

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Florence County

Honorable William H. Seals, Circuit Court Judge

WAYNE A. SCOTT,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2022-001080

APPENDIX

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STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	TWELFTH JUDICIAL CIRCUIT
COUNTY OF FLORENCE	)	CASE NO. 2013-GS-21-391

STATE OF SOUTH CAROLINA,	)	

Plaintiff,	)	

-vs-	)	

TRANSCRIPT OF RECORD

WAYNE ALBEON SCOTT, JR.,	)	

Defendant.	)	

September 19, 2013
Florence, South Carolina

B E F O R E:

THE HONORABLE HOWARD KING, Judge

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

MATTHEW R. OZMENT, Esquire
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KRYSTAL J. SMITH
Court Reporter

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EXHIBITSNO.DESCRIPTIONID.EV.

(No Exhibits Presented)

1 SEPTEMBER 19, 2013

2 (WHEREAS this matter was scheduled for a motion hearing,
3 the defendant appeared along with his counsel of record.
4 The hearing began at 11:10 a.m.)

5 THE COURT: All right, Mr. Ozment, what's the first
6 matter we have this afternoon -- this morning?

7 MR. OZMENT: Your Honor, we're here on Mr. Grove's motion
8 under the Protection of Persons and Property Act.

9 THE COURT: Put -- put the case on the record, please,
10 sir, the name and number.

11 MR. OZMENT: I was in the process of pulling my file when
12 you came out. Your Honor, Indictment 2013-GS-21-391, the
13 State versus Wayne Albeon Scott. Mr. Scott is charged with
14 murder and possession of a weapon during a violent crime, and
15 I believe Mr. Grove has a motion under the Protection of
16 Persons and Property Act for immunity in this case.

17 THE COURT: All right. All right, the Court does have a
18 copy of the court's file -- clerk's file, and I do see Mr.
19 Grove's motion. Wait a minute. No, what I see -- what I
20 have, Mr. Grove, is a copy of your motion on the bond. I
21 don't see -- is there -- there's a motion under Rule 5. Is
22 there a written motion on this, Mr. ---

23 MR. GROVE: Judge, I believe it was memorialized in an
24 order from last term, which would be I guess August. Mr.
25 Ozment and I had scheduled this several weeks in advance.

1 There may not be a -- a literal form motion, but the State is
2 certainly on notice and the motion was -- the issue was
3 presented to our chief administration judge for criminal court
4 ---

5 THE COURT: Judge Brown?

6 MR. GROVE: --- Judge Brown to schedule this hearing
7 during this term. Presuming the defense is unsuccessful, the
8 trial is set for the end of next term in October.

9 THE COURT: All right. So the motion is made pursuant to
10 Section 16-11-410 of the Code of Laws of South Carolina
11 entitled the Protection of Persons and Property Act, and the
12 case law as set forth in State v. Duncan, 392 S.C. 404, 709
13 S.E.2d 662, a 2011 case of our Supreme Court. That case
14 outlined the procedure to be followed and the degree of proof
15 that must be shown by that.

16 Before we get into the merits of the matter, first of
17 all, I would say, of course, under *Duncan* it is the motion of
18 the defense and the defense has the burden of proving by the
19 preponderance of the evidence or greater weight of the
20 evidence that the defendant is entitled to immunity under 16-
21 11-410, and will be allowed to put up whatever testimony he
22 wishes to put up in that regard first. Then I will hear from
23 the -- from the State and any evidence, if necessary, from the
24 State as well, but we'll get into that as we go forward.

25 Before we go forward with the evidence on the motion made

1 by the defendant, let me tell everyone here that I know that
2 this is a matter that is very emotional to all of the parties
3 who are involved and to the victim's family and to the
4 defendant's family. I would remind everyone that this is a
5 court of law and that I'm going to require that order and
6 decorum be maintained in the courtroom, and if there's anyone
7 who thinks that they cannot sit quietly during this testimony
8 without expressions of emotion or any kind of demonstrative
9 expressions whatsoever, then you will -- I would ask you to
10 leave the courtroom now. I will tell you that if there are
11 unwarranted emotions or unwarranted outbursts in the
12 courtroom, they would be subject to punishment by the Court
13 for contempt.

