name Dion.
Q Dion. Do you know a Dion? Do you know who she was talking about?
A I do. I believe she was talking about Dion Haygood. He is a known associate of Antoine Robinson's. He also drives a white Tahoe.
Q And in fact, you had a white Tahoe was the car that I think you just earlier said was identified as some information she had that might have been involved as well?
A That's correct.
Q Then a few days later you got another name, a guy by the name of Jamal Jenkins; is that correct?
A That is correct.
Q And who is Jamal Jenkins?
A I'm not sure about Jamal Jenkins.
Q Is that Jamal or Jamel or do we know?
A She gave me both names Jamal and Jamel.
Q She gave you both names. So let me get J-A-M-A-L.
A And E-L.
Q Jenkins. Okay. And then six days later is when she mention that she had heard from somebody somewhere that

Travis Holmes might be involved; is that right?
A That's correct.
Q And there are two of those. Travis S. Holmes; is that correct?
A Travis Sentell and Travis Javarne.
Q What's the middle name, I apologize?
A Sentell and Javarne J-A-V-A-R-N-E.
Q One other thing the three individuals, the three juveniles that you mentioned earlier where they were running from the scene when the police officers got there, what were their names?
A Christopher Jackson 15 years old, Na-shon Mervin N-A--S-H-O-N 15, and Jermel Days 14.
Q All right. And since, Mr. Rajerick Knight here never asked you about the investigation, I'm assuming you never told Mr. Knight those people were cleared; correct?
A No, I did not.
Q And your investigation involved K-9, which is the dog handling things like that trying to find the weapon and shells things like that?
A That's correct.
Q Gunshot residence?
A That's correct.
Q You interviewed people?
A I did.

Q You followed up both with Miss Allen and on the leads that Miss Allen or the information shall we say Miss Allen gave you?
A I did.
Q Okay. And how long or how much time -- it appeared also there were a number of officers at the scene and throughout this investigation; is that correct?
A There were.
Q And you were never able to make an arrest of Mr. Holmes in that case?
A No, I was not.
Q Why not?
A I didn't have any information or substantial leads that would identify Mr. Holmes as a suspect in the case.
Q Other than Miss Allen saying she heard somebody told her maybe that Mr. Holmes was involved?
A That's correct.
Q So the suspects in this case periodically had been Christopher Jackson, Mr. Mervin, Mr. Day, Mr. Robinson, Mr. Haygood, Mr. Jenkins, Mr. Holmes and the other Mr. Holmes all those were at some point in time mention in the incident report; is that correct?
A That's correct.
Q Okay.
MR. STONE: Nothing else. Thank you.

THE COURT: Any redirect?

MR. BAX: Yes, Your Honor.

REDIRECT EXAMINATION

BY MR. BAX:

Q I just want to recover some things here, Sergeant Fraiser, that were brought up on cross. And I believe you stated this, Mr. Jackson was 15 years old; is that right?

A Christopher Jackson?

Q Yes, sir.

A Yes, he was.

Q Okay. All right. And Na-Shon, if I'm saying that right, Mr. Mervin?

A Yes, Na-Shon, he's 15.

Q He's 14?

A Fifteen.

Q Fifteen, excuse me. And I believe you said Mr. Day was 14?

A Yes, sir.

Q Did you ascertain in your investigation that they were playing video games at their grandma's house?

A I did.

Q And they ran because they saw police?

A Yes, sir.

Q Did you ever charge them with these crimes?

A No.

Q And they were cleared?
A They were.
Q Now, getting to some of these other names. You've testified that you made the effort, you went out and tried to talk to people. But you said that number one they did not identify any vehicles or people; is that correct?
A I believe a white truck and a white Tahoe was identified.
Q So people did say there was a white truck or a white Tahoe?
A I believe so.
Q Did any witness that you tried to talk to that night would any of them say they knew who drove that?
A No.
Q Did any of them identify having seen someone say I know who that is?
A No.
Q Okay. And when you asked their identity were they willing to give you their identity?
A No.
Q And they stated to the effect they didn't want to become involved?
A That's correct.
Q Okay. Did you ever talk -- and I know we been through this before, but as a result of not being able to

talk with Mr. Robinson were you able to determine if he had an alibi whether he was somewhere else or what he was up to the night of May 30th 2011?

A No, I was not.

Q Because you never could talk to him, right?

A Not just him, just anybody in that neighborhood, nobody would talk.

Q Okay. So the information you're getting is information you couldn't get yourself, but you definitely tried?

A That's correct.

Q Okay. And people in this neighborhood were not giving anything?

A That's correct.

Q Okay. So the only information you were getting was from Miss Allen, the female that lived at that residence, trying to find out what happened; correct?

A That is correct.

Q Is Miss Allen a commissioned law enforcement officer to your knowledge?

A No, sir.

Q How old is Miss Allen do you recall?

A During the time of this incident, she was 21.

Q Twenty-one years old. And she had a four-year-old son and may have been pregnant during this time; is that

correct?
A Yes, sir.
Q Okay. Do you know what level of education that she has?
A I do not.
Q Okay. She was giving you information she was trying to find out; correct?
A Yes, sir. Information, I believe several people she had stated to me were calling her giving her the information or her sister.
Q Were any of those people calling you?
A No.
Q Was any of those people making any anonymous reports to law enforcement that you are aware of?
A No.
Q So all of this was information she was getting to you, right?
A What ---
Q Antoine Robinson, Dion, Jamal, Jamel Jenkins and one of the Travis Holmes'?
A That's correct.
Q And she didn't state to you both Travis Holmes' were there or that she knew which one, she just told you it was Travis Holmes and then she told you it was the shorter of the two?

A She believed it was the shorter, yes.
Q Okay. And through you already knowing about the -- now, let me ask you this, had you ever -- did you know about Mr. Travis Sentell Holmes or Travis Javarne Holmes already?
A Yes.
Q Did you know their names already?
A Yes.
Q And so the information about which one's taller, which one's shorter, that's information you had; correct?
A Yes.
Q And that's through your contact with these individuals?
A Yes.
Q Okay. And so when you said who was taller and who was shorter, it was Travis Sentell Holmes that she thought was the one that was involved based on the information she was getting?
A Yes.
Q And once again just for the record, the information in the forensic evidence that you had indicated two shooters; is that right?
A That's correct.
Q Let me ask you this real quickly, when you were canvasing the neighborhood talking to Miss Allen and any

other witnesses that would talk to you, did anyone say that there was a volley of shots and then a stop and then another volley of shots?

A I don't believe so.

Q Did they all say that there were just one volley of shots?

A That's correct.

Q And that was it?

A That's correct.

Q They'll also indicate that there were two shooters since some didn't stop and change guns?

A That's correct.

MR. BAX: No further questions, Your Honor.

THE COURT: Anything further, Mr. Stone?

RECROSS-EXAMINATION

BY MR. STONE:

Q So the only information that you have that's corroborated by anybody first of all Miss Allen's information -- let me back up. Best information you had would it be safe to say that Antoine Robinson was one of the individuals?

A Yes.

Q And you know for a fact that he hangs out with whom?

A Dion Haygood.

Q And there two shooters, but we really quite frankly

don't know who shot, do we?

A No, we don't.

MR. STONE: I don't have anything else.

THE COURT: Sir, you may step down. Thank you.

MR. BAX: Your Honor, I ask that Sergeant Fraiser be released from his subpoena?

THE COURT: Any objection?

MR. STONE: No, sir.