14 All right, Mr. Grove, it's your motion so you may
15 proceed.

16 MR. GROVE: Thank you, Your Honor, may it please the
17 Court. The defense would call Michael Bruce.

18 THE COURT: All right. Come around, please.

19 THE CLERK: If you will, sir, come to the witness stand
20 and if you'll stop right there in front of the Bible, place
21 your left hand on the Bible, and raise your right hand. Do
22 you swear to tell the truth, the whole truth, and nothing but
23 the truth, so help you God?

24 THE WITNESS: I do.

25 THE CLERK: Please be seated right there in the witness

MICHAEL BRUCE - DIRECT EXAMINATION BY MR. GROVE

1 chair and state your full name for the record.

2 THE WITNESS: Larry Michael Bruce, II.

3 MICHAEL BRUCE, being first duly
4 sworn, testifies as follows:

5 DIRECT EXAMINATION

6 BY MR. GROVE:

7 Q: Good morning, Mr. Bruce. How are you doing?

8 A: I'm doing all right. How about yourself?

9 Q: I'm doing all right. Obviously, you know why we're here
10 today talking about Wayne Scott and Steve Springs?

11 A: Yes, sir.

12 Q: All right and this is involving an incident that took
13 place in September of last year?

14 A: Yes, sir.

15 Q: Are you aware of that?

16 A: (Witness nods head.)

17 Q: All right and I'll ask you first how -- where do you
18 live?

19 A: [REDACTED] Lazy Lane.

20 Q: Where is that?

21 A: Pamplico, South Carolina.

22 Q: Is that in Florence County?

23 A: It's Florence County, yes, sir.

24 Q: And what do you do for a living?

25 A: I work in -- I run heavy equipment. I'm a heavy

MICHAEL BRUCE - DIRECT EXAMINATION BY MR. GROVE

- 1 equipment operator. At the time, I was a painter.
- 2 Q: When you say at the time, you mean in September of last
- 3 year?
- 4 A: Yes, sir.
- 5 Q: Who did you work for?
- 6 A: My dad.
- 7 Q: What's his name?
- 8 A: Larry Bruce.
- 9 Q: And you painted for him?
- 10 A: Yes, sir.
- 11 Q: How old are you?
- 12 A: I'm twenty-eight.
- 13 Q: You know Wayne Albeon Scott, Jr.?
- 14 A: Yes, sir.
- 15 Q: How do you know Wayne?
- 16 A: Him and my daddy been buddies ever since I can -- was a
- 17 little boy.
- 18 Q: Do you know what Wayne does for a living?
- 19 A: He's a painter.
- 20 Q: Have you ever worked with him?
- 21 A: Yes, sir.
- 22 Q: How often do y'all work together?
- 23 A: When I was working with my daddy, we worked together
- 24 about every day.
- 25 Q: Did you work with him on September 24th, 2012?

MICHAEL BRUCE - DIRECT EXAMINATION BY MR. GROVE

- 1 A: Is that the day of the incident?
- 2 Q: Yes.
- 3 A: Yes, sir.
- 4 Q: Do you remember what y'all did for work that day?
- 5 A: We was painting a house.
- 6 Q: Okay.
- 7 A: The whole entire house.
- 8 Q: What -- what did you do after work?
- 9 A: We went hunting.
- 10 Q: Where did you go hunting?
- 11 A: On -- on my property down there in Pamplico.
- 12 Q: Okay. Did y'all work all day that day? A nine to five?
- 13 A: Yes, sir.
- 14 Q: And you went hunting shortly after that?
- 15 A: Yeah. Yes, sir.
- 16 Q: How long did y'all hunt?
- 17 A: Probably two hours and something. We didn't get the
- 18 whole hunt in.
- 19 Q: Until it got dark?
- 20 A: Almost. Not -- not quite dark.
- 21 (Whereupon, there is a pause in the questioning as the
- 22 proceedings are interrupted by the bailiff concerning a
- 23 jury question.)
- 24 THE COURT: Go ahead, Mr. Grove.
- 25 MR. GROVE: Thank you, Your Honor.