THE COURT: Sir, you free to leave. You have no further responsibility under your subpoena.

(WHEREUPON, the witness leaves the witness stand.)

THE COURT: Can the lawyers approach a minute please.

(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)

THE COURT: Ladies and gentlemen of the jury, we're going to take a morning break. We've been going about an hour and a half now. I'm going to ask that you step to the jury room, I'll get you back out here as quickly as possible. Do not discuss the case. Do not discuss the case and I'll get you back out here as quickly as possible.

(WHEREUPON, the jury retire to the jury room.)

THE COURT: All right. Side bar up here, I asked the lawyers, Mr. Stone.

MR. STONE: Yes, sir.

THE COURT: Hold it down please.

Mr. Bax and Mr. Stone, specifically Mr. Bax, who you anticipated calling next, he indicated that I believe Corporal James T. Prusinowski, he was not going to call; is that correct?

MR. BAX: That's correct. And I just spoke with him and I told him that I was releasing him from his subpoena. He's exited the courtroom, Your Honor.

THE COURT: Any objection to that?

MR. STONE: No, sir.

THE COURT: All right. Anything else before we take a break?

MR. BAX: No, Your Honor.

THE COURT: I will stand down about ten minutes.

MR. STONE: Yes, sir.

(WHEREUPON, a break was taken.)

THE COURT: All right. State ready to proceed at this time?

MR. STONE: Yes, sir.

THE COURT: Defense counsel ready to proceed.

MR. BAX: Yes, Your Honor. And before we call in the jury, I would ask the Court to allow me to just

call and make sure that I haven't missed any of the officers that are here in the courtroom under my subpoena. If, Your Honor, has no objection to that? I just wanted to make sure. Is there a Sergeant R. Garst here or Pfc. McHaile or a Sergeant Rodriguez?

Judge, I was prepared to release them from their subpoena's. I didn't know if they were here or not and I didn't want them sitting around without having touched base with them. If any of those officers are here, just let me know and we can take care of that?

THE COURT: Any objection from the State?

MR. STONE: No, sir.

THE COURT: Anything else, Mr. Bax?

MR. BAX: No, Your Honor, prepared to go forward with the jury.

THE COURT: Bring us the jury please.

(WHEREUPON, the jury came into open court.)

THE COURT: Mr. Bax, call your next witness please.

MR. BAX: Yes, sir, Your Honor, moments indulgence.

(WHEREUPON, a pause in the proceedings.)

MR. BAX: Your Honor, sorry for the delay, we're just grabbing a little bit of paperwork for our client as a witness. The defense would call Joshua Heyward to the

stand please.

THE CLERK: Place your left hand on the bible and raise your right. Do you solemnly swear to truthfully answer all questions asked of you by this court, so help you God?

THE WITNESS: I do.

THE CLERK: Please be seated and state your name and spell it for the court please.

THE WITNESS: Joshua Heyward H-E-Y-W-A-R-D.

WHEREUPON,

Joshua Heyward,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BAX:

Q Thank you, Mr. Heyward. And thank you for being here today. Where do you live at, sir?

A 77 Pine Grove Road.

Q 77 Pine Grove Road, okay. And for the purposes of the jury knowing where that's at, that's in the Burton neighborhood; is that correct?

A Yes, sir.

Q Okay. And I believe that's one of the roads that you would take to get out to the Burton Wells Recreation Park?

A Yes, sir.

Q Okay. Can you tell us in what proximity is your

residence to Donaldson Drive, sir?
A It's like crossing the street.
Q Cross the street?
A Yes.
Q Does Donaldson Drive run parallel? By that, I mean in the same direction, but spaced by a short amount of distance with Pine Grove?
A Yes, sir.
Q Okay. So you have to take one other street to get over to Donaldson from Pine Grove? Am I saying that correctly?
A Yes, sir.
Q Okay. All right. Can you see any portion of the -- can you see any of the houses or any portion of the houses that are listed as Donaldson Drive addresses from your house?
A You can see it like right across the street.
Q Okay. And what do you know which houses or which residences you can see from your house?
A Yes, sir.
Q Which one?
A I can see across the street at 78, 79 right across the street from my house and I could see the backyard of Donaldson.
Q One Donaldson Drive?

A Yes, sir.
Q Okay. All right. And that's through that -- so there's a 77 that has a large wooded front driveway?
A Seventy-eight.
Q At 78. And One Donaldson Drive backs up to that property?
A Around the backyard.
Q Okay. All right. Now, Mr. Heyward, you are on the opposite side of Pine Grove at your house; correct?
A Yes, sir.
Q But you could see across the road into that wooded area there?
A Yes, sir.
Q And for the juries information -- when I say wooded, there's just a few trees, but you can see pretty far into that area; correct?
A Yes, sir.
Q Now, Mr. Heyward, do you recall an incident that occurred in May of 2011, a shooting incident?
A Yes, sir.
Q Okay. Can you tell us what on May 30th of 2011, did you see any cars driving around that arose your suspicions?
A A white truck.
Q A white truck. Can you tell us what time do you

remember seeing that white truck?
A I couldn't tell you exactly what time. I know it was late like after 12.
Q Was it dark outside?
A Yeah, it was dark.
Q What made you remember that? What was suspicious about that white truck?
A It drove back and forth like three or four times.
Q Okay. Was it driving up and down Pine Grove?
A Yes, sir.
Q Did it ever turn like it was going up towards Donaldson Drive?
A No, sir, it turn down 78 driveway.
Q It turn down 78 Driveway.
A Yes, sir.
Q Okay. What did you observe when the white truck pulled down the driveway to 78 Pine Grove?
A It went down like half way down the driveway, it stopped, two people jumped out and ran across in the middle of the yard and they open fire on the trailer.
Q Could you hear gunshots?
A Yes, sir.
Q Okay. Could you see actually two different individuals?
A Yes, sir.

Q Could you identify either of the individuals?
A No, sir.
Q About how far were you from those individuals best guess?
A I say about 75, 50 feet.
Q About 50 feet or so?
A Yes, sir.
Q And you said it was dark outside?
A Yes, sir.
Q Could you see what they were dressed in?
A No, sir.
Q Okay. When you say that they opened fire, could you see that they were actually both people were firing a firearm?
A Yes, sir.
Q Could you see what we call muzzle flashes or those flashes at the end of the gun?
A Yes, sir.
Q Okay. Josh, if you would, can you tell us where they were shooting at?
A They were shooting at the trailer on Donaldson on the back road.
Q And that's the back of One Donaldson Drive?
A Yes, sir.
Q Okay. Do you know who lives in One Donaldson Drive

or who live there at that time -- excuse me who live there at that time?

A Yeah, Rajerick.

Q Rajerick live there?

A Yes.

Q Who else did he live with over there at One Donaldson Drive?

A His girlfriend and his child.

Q His girlfriend and his child?

A Uh-huh.

Q That's a four-year-old Minor ?

A Yes, sir.

Q And was that his adopted son?

A I'm not sure.

Q You're not sure?

A I'm guessing his son.

Q But it's the child he referred to as his son?

A Yes, sir.

Q He took care of that boy.

A Yes, sir.

Q Okay. And he was in a relationship or he claim Miss Allen as girlfriend; is that correct?

A Yes, sir.

MR. THORNTON: Objection, Your Honor, I let it go for a little while. We're doing a lot of leading.

THE COURT: Objection sustained, direct examination.

BY MR. BAX:

Q All right. How did Rajerick Knight refer to Miss Allen? What did he call her?

A His girlfriend.

Q His girlfriend. Did Miss Allen ever say -- did you ever come across information Miss Allen was pregnant at that time?

A I was hearing about it, yes, sir.

Q Now, when you saw the shooting, did you call 9-1-1?

A No, sir, I called to make sure Rajerick was there.

Q Okay. So you called Mr. Knight? You called a number that you had for him?

A Yes, sir.

Q Did you speak with him?

A Yes, sir.

Q Okay. Did you hear if anybody was hurt?

MR. THORNTON: Objection hearsay.

THE COURT: Objection sustained.

BY MR. BAX:

Q Now, later on did you observe that law enforcement showed?

A Yes, sir.

Q Okay. And did you see that they were out in that

back area where you saw the two people that were shooting?
A Yes, sir.
Q Okay. Did you see them marking and picking up stuff back there?
A Yes, sir.
Q Okay. All right. Now, do you still live there on Pine Grove?
A Yes, sir.
Q To your knowledge, does Mr. Knight or Miss Allen still live there?
A No, sir.
Q Do you remember when they moved out of there?
A I don't exactly recall. I know it was like after the incident.
Q After the incident?
A Yes, sir.
Q Was it fairly soon after the incident to your memory?
A Not exactly sure.
Q Not exactly sure, okay. All right.
MR. BAX: A moments indulgence just give me a second there, Josh, okay.
(WHEREUPON, a pause in the proceedings.)
BY MR. BAX:
Q One brief further question, Josh. Did you have any personal knowledge about whether or not Mr. Knight was in

the residence when the shooting occurred?
A No, sir.
Q You didn't know one way or the other?
A No, sir.
Q Did you know whether or not anybody was in the house when the shooting occurred?
A No, sir, I didn't know if anybody was home.
Q You didn't know if anybody was there?
A No, sir.

MR. BAX: No further questions at this time, Your Honor.

THE COURT: Cross-examination.

MR. THORNTON: None, Your Honor.

THE COURT: Sir, you may step down. Thank you.

(WHEREUPON, the witness leaves the witness stand.)

MR. BAX: Your Honor, we ask that Mr. Heyward be excused from his subpoena.

THE COURT: Any objection?

MR. THORNTON: None, Your Honor.

THE COURT: Mr. Heyward, you are excused free to leave. You have no further responsibilities under your subpoena. Thank you for being here.

Call your next witness please.

MR. BAX: Thank you very much, Your Honor.

Moments indulgence.

(WHEREUPON, a pause in the proceedings.)

MR. BAX: Your Honor, at this time the defense would call LaShaunica Allen to the stand please.

THE CLERK: Place your left hand on the Bible and raise your right hand. Do you solemnly swear to truthfully answer all questions asked of you by this court, so help you God?

THE WITNESS: Yes.

THE CLERK: Please be seated and state your name for the court.

WHEREUPON,

LaShaunica Allen,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BAX:

Q Miss Allen, one more time just for everybody, can you tell us your name for the record please?

A LaShaunica Allen.

Q And how do you spell your last name?

A A-L-L-E-N.

Q Say it again?

A A-L-L-E-N.

Q Okay. Thank you, Miss Allen. I know you're kind of soft spoken. Sounds like the sound system is working

pretty decent today, make sure you speak up and clearly for us and into the mic. Thank you. Cause the court reporter's got to take it down and we need the jury to hear everything that you got to say, okay?

A Okay.

Q Thank you, ma'am. First of all, Miss Allen, how old are you Miss Allen?

A I'm 22.

Q Say it again?

A Twenty-two.

Q Twenty-two. Okay. And how many children do you have, Miss Allen?

A Two.

Q And what are their names?

A Minor and the other one is name Minor .

Q And Minor ?

A Uh-huh.

Q Okay. Now, have you ever lived at or spent any time at One Donaldson Drive?

A Yes.

Q Okay. Can you tell us when you lived -- did you live at One Donaldson Drive?

A Yes, I did.

Q Can you tell us when the periods of time that you live there?

A Probably 2001, 2010 or 11.
Q Okay. On May 30th of 2011, were you in the house?
A Yes.
Q Okay. And do you recall that something happen that night?
A Yes.
Q Let me ask you this, did -- tell us about what happened on May 30th 2011, what do you recall happening that afternoon and that evening?
A That whole day?
Q Let me ask you this, obviously, we heard some testimony about this, but was there a shooting in the evening hours at that resident?
A Yes, later I think.
Q What time generally do you remember that being best of your recollection?
A It was dark outside. It was probably 11 or 12.
Q Eleven or 12 in that time. Okay. Who was in the house when that happen?
A Me and my son.
Q You and your son?
A Uh-huh.
Q [redacted]
A Yes.
Q Okay. Does anybody else live at that residence with

you and [redacted] at that time?
A Yeah.
Q Who?
A Rajerick.
Q Rajerick, Mr. Knight?
A Uh-huh.
Q Okay. And who is Rajerick Knight to you?
A My boyfriend.
Q Your boyfriend, okay. And we'll get into the shooting. Was there anything else happen in that day that was -- that you think was related to this?
A Yes.
Q What happened?
A Earlier like around five or six someone was knocking on the door and pretty hard.
Q Did you answer the door?
A No.
Q No, you didn't answer the door. Why didn't you answer the door?
A Because Rajerick always told me not to.
Q He told you not to, oaky. Did you ever see who was knocking on the door?
A No.
Q Did you ever see what cars had pulled up to the house?

A No.
Q Was there anything being said by the individuals?
A It was something ---
MR. STONE: Objection, Your Honor.
THE COURT: Objection sustained.
MR. BAX: And, Your Honor, ask if she said she didn't hear anything. She couldn't hear what was said.
THE COURT: Ma'am, if an objection is made, please wait until I make a ruling on it before you respond?
THE WITNESS: Okay.
THE COURT: Thank you.
Can the lawyers approach a minute?
MR. STONE: Yes, sir.
MR. BAX: Yes, sir.
(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)
THE COURT: You may continue.
MR. BAX: Thank you very much, Your Honor.
BY MR. BAX:
Q Okay. Miss Allen, moving back upwards in time to that evening, I want to talk to you about this shooting. You stated that yourself and Minor were in the house; correct?

A Yes, sir.
Q What were you doing at the time that the shooting occurred?
A I was on my bed and I was getting ready to text him.
Q And by him, you mean?
A Rajerick.
Q Rajerick. Okay. And where was Minor at this time?
A In the living room.
Q Okay. And let me ask you this, you stated that Mr. Knight live there. Had he been there earlier that day?
A Yes.
Q When had he left?
A He had left like around -- he had just came in like little bit before, so he had left around moments before the shooting.
Q Okay. What were y'all doing prior to him leaving the trailer there?
A He had just given Minor a bath and put him to sleep.
Q Okay. And Minor was sleeping in the living room; is that correct?
A Yes. He was watching TV and he had got up.
Q Okay. So Mr. Knight had given Minor a bath and then he left immediately after that; is that right?
A Yes.