MICHAEL BRUCE - DIRECT EXAMINATION BY MR. GROVE

- 1 Q: So you and Wayne -- you call him Sonny, right?
- 2 A: Yes, sir.
- 3 Q: You and Sonny quit hunting right before dark?
- 4 A: Yes, sir.
- 5 Q: What happened after that?
- 6 A: I had to carry Sonny home.
- 7 Q: Okay. Do you remember Sonny having a conversation on the
- 8 phone?
- 9 A: Yes, sir.
- 10 Q: Do you know who he was having that conversation with?
- 11 A: Yes, sir.
- 12 Q: Who was he -- who was he talking to on the phone?
- 13 A: Mr. Steve, whatever his name is.
- 14 Q: Steve Springs?
- 15 A: Yes, sir.
- 16 Q: Are you talking about the victim in this case?
- 17 A: Yes, sir.
- 18 Q: Mr. Steve Springs?
- 19 A: I don't really know him well. Yes, sir.
- 20 Q: But you know that ---
- 21 A: Him and Sonny was arguing. I knew of him.
- 22 Q: Sonny was on the phone with the man who is now deceased?
- 23 A: Yes, sir.
- 24 Q: When did their conversation start? Do you remember?
- 25 A: Not -- not quite. Not -- I don't really remember when it

MICHAEL BRUCE - DIRECT EXAMINATION BY MR. GROVE

1 -- when I come out the woods, they was on the phone.

2 Q: So before you started to take Sonny home, he was having a

3 conversation with Mr. Springs?

4 A: Yes, sir.

5 Q: What -- what was the substance of their conversation?

6 Are you -- are you -- are you aware?

7 A: I'm not quite sure. They was arguing with each other.

8 Q: Okay and at some point shortly thereafter, you started to

9 carry Sonny home?

10 A: Yes, sir.

11 Q: Did he stay on the phone with Mr. Springs?

12 A: Yes, sir.

13 Q: Okay. At any point, did you speak to Mr. Springs?

14 A: Yes, sir.

15 Q: What was the substance of your conversation with Mr.

16 Spring?

17 A: Well, he -- when him and Sonny was arguing on the phone,

18 I told Sonny -- I said just hang the phone up on the joker,

19 you know.

20 Q: Why -- let me stop you right there. Why did you tell him

21 to hang up the phone with Mr. Springs?

22 A: Because they were steady arguing and ---

23 Q: Okay.

24 A: --- I told him to hang up the phone. I -- I reckon he --

25 he heard me say that and I said it a little bit different.

MICHAEL BRUCE - DIRECT EXAMINATION BY MR. GROVE

1 Q: Okay. When you say he heard me say that ---

2 A: Mr. Steve.

3 Q: Okay.

4 A: The deceased heard me say that on the phone. Like I told

5 him -- I said hang the phone up on the stupid -- I -- I said a

6 different word, but joker.

7 Q: Sure.

8 A: You know and I reckon he heard me say that and he told

9 Sonny to give me the phone and then I took the phone and I was

10 like, man, y'all just chill out with all this, and he started

11 cussing at me and all kind of stuff, and I hung the phone up

12 on him. I hung Sonny's phone up and then he called right

13 back.

14 Q: Okay.

15 A: And then I -- I didn't answer it. Sonny answered it.

16 Q: How long do you think it takes to drive from your house

17 in Pamplico to where Sonny lives?

18 A: Fifteen, twenty minutes.

19 Q: Do you know -- do you know where Sonny lives? I don't

20 mean his address, but ---

21 A: Yes, sir.

22 Q: Do you know what road he lives on?

23 A: I don't know the name of the road, but I -- yeah, I know

24 the road.