Q Okay. Did you know where he was going?
A Outside. I don't know exactly where he was going.
Q And you said that when the shooting occurred, you were in the bed about to text Mr. Knight. What happened -- let's take the jury through what happened. Did you first hear a shot or did you hear something coming from through the house? What was the first thing you heard?
A The first thing I heard was one shot.
Q Okay. And what did you do when you heard a shot?
A I didn't believe it was shot at first. I just stood up like was that a gunshot. And then the rest came in and that's when I got down.
Q Okay. Tell us what happened when you say got down? Can you tell us what you mean by that?
A I was on the bed. I was sitting on my legs and I had fell off the bed when I was trying to get off. My feet didn't catch me and I had fell off the bed. And I started crawling to where [redacted] was.
Q And when you fell off the bed, how did you land? Did you land on your face or your shoulder or your stomach?
A I land on my face on the floor.
Q Okay. Miss Allen, were you pregnant at this time?
A Yes, sir.
Q Okay. And you said land on your front area. Did

that include your stomach?
A Yes.
Q Were you hit by any of these rounds at that time or did you know if you were?
A No, didn't know at that time.
Q Okay. And you said that you crawled? What were you doing when you crawled? What were you trying to do?
A I was trying to get to Minor .
Q Okay. Could you tell if Minor was awake at that time?
A I was calling him and he wasn't answering.
Q Did you find Minor
A Yes.
Q Where did you find him at?
A He was on the couch.
Q Okay. What did you do when you found Minor ?
A I pulled him. I tried to pull him down on the ground.
Q Were you successful in getting him down on the ground?
A Uh-huh.
Q Okay. And what did you do after that?
A We stayed there and I just covered him, shielded him with my body. And I just laid there with him until it stopped.

Q Could you count or were you to able to tell how many gunshots you heard?
A No, I did not.
Q How long between the first shot that you heard and the last one? How long did that take do you think?
A It seem like a long time, but it probably was couple a minutes.
Q But it seem like a long time?
A Yes.
Q Best guess is a couple of minutes?
A Uh-huh.
Q Did it seem like a lot of shots? I mean, was there any way you could find how many shots?
A There seem like a lot though.
Q How was Minor reacting to this?
A I was trying to get him down. He was trying to run out of the trailer to his father. And I was kept trying to get him down, but I guess he thought he would be safer with his father.
Q Okay. And you were trying to keep him from standing up during this volley and running out?
A Uh-huh.
Q What else did you hear? Did you hear anything else other than gun fire?
A No.

Q Was there anything that you could see that showed you whether or not these rounds were coming into your house?
A I could hear them coming into the house and I could hear breaking of things. I could hear coming in the house.
Q Did it seem through your knowledge that any of these rounds came pretty close to you?
A Yes.
Q Okay. What told you that they were coming close to you?
A Well, the shoe that I had on it came off and my shoulder was burning, so I knew.
Q Okay. Miss Allen, this lasted approximately two minutes. What did you and Minor do after it basically stopped?
A We stayed on the ground until police came.
Q Okay. Did Mr. Knight come back to the residence at any time?
A Yes.
Q Okay. When was that, can you remember?
A After the shooting, he ran and checked on us.
Q Where were you and Minor when that happened?
A We were laying on the ground.
Q Okay. Did you get up when Mr. Knight came in?
A No, I told him I was going to stay on the ground law

until law enforcement came.
Q Miss Allen, were you scared?
A Yes.
Q Just from your observations, okay, was your son scared?
A Yes.
Q Okay. Was he crying?
A Yes.
Q How long if you can tell us? How long before law enforcement arrived as best to your memory?
A Seem like forever, but it was like probably a couple minutes, like close to ten minutes.
Q Okay. Miss Allen, did you call 9-1-1?
A Yes.
Q You did?
A Yes, sir.
Q How long was that conversation?
A I kept hanging up with them, so one was like one minute. And I was calling my family and telling them that I love them and stuff. And then hanging up and call 9-1-1. So I kept hanging up on them, so it was like one minute probably and I kept calling back.
Q During those calls to 9-1-1, did you -- what did you tell 9-1-1?
A I told them that someone was shooting inside the

trailer. And I just told them that my shoulder was burning and that -- just I was scared and could they send someone out.

Q Now, you testified that you stayed on the floor until law enforcement arrived. Did you ever end up seeing an officer that night?

A Yes.

Q Did you stand up at that time?

A Yes, one of the officers told me that it was safe to stand up.

Q Okay. Do you remember which officer that was?

A No.

Q Okay. Was there a lot of officers there that night?

A Yes, sir.

Q Okay. Once you stood up, did you do anything to check Minor to see if he was injured at all?

A I did that on the ground, so I thought he was okay, but I still did double check him.

Q Okay. Was he complaining of any injuries or that he was hurt at all?

A No.

Q Did you check yourself for any injuries?

A Not at that time. I did want to get out of there.

Q Okay. So you didn't pat yourself down or check yourself at all?

A Not really, no.
Q Okay. Do you recall what you were wearing that night?
A No.
Q Do you remember if it was dark clothing or light clothing?
A It was probably dark clothing.
Q Dark clothing?
A Uh-huh.
Q Okay. Now, did you end up speak to officers that night?
A Yes.
Q Okay. What did you tell the officers that night?
A Just what they were asking, you know, like do I know who did it and stuff like that?
Q Okay. And do you recall the names of any of the officers that you spoke to?
A The only one that I remember is Detective Fraiser.
Q Okay. All right. And do you recall how long law enforcement was there at your trailer there at One Donaldson Drive that night?
A I don't think they were there that long like probably half an hour, hour.
Q Now, at any time did law enforcement ask you if you needed medical attention?

A I think 9-1-1 asked me did I need medical attention?
Q What did you tell them?
A And I told them, no.
Q Okay. Now, you had said earlier that your shoulder was burning?
A Yes, it was.
Q But despite that you told them you didn't need medical attention?
A Yeah, I just wanted to leave.
Q Okay. Now, after law enforcement left One Donaldson Drive that evening, did you stay the rest of the night there?
A No.
Q Now, you testified before that Mr. Knight came back after the shooting?
A Yes.
Q How quick after the last shot that you heard, can you tell us that he got back to the house?
A Less than a minute.
Q Okay, less than a minute. Now, after he got back, did he remain there on scene to your knowledge?
A Yes.
Q Was he inside the trailer or outside the trailer?
A He was both inside and out.
Q Okay. All right. Did you observe him talking to any

law enforcement officers?
A Probably said something every once in a while not really.
Q Were they aware that Mr. Knight was there from what you could tell?
A Yes, they were.
Q Miss Allen, and I think I asked you this. You stated that after that that law enforcement left, you didn't stay there. Can you tell us where you went?
A I went to a friend's house.
Q Okay. After that night of May 30th 2011, did you spend any more nights at Donaldson Drive?
A No.
Q Okay. Did you ultimately move away from that location?
A It was like a week later, we got another trailer.
Q Did you get all of your stuff out of the Donaldson Drive trailer?
A Yeah, we went back and got all our stuff out. I never returned after that night.
Q Okay. Now, that night while law enforcement was there, do you recall once you were standing looking around to see what damage had been done?
A I wasn't really looking at them. I just wanted to leave, but I seen them point out a lot of bullet holes

inside of the trailer.
Q Do you recall them finding the actual bullets in your trailer?
A Yes, I remember it was one that came from my door and out my room windows while still in the back.
Q Okay.
MR. BAX: Moment indulgence, Your Honor. Let the record reflect, I'm passing Defendant's Exhibit 43, 44, and 40 and 41 to the witness, Your Honor.
BY MR. BAX:
Q If you will please take a look at those. Do you recall the projectiles that are depicted in those photographs?
A Yes.
Q And do you recall that law enforcement finding those that night?
A Yes, sir, I remember.
Q Now, in two of those photographs, it shows a projectile near some DVD's. Where was that at in your house?
A It was in front of where [redacted] was laying. It's by the door.
Q And you had testified earlier that after Mr. Knight had given [redacted] a bath and put him to bed that he started watching television?