25 Q: Is it in Florence?

MICHAEL BRUCE - DIRECT EXAMINATION BY MR. GROVE

- 1 A: Yes, sir.
- 2 Q: So you drove from Pamplico to Florence with Sonny in the
3 car?
- 4 A: Yes, sir.
- 5 Q: And he and Steve Springs were having a conversation back
6 and forth?
- 7 A: Yes, sir.
- 8 Q: And at some point you just testified you hung up the
9 phone on Mr. Springs, and Mr. Springs called right back?
- 10 A: Yes, sir.
- 11 Q: How many times -- and I'm not going to hold you to a
12 specific number. How many times do you think Mr. Springs
13 called Sonny during that drive?
- 14 A: Probably twice I'd say.
- 15 Q: More than once?
- 16 A: Yeah.
- 17 Q: Maybe more than twice?
- 18 A: Maybe. I -- I don't know a specific number.
- 19 Q: But multiple times?
- 20 A: Yeah.
- 21 Q: All right.
- 22 A: They was back and forth with each other arguing.
- 23 Q: And -- and they were -- these phone calls, at least after
24 you hung up, they were initiated by Mr. Springs?
- 25 A: Yes, sir.

MICHAEL BRUCE - DIRECT EXAMINATION BY MR. GROVE

1 Q: He called Sonny Scott?

2 A: After I hung up?

3 Q: Yes.

4 A: Yes, sir.

5 Q: The -- Sonny did not call Steve Springs at that point?

6 A: No, sir.

7 Q: We're not sure -- you testified earlier you're not sure
8 who started the -- the original conversation?

9 A: No, I'm not sure about that. After I hung the phone up,
10 Mr. Steve called right back.

11 Q: Okay. Did Mr. Springs ever make any threats to you while
12 you were on the phone with him?

13 A: He told me he was going to beat my butt.

14 Q: Okay. Are you aware as to whether or not he made any
15 threats to Sonny Scott?

16 MR. OZMENT: Your Honor, I'd object to any hearsay.

17 THE COURT: All right. That would be hearsay, would it
18 not?

19 MR. GROVE: I -- I would ---

20 THE COURT: How else would he know?

21 MR. GROVE: It would be a present sense impression, Your
22 Honor.

23 THE COURT: No, it wouldn't either. It would be a
24 conversation because the only way he would know would be if
25 the victim told him that he made threats. That would be the

MICHAEL BRUCE - DIRECT EXAMINATION BY MR. GROVE

1 only way that he would know that. I'll sustain that
2 objection.

3 Q: Mr. Springs made threats to you?

4 A: Yes, sir.

5 Q: And after you drove from Pamplico up here to Florence,
6 you dropped off Sonny Scott at his house?

7 A: Yes, sir.

8 Q: Did you say anything to Sonny after this conversation
9 with Mr. Springs? Did you say anything to him?

10 A: To Sonny?

11 Q: Yes.

12 A: Yeah. I told Sonny don't worry because -- I told Sonny
13 don't worry about it. He ain't coming. Because he told Sonny
14 he was coming to his house to beat his -- I told Sonny don't
15 worry about that. That man ain't coming to the house. I
16 didn't think he was going to come or nothing like that. I
17 told Sonny don't worry about it. Just wait on Gloria, his
18 wife, to get home because he was locked out the house and I
19 told him just don't worry about it. He sat on the porch and I
20 shot back home. I figured Gloria would be there in the next
21 few minutes, you know.