A Yes.
Q Is that the television he was watching?
A Yes.
Q Is there any other televisions in the house?
A Yes.
Q Okay. But that was the one he was watching?
A Yes, sir.
Q Were that bullet was found?
A Yes, sir.
Q Okay. And I can see in there that there's some DVD's showing in that picture, are those movies for Minor or those Minor 's movies?
A Yes, sir.
Q Okay. So he would have been in front of that television when he was watching that TV?
A Yes, sir.
Q Do you know from your own personal knowledge whether he was still watching TV when the shots started?
A I think he was sleeping or dozing off.
Q So he had been watching that television?
A Yes, he was.
Q How much earlier before the shooting started was he still watching TV?
A I had went in the room was taking a shower and stuff, probably 30 minutes.

Q Okay. So at least 30 minutes before he was sitting in front of that TV?
A Yes, sir.
Q Now, you testified that you spent the night somewhere else that night based on what happened; correct?
A Yes, sir.
Q Okay. The next morning did you notice anything about yourself?
A Yes.
Q Can you tell us about that please?
A When I woke up, went to go take a shower and I had -- was checking myself because my shoulder was still kind of hurting. And Rajerick had notice on my shoulder it was a big brown like bloody thing. It was difficult to walk a little bit and I notice my hip as well.
Q As a result of finding that you were hurting and what you described to the jury, did you seek any medical attention?
A Yes.
Q What did you do?
A I went to the hospital.
Q Okay. And what to your knowledge, what did they discover at the hospital?
A They I know -- I know they were trying to get me some crutches or something. And then they were -- they told me

that my shoulder I was severely grazed. And then they told me something about hip had a sprain. And I was bruised on my thigh. And they told me that I had lost the baby.

Q All right. Let's go back through that because that was a lot of stuff that you said for the jury. You stated that the doctors told you you were -- I think the words you uses were severely grazed on your shoulder?

A Shoulder. And they said more things, but I don't remember them all. It was a bunch of stuff.

Q Did they ever remove anything from your shoulder?

A They were -- they put some medicine on it. Then they put a little thing -- they were doing something to it.

Q Okay. And then you also stated I believe that you were grazed, I believe, is the word you used on your leg; is that correct?

A Yes. On my -- closer to my thigh and my shoulder and there was something else, but I don't remember it all.

Q But they also told you that ---

MR. STONE: Objection.

THE COURT: Grounds?

MR. STONE: Hearsay.

THE COURT: Objection sustained.

BY MR. BAX:

Q Did you ever carry that pregnancy to term?

A No.
Q No. Was there a miscarriage in that pregnancy?
A Yes.
Q Did the pregnancy continue past that night?
A No.

MR. BAX: Moment indulgence, Your Honor.

THE COURT: Yes, sir.

(WHEREUPON, a pause in the proceedings.)

BY MR. BAX:
Q Okay. Now, you stated that -- you said you remember talking to Detective Fraiser?
A Yes.
Q Did you talk to him just that night?
A No.
Q Did you talk to him on more than one occasion?
A Yes.
Q Okay. Can you tell us how many times you remember talking to Detective Fraiser?
A I can't recall how times, but several times.
Q Where did these conversations occur?
A One of them up like when we were coming to get some of our stuff, he had pulled into the -- we had already -- we was moving out and he had came to the trailer. And I spoken with him then and went to his office on several occasions.

Q Okay. And what was -- were you discussing this case with Mr. Fraiser?
A No, not this, but the shooting on May 30th.
Q Shooting on May 2011 with Mr. Fraiser?
A Yes.
Q Okay. And what do you recall telling Detective Fraiser about it?
A Just the -- he -- we were conversating about who did it and just stuff like that and...
Q Did you give Mister or excuse me -- Detective Fraiser any names of people that you believe might have been responsible?
A Yes, I do remember giving him Antoine Robinson's name.
Q Anybody else's name that you gave him?
A Travis Holmes. I remember giving him Travis Holmes' name too, but he also said that he have heard that Travis Holmes did it as well.
Q He told you that?
A Yes.
Q And you were providing this information to Detective Fraiser. Was this after the sheriff's department or were you guys meeting other places when you were telling this or were you talking on the phone?
A It was sometimes on the phone. Then it was a brick

building by -- close by here.
Q Okay. Was it the brick building that's across the Rebound Road from the sheriff's department?
A Yes, sir.
Q Okay. So you were inside that building?
A Yes, sir.
Q Okay. Did you go to Detective Fraiser's office in that building?
A Yes, sir.
Q Okay. Ultimately, what did Detective Fraiser tell you about the case where it was going?
A He told me that no one was coming forth in that he had -- the last time I talk to him he told me that he was -- he had went to their residence or he had gone to Possum Hill and tried to get them or something, but he was unsuccessful.
Q Okay. Did he ever inform you of any arrest being made?
A No.
Q Did he ever tell you that he had talk to Antoine Robinson?
A No.
Q Did he ever tell you that he talk to Travis Holmes?
A No.
Q Did you ever have a conversation with him about the

fact that there's two Travis Holmes?
A Yes, I remember that one.
Q Tell us about that conversation please?
A He told me that there was two Travis Holmes. It was a taller one and it was a shorter. One had hair and one didn't. And I told him that it's probably the shorter one he described both Travis Holmes.
Q Okay. Now, do you recall when it was that you talk to him and he said that no one was coming forward?
A No.
Q Do you remember -- were you ever informed that the case was closed or administratively closed?
A No, I don't remember. No one say it was closed.
Q Now, let me ask you this, this incident where your residence was shot at and shot into, that was on May 30th, right?
A Yes.
Q Okay. When was the last time, you recall talking to Detective Fraiser?
A I would say two months after the incident. I don't remember, I'm not sure.
Q And during any of that time, were you ever made aware of the fact that either Mr. Holmes or Mr. Robinson or anyone else was arrested for the charge?
A No.

MR. BAX: Moment beg the Court's indulgence, Your Honor. Thank you.

(WHEREUPON, a pause in the proceedings.)

BY MR. BAX:

Q Miss Allen, briefly in closing. Now, you had in -- you testified that you informed Detective Fraiser of these people and the fact that you thought that they were responsible. What was that based on?

A His knowledge and my knowledge that's just what everyone was saying and the white S.U.V., so I knew it was them.

MR. BAX: Okay, all right. Thank you very much, Miss Allen. No further questions at this time.

CROSS-EXAMINATION

BY MR. STONE:

Q You're Peanut; is that right?

A Yes, I am.

Q He calls you Peanut, that's why he's got this tattoo in his neck Peanut?

A Yes.

Q Okay. I bet he was pretty mad after you got shot at; wasn't he?

MR. BAX: Objection calls for speculation.

THE COURT: Overruled.

MR. STONE: Yes, sir.

BY MR. STONE:

Q Yes, ma'am, I bet he was pretty mad, was he not right after you got shot at?

A Yeah.

Q Pardon me?

A Yeah.

Q Okay. And I know you said you remembered Antoine Robinson?

A Yeah.

Q You gave that name to the officer?

A Yes, I did.

Q And that's the same Antoine Robinson that you said was actually shooting at Day and shot at the wrong house, right?

A Yes.

Q So you really weren't the target. Rajerick wasn't the target. Some guy name Day was the target. Do you know who Day is?

A No, I don't know who that is.