22 Q: So you -- you dropped him off and then you left and went
23 back to Pamplico?

24 A: Yes, sir.

25 Q: And when did you find out that Steve Springs was dead?

MICHAEL BRUCE - DIRECT EXAMINATION BY MR. GROVE

1 A: The next morning.

2 Q: How long have you known Steve Springs?

3 A: I don't know him.

4 MR. GROVE: I don't think I have any further questions at
5 this time. Thank you, Mr. Bruce.

6 THE COURT: Cross examination, Mr. Ozment?

7 MR. OZMENT: Very briefly, Your Honor.

8 CROSS EXAMINATION

9 BY MR. OZMENT:

10 Q: Mr. Bruce?

11 A: Yes, sir.

12 Q: You testified that when you hung up the phone, Steve
13 called Mr. Scott back; is that right?

14 A: Yes, sir.

15 Q: At any time during this ride, did you ever see Mr. Scott
16 call Steve?

17 A: No, sir.

18 Q: And you don't know who initiated the first conversation?

19 A: No, sir. I don't know who started the call, so no.

20 MR. OZMENT: No further questions, Your Honor.

21 THE COURT: Anything further, Mr. Grove?

22 MR. GROVE: No, Your Honor.

23 THE COURT: All right. All right, thank you. You may
24 step down. Counsel, I need to ask you to step back just a
25 moment and I've got a question from the jury that I've got to

1 address on the other case, but y'all can stay right here in
2 the courtroom. Don't get far. Just move back from the table
3 a little bit and let Ms. Crayton have a seat at the counsel
4 table there and you can sit right back there and let Mr. Bell
5 and -- and his client have a seat at the counsel table. Let
6 me see the note.

7 (Whereupon, there is a break in the proceedings from
8 11:26 a.m. until 11:44 a.m.)

9 THE COURT: All right, Mr. Ozment, Mr. Grove, let's come
10 back up and resume the matter with regard to Indictment Number
11 13-0391, State versus Scott.

12 MR. OZMENT: Your Honor, may we approach?

13 THE COURT: Yes, sir.

14 (Whereupon, a bench conference is held off the record.)

15 THE COURT: All right, Mr. Grove, you may proceed. Call
16 your next witness.

17 MR. GROVE: Thank you, Judge. I beg the Court's
18 indulgence. Your Honor, at this time the defense would call
19 Gloria Scott.

20 THE COURT: All right. Come around, please, Ms. Scott.

21 THE CLERK: If you will, ma'am, place your left hand on
22 the Bible and raise your right hand. Do you swear to tell the
23 truth, the whole truth, and nothing but the truth, so help you
24 God?

25 THE WITNESS: I do.

GLORIA SCOTT - DIRECT EXAMINATION BY MR. GROVE

1 THE CLERK: Please be seated and state your full name for
2 the record.

3 THE WITNESS: Gloria Shanowen [phonetic] Scott.

4 GLORIA SCOTT, being first duly
5 sworn, testifies as follows:

6 DIRECT EXAMINATION

7 BY MR. GROVE:

8 Q: Good morning, Gloria. How are you?

9 A: Good.

10 Q: Good. Obviously, you know why we're here today?

11 A: Yes, sir.

12 Q: How do you know Sonny Scott?

13 A: That's my husband.

14 Q: And how long have y'all been married?

15 A: Seventeen years.

16 Q: Where do y'all live?

17 A: [REDACTED] Sharon Road, Florence.

18 Q: That's in Florence County, obviously?

19 A: Yes.

20 Q: Do you remember September 24th of 2012?

21 A: I do.

22 Q: What were you doing that day?

23 A: Working that day.

24 Q: What -- what were you doing late that afternoon?

25 A: I picked my grandson up from school and it was Skateland

GLORIA SCOTT - DIRECT EXAMINATION BY MR. GROVE

- 1 night that night and so he stayed with me after school and I
2 was at the house.
- 3 Q: You said it was Skateland night?
- 4 A: Yes.
- 5 Q: What do you mean?
- 6 A: The school has one night a month that they allow the
7 children to go to Skateland for a reduced price and -- and
8 just something to do with the school.
- 9 Q: And that's a skating rink?
- 10 A: Yes.
- 11 Q: Here in Florence?
- 12 A: Yes.
- 13 Q: Did you take him there?
- 14 A: I did.
- 15 Q: What time did y'all head over there?
- 16 A: Five thirty, quarter to six, because I think it starts at
17 six o'clock.
- 18 Q: And stayed there for a while?
- 19 A: Yeah. I think it's over with at eight.
- 20 Q: Okay. What did you do when you left?
- 21 A: I took him home.
- 22 Q: And where does he live?
- 23 A: He lives on South Canal Drive, which is off of Pamplico
24 Highway behind Greenwood Elementary.
- 25 Q: Where is that in relation to Florence?