Q All right. And you also gave the name of Dion, did you not?

A Yes, I did.

Q And Jamal or Jamel Jenkins you gave that name too; didn't you?

A Yes.

Q And we know from the last witness that there were two shooters?
A Yes.
MR. STONE: I don't have anything else, Your Honor.
MR. BAX: Redirect, Your Honor?
THE COURT: Yes, sir.
MR. BAX: Thank you very much.

REDIRECT EXAMINATION

BY MR. BAX:
Q Miss Allen, this information that you testified that you gave to the detective this was all you were getting trying to find out who shot at your home and at your son; correct?
A Yes.
Q Was this information the police were getting?
A Yes, that's also information that the detective was getting as well, it wasn't just me.
Q Okay. But were the police with you? Were they out helping you get this information?
A No, they weren't.
Q Why were you going to get this information for them?
A Because I wanted justice for my house being shot up.
Q And why did you feel that you needed to help out?
A My son was involved and stuff and I just wanted

someone to get arrested for it.
Q And you already testified to this and so did sergeant Fraiser, you knew that no one was coming forward according to him to say what happened?
A Yes.
Q Did that motivate you to try to get out there and try to find out who did this?
A Yes, absolutely.
Q So this was to try and help law enforcement?
A Yes.
Q And that was the information you were getting and you were passing it on as you got it?
A Yes, sir.
Q Did you expect law enforcement to investigate these names and try and figure out who did do it?
A Yes, I did.
Q Did you tell them every name that you have you knew exactly that that was the person or did you tell them that's who you think may did it?
A I told them those were the names that coming up.
Q Okay. Those were the names that were coming up to you?
A Yes.
Q Were you doing this to spite any of these people?
A No. I don't know them. I just wanted to know who

did it, that's it.

MR. BAX: No further questions, Your Honor.

THE COURT: Any recross?

MR. STONE: No, sir.

THE COURT: Ma'am, you may step down. Thank you.

(WHEREUPON, the witness leaves the witness stand.)

THE COURT: Can the lawyers approach a minute please.

(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)

THE COURT: Ladies and gentlemen, what we're going to do now is I'm going to go ahead take a break for lunch, go ahead let you go to lunch. It is 12:30 or 12:33 or 34 to be exact. I'm going to ask that you be back in your jury room at two o'clock, two clock and we'll resume the trial of this case at that time. As throughout the trial of this case, my instructions remain the same at all or do any independent investigation of your own. Please be back in the jury room at two o'clock. Everybody else remain seated while the jury exits the courtroom.

(WHEREUPON, the jury is excused for lunch.)

THE COURT: Mr. Bax.

MR. BAX: Yes, sir.

THE COURT: Who else do you anticipate calling or who you anticipate calling next?

MR. BAX: Your Honor, I would anticipate calling Mr. DaQuan Cummings number 18 on my list, Your Honor. I need to get in contact with him. He is right here in town. I did tell him to come in the afternoon at two o'clock because I anticipated I would take up the morning and doesn't look like I'm too far off base. I apologize if I miss judged that, but I'm going to contact him right away and tell him to be here whenever Your Honor wants me to have him here. And then after Mr. Cummings, Your Honor, at that point I think we'll be to the point where I maybe ready to call my client. Though, I will need a little bit of time before that to make sure that I covered all my basis as you well know.

THE COURT: Well, you got an hour and a half right now.

MR. BAX: Yes, sir.

THE COURT: We're not going to stop and take a break for an extended period of time. I'm giving you an hour and a half right now. My question on Mr. DaQuan coming, does he got anything to add other than what's already been testified to here with regards to this? Is it something to do with the shooting from May?

MR. BAX: Yes, it does and he does have something to add because he can give evidence as to where Mr. Knight was when the shooting started and put him in a location and that's essentially what I think, Your Honor. But it want be long, it will be brief.

THE COURT: All right. Anything else from the State at this time?

MR. BAX: No, sir, Your Honor.

THE COURT: Anything further from defense counsel?

MR. BAX: No, Your Honor.

THE COURT: All right, stand at ease until two o'clock.

(WHEREUPON, a lunch break was taken.)

THE COURT: Is defense counsel ready to continue?

MR. BAX: I am Your, Honor.

THE COURT: Anything before you bring the jury in?

MR. BAX: No, Your Honor. My next witness is here and I'm ready to call him.

THE COURT: All right. State ready to proceed?

MR. STONE: Yes, sir, the State's ready.

THE COURT: Bring us the jury please.

(WHEREUPON, the jury came into open court.)

THE COURT: Madam forelady and ladies and gentlemen of the jury, I hope you all had a good lunch and are ready to proceed this afternoon.

Mr. Bax, you recognize call your next witness.

MR. BAX: Thank you very much, Your Honor. The defense at this time calls DaQuan Cummings to the stand please.

THE CLERK: Would you place your left hand on the Bible and raise your right hand for me please. Do you solemnly swear to truthfully answer all questions asked of you by this court, so help you God?

THE WITNESS: I do.

THE CLERK: Please be seated and state your full name for the court please.

THE WITNESS: DaQuan Cummings C-U-M-M-I-N-G-S.

MR. BAX: May it please the Court, Your Honor.

THE COURT: Yes, sir.

WHEREUPON,

DaQuan Cummings,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BAX:

Q Thank you, Mr. Cummings, for being here this afternoon. First and foremost, Mr. Cummings, can you tell

us where you live, sir?
A Three Donaldson Drive.
Q Three Donaldson Drive?
A Yes.
Q I'm sorry I just wanted to make sure that that's clear. Make sure when you're speaking that you're clear and that the court reporter's got to hear you and the jury over here got to hear you, okay?
A Yes, sir.
Q Is it all right if I call you Daquan?
A (Nod of head.)
Q Yes, sir.
THE COURT: Give me a yes or no answer and then make sure you respond verbally.
THE WITNESS: Yes, sir.
THE COURT: Thank you.
BY MR. BAX:
Q Thank you, Daquan. And the judge is absolutely correct, you know a lot of times we like to nod our head, but if you can give us a yes or no or whatever verbal answer, we appreciate it.
A Yes, sir.
Q All right. Thank you very much. You said you lived at Three Donaldson Drive where is that in relationship to One Donaldson Drive?

A Next door we block by like a -- I would say a septic tank block like a square block in the middle.
Q Okay. So there's square block in the middle. What is it surrounded by?
A Nothing just a square block.
Q Can people drive around that block?
A You can walk around it.
Q You can walk around the block. Okay. Does your door face One Donaldson Drive or does it face the other way?
A One Donaldson Drive.
Q So it faces that trailer across that block?
A Yeah.
Q Okay. All right. And how long have you been living there on Donaldson Drive, DaQuan?
A Say about eight years.
Q About eight years?
A Yeah.
Q So you were living at Three Donaldson Drive in May of 2011?
A Yes, sir.
Q Okay. DaQuan, let me ask you this, do you remember any kind of shooting incident in the end of May 2011?
A Yes, sir.
Q Okay. I'm going to ask you a little bit about that. Do you remember what you were doing that evening? Were

you home that evening?
A Yes, sir.
Q Okay. What were you doing -- well, let me ask you this, did you hear shots?
A Yes, sir.
Q You did?
A Uh-huh.
Q Do you remember approximately about what time that was?
A No, sir.
Q Okay. Was it nighttime or daytime?
A Nighttime.
Q Nighttime, dark outside?
A Yes, sir.
Q Okay. Was there anybody in your trailer with you when you heard the shot?
A Yes, sir.
Q Who was there?
A Me, Rajerick, my girlfriend and my little sister.
Q Okay. Let's go through that, you said you, Rajerick Knight this gentleman over here?
A Yes, sir.
Q Your girlfriend?
A Yes, sir.
Q And who was the other person you said?