GLORIA SCOTT - DIRECT EXAMINATION BY MR. GROVE

- 1 A: I mean it's down Pamplico Highway. It's still Florence
2 County, but it's down Pamplico Highway. If you're familiar
3 with Greenwood Elementary, it's about four blocks behind
4 Greenwood.
- 5 Q: Okay and you took him there?
- 6 A: Yes, I did.
- 7 Q: To his home?
- 8 A: Yes.
- 9 Q: You dropped him off?
- 10 A: Yes.
- 11 Q: Did you stay?
- 12 A: No.
- 13 Q: What happened when you left?
- 14 A: I left him and I -- he got out of the vehicle and I --
15 his mother met him at the door and I just explained to her he
16 had done his homework and everything and I ---
- 17 Q: Let me stop you right there. Who is his mother?
- 18 A: Crystal Hanna.
- 19 Q: Go ahead.
- 20 A: And that he had done his homework and everything and I
21 just dropped him off and said see you later, and I left and
22 proceeded home down Pamplico Highway.
- 23 Q: Let me stop you again. Leaving your daughter's house I
24 guess -- Crystal Hanna is your daughter?
- 25 A: Yes.

GLORIA SCOTT - DIRECT EXAMINATION BY MR. GROVE

1 Q: Leaving her house and going to your house, estimate for
2 me how long it would normally take you?

3 A: Five minutes.

4 Q: Okay. All right. So pick up where you left off. You
5 had just left Crystal's house and you were headed home.

6 A: I had just left Crystal's house and I was headed home
7 down Pamplico Highway towards Freedom Boulevard and I don't
8 know if I called Janice or if Janice had called me.

9 Q: Let me stop you again. Who is Janice?

10 A: Janice Springs, the victim's wife.

11 Q: Okay.

12 A: And I was speaking to her on the phone. It wasn't a very
13 long conversation. It was quick and I told her that my
14 husband was beeping in and I would call her back and I hung up
15 the phone with her and clicked over to my husband.

16 Q: And when you say your husband was beeping in, you mean
17 Sonny?

18 A: Correct.

19 Q: And when you say that he was beeping in, you mean he was
20 calling you?

21 A: He was calling me.

22 Q: While you -- while you were on the phone with her?

23 A: That's correct.

24 Q: And you answered the phone and -- and you talked to
25 Sonny?

GLORIA SCOTT - DIRECT EXAMINATION BY MR. GROVE

1 A: I did.

2 Q: What was the impression that you got from your
3 conversation with him?

4 A: Well, I knew he had been hunting with Michael and so I
5 answered the phone and he said he shot him.

6 MR. OZMENT: Your Honor, I'd object.

7 THE COURT: All right.

8 MR. OZMENT: Hearsay.

9 THE COURT: Yeah.

10 Q: You can't -- you can't tell me what he said.

11 A: Oh, I'm sorry.

12 Q: You can tell me what you told him or an impression that
13 you got from the conversation.

14 THE COURT: No, you can't tell an impression. That's
15 just another way of saying hearsay. Now, if you want to try
16 to get it in as not being hearsay because it's not offered for
17 the truth, that may be one thing, but an impression is just
18 another way of getting around the hearsay rule, Mr. Grove.