A My little sister.
Q Your little sister. How old is your little sister?
A Eighteen now.
Q Eighteen now?
A Yeah.
Q How old would she have been in 2011, do you know?
A Seventeen.
Q Seventeen, okay. What did you do when you heard the shots? What happened inside your mobile home when that happened?
A Rajerick told us to hit the floor.
Q Okay.
A When I hit the floor, cut the light offs.
Q Okay. You got down on the ground?
A Yes, sir.
Q Did everybody else get down on the ground?
A Yes, sir.
Q You said cut the lights. Did someone cut the lights?
A Yes, sir.
Q Who did that?
A Rajerick did.
Q Rajerick cut the lights out?
A Yes, sir.
Q Okay. Can you recall how many shots that you heard?
A No, sir.

Q Was it -- is there any ballpark? Was it more than five?
A Way more than five.
Q Way more than five, okay. Mr. Cummings, did you -- were you able to see anybody shooting when that happened?
A No, sir, we was in the house at the time.
Q Okay. Did you ever get up and try and look out the window?
A No, sir.
Q Can you tell us best of your memory how long this shooting lasted?
A For approximately two minutes.
Q Okay. After the shooting stopped, what did you do, Daquan?
A Left the house.
Q How long after the shooting, I mean, did you immediately jump and leave?
A We stayed there for a little while until the police came and then we all left after that.
Q Can you tell us after the shooting what did Rajerick do Mr. Knight?
A Went next door to check on his girlfriend and on his little child.
Q Let me ask you this, you said that Rajerick was over there. How long had Rajerick been at your house before

the shooting started?
A Fifteen, 20 minutes.
Q Okay. All right. Did you see -- did he come on foot? Did you see him come on foot?
A Yes.
Q He just walked over from his trailer?
A Yeah, he walk to my trailer.
Q You knew Mr. Knight before this evening; correct?
A Yes, sir.
Q How long had you known him, sir?
A Just a year, he had move next door.
Q Okay. And you said that -- how long he been living over there to your remembrance?
A Only about a year, maybe a year and a half.
Q Year, year and a half?
A Yeah.
Q Okay. Now, earlier in that day, did anything else happen that was weird or unusual?
A Yeah, I mean, like three cars had approach the yard, knocking on his door talking about they was going to shoot his house up and stuff. And after that, all that happen.
Q Did you know any of these people?
A No, sir.
Q You never seen them before in your life?
A No, sir.

Q Could you identify them now?
A No, sir.
Q And you heard all that?
A Yes, sir.
Q Did they come and say anything to you?
A Yeah, they already told ---
MR. THORNTON: Objection, Your Honor, that's hear say.
THE COURT: Objection sustained.
BY MR. BAX:
Q How much earlier in the day was it that these cars came by?
A Seem like an hour before.
Q Hour before?
A Yeah.
Q Okay. It was evening time?
A Like say just turn dark outside like dark dark.
Q Okay. Could you tell how many individuals were there?
A No, sir.
Q And how many cars did you say it was?
A Three cars.
Q Three cars.
MR. BAX: Moments beg the Court's indulgence, Your Honor.

THE COURT: Yes, sir.

MR. BAX: Thank you.

(WHEREUPON, a pause in the proceedings.)

BY MR. BAX:

Q Okay. Daquan, what kind of cars were they that these individuals were in?

A I believe, the one at the front door was a Honda. I seen a Buick that was parked like beside my trailer and they had one blocking the road.

Q Okay. You said there was a Honda. Can you tell what kind of Honda? Was it a sedan or was it a truck or...

A Sedan.

Q Sedan of some kind?

A Yes, sir.

Q Was it a Civic or an Accord, could you tell?

A No, sir.

Q Couldn't tell?

A (Shook head.)

Q That Honda, was it a dark color Honda?

A No more of a light color.

Q Light color?

A Yes, sir.

Q Now, you said there was a Buick and then you said there was another car blocking the way. What does that mean? Can you tell us what that mean blocking the way?

A Like my yard right there next to this yard, so there's a car block right there. The Buick park there in my yard. Then the car behind the Buick where the driveway at.

Q What kind of car was that?

A I couldn't tell.

Q Wouldn't tell what kind of car that was?

A It was blocking.

Q Okay. Is there only one way into that little square where those two trailers are?

A One way in.

Q All right.

MR. BAX: No further questions at this time.

THE COURT: Cross-examination?

MR. THORNTON: No questions, Judge.

THE COURT: Sir, you may step down. Thank you.

(WHEREUPON, the witness leaves the witness stand.)

MR. BAX: Your Honor, I ask that Mr. Cummings be excused from his subpoena?

THE COURT: Any objection?

MR. THORNTON: No objection, Judge.

THE COURT: Sir, you are free to go and have no further responsibility under your subpoena. Thank you for being here.

Call your next witnesses.

MR. BAX: At this time, the defense will call Rajerick Knight to the stand.

THE COURT: All right.

THE CLERK: Would you place your left hand on the Bible and raise your right hand for me please. Do you solemnly swear to truthfully answer all questions asked of you by this court, so help you God?

THE WITNESS: I do.

THE CLERK: Please be seat and state your name for the record?

THE WITNESS: My name is Rajerick Knight K-N-I-G-H-T.

THE COURT: Mr. Bax.

MR. BAX: Thank you, Your Honor.

WHEREUPON,

Rajerick Knight,

after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BAX:

Q All right, Rajerick, first and foremost make sure you speak up for me, okay, make sure you answer all questions with a yes or no or a full answer and not just a nod because we want the court reporter to get it all down, okay?

A Yes, sir.
Q Thank you very much. First of all, you already given your name. Let's hear it again, you're Rajerick Knight; is that correct?
A Yes, sir.
Q Okay. And how do spell your last name for us?
A K-N-I-G-H-T.
Q All right. First of all, Mr. Knight, where you originally from?
A Well, I was born at or where I grew up at?
Q Where did you grow up?
A I grew up in -- it's a part of Burton, but it's called Grace hill.
Q Grace Hill. Okay. All right. And let me ask you this, Rajerick, have ever lived at Donaldson Drive, One Donald Drive?
A Yes, sir.
Q Okay. And let me ask you this ---
MR. BAX: I'm going to ask to approach the witness, Your Honor?
THE COURT: Yes, sir.
MR. BAX: Thank you very much.
BY MR. BAX:
Q On these exhibits ---
MR. BAX: And, Your Honor, for the record, I'm

referring to 28, 29, 30 and 31 once again.
BY MR. BAX:
Q Can you take a look at those for me please?
A I looked at them.
Q And is that got copies of your car title and your license and so forth?
A Yes, sir.
Q Okay. And what address does it have listed down for those documents?
A One Donaldson Drive.
Q Okay. Did you put that information down for like your license and your car title and such?
A Yes, sir.
Q Okay. All right. Hand those back to me. Thank you. That was where you were living at least for that period of time, right?
A Yes, sir.
Q Okay. All right. Can you tell us about when you approximately when you lived at Donaldson Drive? When did you move in do you remember?
A I moved from Florida in June of 2010 to One Donaldson Drive and I left One Donaldson Drive probably May 31st of 2011.
Q Okay. Now, Mr. Knight, do you recall May 30th of 2011, that night you recall a shooting incident that

occurred?
A Yes, sir.
Q Okay. Were you there at your trailer that day?
A Yes, sir, I was there the whole day.
Q Okay. Now, did you stay right in the trailer all the time or did you come and go out of the trailer?
A I was in my trailer most of the time, some time that day I was outside cooking for the kids. I had a lot of kids over that day.
Q Okay. Do you know any of the neighbors that live around there?
A I know a few, but I got a right direct neighbor that stay right across street from me DaQuan Cummings.
Q So you know Mr. Cummings that testified today?
A Yes, sir.
Q Okay. All right. And he lives in that trailer that's straight across from your trailer; is that right?
A Yes, sir.
MR. BAX: Moments indulgence, Your Honor.
(WHEREUPON, a pause in the proceedings.)
BY MR. BAX:
Q Mr. Knight, on that day, were you there at Donaldson Drive the entire day or were there sometimes when you were gone from the trailer that you gone down the road further away?

A I was home the entire day.
Q Okay. Now, let me ask you this, were there times when you went over to Mr. Cummings trailer?
A Yes, sir.
Q Okay. Where were you when you heard the shoots that day?
A I just went to Mr. Cummings trailer.
Q Can you recall about what time that was?
A I know it was late at night, I'm not really sure. It had to probably be around 11 or 12 o'clock.
Q Was it dark outside?
A It was very dark.
Q Okay. And what did you done right prior to going over to Mr. Cummings, what were you doing at your trailer before you left to walk over to Mr. Cummings' trailer?
A I had just left Mr. Cummings' trailer and went back home. And my son was real dirty, he was in the yard playing with his cousins and friends all day. He was real dirty. He was still so young, but I took showers with him. So me and him went in the shower. I brought him out the shower. I put on his pajamas. It was a Sunday night. He had school the next morning. I put on his pajamas, put cartoons on the TV in the front room and let him watch TV. LaShaunica was pregnant at the time, so I didn't smoke in the house. I went outside to smoke a cigarette.

Q And after he had been put down in pajamas and you went outside, did you go over to Mr. Cummings?
A Mr. Cummings was pulling back up into his yard and he jumped out his car frantic like where were you, where were you. I was like what I was at the house all day. And he was telling me two or three cars a guy just came in looking for you. They were telling me they gone kill you ---

MR. STONE: Objection.

THE COURT: Objection sustain.

BY MR. BAX:
Q Mr. Knight, let me ask you this, did you ever see any of these cars that came by earlier that was -- did you see any other cars coming that you didn't know about earlier that day?
A I was in the house.
Q Okay. Did you know about them coming by or did you see anything, hear anything when it actually happened?
A I couldn't hear anything.
Q Okay. All right. Now, getting back to when you got -- you left your trailer and Mr. Cummings came back. Did you go into his trailer at that time?
A Yeah, I walked into his trailer.
Q Okay. Now, how long do you recall that you were in his trailer before you heard any shots?

A I wasn't in his trailer ten minutes before we heard the shots.
Q What did you do when you heard the shots, Rajerick?
A Everybody got on the ground. And I tried to crawl to the light switch and hit the lights, so nobody could like see us in the house. All of us were on the ground until the shots were finished.
Q About how long do you think that they all took. I mean, let me back up. Can you -- did you count how many shots you heard? Do you remember how many shots it was?
A It was too many to count.
Q About how long between the time that you heard the first shot and the time that you heard last shot? About how long did the whole thing last?
A Maybe, two to three minutes.
Q After the shooting stopped, what did you do then?
A When the shooting stopped, I ran straight next door to my house to check on my LaShaunica and Minor both of them was just laying there not responding to me calling them. So I was nudging them and then I finally got LaShaunica to snap out her shock. And I was like get up. She was like I can't, just going to sit here until the police come. And she stayed down and called the police and the police came.
Q Okay. When law enforcement arrived, were you still

there at the trailer?
A Yes.
Q Okay. Did you speak with any officers?
A Yeah, I spoke with some of them when walking through the house with some of them showed them the holes in the trailer that I noticed before they came.
Q Okay. So when you went in to check on your girlfriend and your son, Minor did you notice holes in the trailer at that time?
A Yeah, I notice holes in the trailer and first when I really notice was on the ceiling, it was a big skid like one of the bullets slid across the ceiling.
Q Did you notice anything about the DVD's underneath the television? Did you see anything there?
A I didn't have an eye for that. I didn't notice until the police pointed it out to me and showed me.
Q Okay. So at some point they showed -- you saw where they discovered a bullet there in the DVD's?
A Yes, sir.
Q Did they show you or did anybody show you any other bullets that were found?
A I think they found bullets like between the blinds and the window and the kitchen window above the sink?
Q Okay. You had testified that earlier you got your son washed and everything said you turned on the

television. Was he in the same room with the television and the DVD's where they found that projectile, that bullet?

A Yes, sir.

Q Now, did you remain there until law enforcement left that evening?

A We stayed there most of the time and Detective Fraiser wanted us to stay, so he could question us, but LaShaunica just wanted to leave. So we ended up leaving before the officers left.

Q Had some of the officers started leaving or were they all still there when you left?

A They were canvasing the scene still talking to some of my neighbors still and we just left.

Q Where did you all go to a friend's house, a hotel, where did you go?

A I think the first night we went to my friend's house.

Q Okay. Now, from your own observations, was LaShaunica upset, was Miss Allen upset?

A She was very scared. She never been through anything like that before.

Q Okay. What about your son, was [redacted] he upset?

A He was scared and ask me where I was when the incident happened like I wasn't there for him. And then he started this after a while once I was back with him, he

started back acting like a child. He knew something happen, but he just didn't really understand the vary of the situation.

Q Now, the next morning did you observe or see that LaShaunica was actually injured?

A Yeah, the next morning I was in the bathroom with her while she was getting undressed. I was asking her how her arm feel and she was like it was hurting, it's hurting. And I tried to touch it and she kept jerking it away. And I saw that she had a big red bruise on her arm up there.

Q As a result of that, did you guys seek any medical attention for LaShaunica?

A Yeah, I took her to the hospital right after we put our clothes on and got dress.

Q How long were you guys at the hospital do you recall?

A We were there most of the day. It was a whole long day thing. I kept running back from the hospital to get her something eat. I just sat at the hospital with her all day long.

Q Okay. And you had testified already that LaShaunica was pregnant when this all happened; correct?

A Yes, sir.

Q Was it your understanding that that was your child that she was carrying; correct?

A Yes, sir.

Q Okay. Did she end up being able to have that child?
A No, sir.
Q Did she end up having a miscarriage as a result of falling on the floor and all that during this event?
A Yes, sir.
MR. BAX: Moments indulgence, Your Honor.
(WHEREUPON, a pause in the proceedings.)
BY MR. BAX:
Q Okay. Now, Mr. Knight, I want to ask you some questions. Obviously, this is your trial. You are not here to say you're a Boy Scott; is that right?
A No, sir.
Q I want to ask you some questions. Mr. Knight, do you have any convictions for crimes in your past?
A Yes, sir, I have made some mistakes.
Q Okay. And I'm going to go through that, okay. I want us to be open and honest with the jury and let them know, okay. Did you get some I believe it was three break and entering convictions in 2005?
A Yes, sir.
Q Okay. I believe that was in North Carolina?
A Yes, sir.
Q Okay. And there was three larceny charges that went with that; is that correct?
A Yes, sir.