19 Q: What did you do as a result?

20 MR. GROVE: I'm sorry, Your Honor.

21 Q: What did you do as a result of your conversation with
22 Sonny?

23 A: I went a little bit faster in going home.

24 Q: Okay. How long do you think it took you to get home
25 after your conversation with Sonny?

GLORIA SCOTT - DIRECT EXAMINATION BY MR. GROVE

- 1 A: Two minutes because I was right there at the hospital by
2 then.
- 3 Q: Which hospital?
- 4 A: Carolina Hospital.
- 5 Q: Okay. Did you at any point call 9-1-1?
- 6 A: Yes, sir.
- 7 Q: What did you tell 9-1-1?
- 8 A: That my husband had had an altercation with a gentleman
9 and I hadn't gotten to the scene yet. I was on my way and
10 they asked me at some point I guess to check and see -- feel
11 for a pulse, and so when I had gotten to my house, I had to
12 turn some lights on because my outside lights weren't on, and
13 I turned some lights on and I went to the vehicle where the
14 victim was and felt behind his ear for a pulse.
- 15 Q: Did you find a pulse?
- 16 A: No, sir.
- 17 Q: And when you say the victim, we're talking about the
18 deceased?
- 19 A: Yes.
- 20 Q: What's his name?
- 21 A: Steve Springs.
- 22 Q: And at this point when you get home, you're actively on
23 the phone with 9-1-1?
- 24 A: I am.
- 25 Q: Okay and I'm not going to hold you to a number of

GLORIA SCOTT - DIRECT EXAMINATION BY MR. GROVE

1 minutes, but I'm going to ask that you -- that you guesstimate
2 for me how long after you arrived did EMS or first responders
3 or the fire department or officers arrive?

4 A: After I arrived at my home, it was just minutes that they
5 were there, like -- and I stayed on the phone with them the
6 entire time and it's right after I felt for a pulse I think
7 first responders, two gentlemen in a vehicle with lights,
8 pulled up and came to the -- up to the scene.

9 Q: And what did you do once they arrived?

10 A: I hung up the phone with 9-1-1 and they were asking
11 questions as to where my husband was and I just answered all
12 their questions that I could.

13 Q: Sure and at that time where was Sonny?

14 A: He was in the house sitting on the couch.

15 Q: Okay. At some point did you direct either an officer or
16 a first responder or some member of authority to a gun?

17 A: Yes.

18 Q: Where was the gun located?

19 A: On my bed.

20 Q: And you -- did you give them directions as to where it
21 was?

22 A: Yes.

23 Q: Did you go and bring it to them?

24 A: No. I told them where it was.

25 Q: And they went and retrieved it?

GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

1 A: At some point, yes.

2 MR. GROVE: I don't think I have anything further at this
3 time.

4 THE COURT: All right. Cross examination, Mr. Ozment?

5 MR. OZMENT: Thank you, Your Honor.

6 CROSS EXAMINATION

7 BY MR. OZMENT:

8 Q: Ms. Scott, how long have you known -- had you known Mr.
9 Springs?

10 A: Years. He had been working for me.

11 Q: All right. When you say working for you ---

12 A: Doing heating ---

13 Q: --- what kind of relationship, if you don't mind?

14 A: He was doing heating and air for my boss and I managed
15 the rental properties for him, so.

16 Q: So he was the heating and air repair man?

17 A: That's correct.

18 Q: Okay. How long had he been working for you and your boss
19 in that capacity?

20 A: A few years.

21 Q: Okay. Were y'all friends or acquaintances or anything
22 outside your working relationship?

23 A: Yes.

24 Q: What would you say you are?

25 A: Friends.

GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

- 1 Q: Around the month leading up to this, do you know if Mr.
2 Springs had any relationship with your daughter?
- 3 A: I do.
- 4 Q: When did you find out about that relationship?
- 5 A: I think it was March or April.
- 6 Q: Of which year?
- 7 A: Last year.
- 8 Q: How did you find out about that relationship?
- 9 A: I believe it was through my daughter's husband and Mr.
10 Springs, a combination of the two.
- 11 Q: Okay. Kind of put two and two together?
- 12 A: Yes, sir.
- 13 Q: All right. Did you ever have any conversations with your
14 daughter about that relationship?
- 15 A: I did.
- 16 Q: Okay. Did you confront her about that ---
- 17 A: I did.
- 18 Q: --- relationship? Did you approve of that relationship?
- 19 A: I did not.
- 20 Q: Did you tell your daughter that?
- 21 A: I did.
- 22 Q: Did you ever address that relationship with Mr. Springs?
- 23 A: I did.
- 24 Q: Did you voice to him that you approved of it or
25 disapproved of it?

GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

1 A: I had told him that I had disapproved of the situation,
2 yes.

3 Q: Was that a kind of an ongoing conversation that you
4 didn't approve of that relationship?

5 A: It was.

6 Q: How long was that kind of ongoing dialog that you didn't
7 approve of that relationship?

8 A: Probably from the beginning I had -- you know, at one
9 point I had told him that I felt they needed to confront their
10 spouses on -- on it and go from there.

11 Q: And were you still confronting him about that
12 relationship up until basically his death or within a couple
13 days anyway?

14 A: I had. I had, you know, expressed to him my concerns
15 with the fact that there were two small children involved.

16 Q: Okay. Those were -- would be your grandchildren?

17 A: They are.

18 Q: Okay. Did it change you and Mr. Springs' relationship
19 the fact that he was now with your daughter?

20 A: A little bit. He didn't come to my home a lot. He
21 hadn't been to my house in two and a half months.

22 Q: And prior to that ---

23 A: Prior to that night.

24 Q: And prior to that, would he come by occasionally?

25 A: He would come by every Friday to pick -- to bring bills

GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

1 and -- and pick up his pay for the week.

2 Q: How did he do that for the last two and a half months?

3 A: He would send his son or he would ask me to meet him

4 uptown.

5 Q: Okay. Did y'all ever have a fight -- I mean a verbal

6 fight about ---

7 A: Yes.

8 Q: --- this? Cussing each other?

9 A: Probably.

10 Q: Okay. Now, what about your husband? Did he know about

11 this relationship?

12 A: He did right towards the very end.

13 Q: Okay. Did -- did you tell him about it or did he ---

14 A: My son-in-law and I did.

15 Q: Okay. Did he approve of it?

16 A: No.

17 Q: Okay. Would you say that you and he kind of had the same

18 opinion of that relationship?

19 A: We did.

20 Q: Okay and for clarification, your daughter -- she is not

21 his biological daughter; is that right?

22 A: That's correct.

23 Q: She's his stepdaughter?

24 A: That's correct.

25 Q: Okay. So that would be his step-grandkids?

GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

- 1 A: Yes.
- 2 Q: The kids that you were concerned about?
- 3 A: Yes.
- 4 Q: Did you and your husband ever have any conversations
5 regarding any way to deal with this ongoing situation between
6 your daughter and Mr. Springs?
- 7 A: Not really. I had told him that I had given up on the --
8 the situation as far as if that's what she wanted to do, that
9 was -- that was her.
- 10 Q: Okay. Did it make you mad?
- 11 A: Yes.
- 12 Q: Did it make your husband mad?
- 13 A: A little bit, yeah.
- 14 Q: You testified earlier that you got home and you were on
15 the phone with 9-1-1 and all that, but you -- after you got
16 off the phone with your husband when you were on the way home,
17 you said you were near Carolinas Hospital. Where's the next
18 place that you went?
- 19 A: To my neighbor who lives behind me. Well, a few houses
20 behind me.
- 21 Q: Who's that?
- 22 A: Carl.
- 23 Q: Okay. Why did you go to Carl's?
- 24 A: That's where my husband was.
- 25 Q: Okay. Was your husband there when you arrived?

GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

1 A: He was.

2 Q: Where was he? Inside? Outside?

3 A: He had -- he was inside.

4 Q: Okay and what did you do when you got to Carl's?

5 A: I asked him to come and get in the truck with me.

6 Q: Okay.

7 A: And he got in the truck with me and we went to the house.

8 Q: Did he tell you what happened?

9 A: Yes.

10 Q: What did he say?

11 A: He said that he had shot him.

12 Q: Did you know who "him" was at that point?

13 A: I did.

14 Q: Okay and it was Steve Springs?

15 A: Yes.

16 Q: Okay. Did he give you any details or just I shot him?

17 A: I mean he had said that they had argued, but that he had

18 come up there because my concern was he was supposed to be at

19 Michael's hunting.

20 Q: I'm sorry. I just -- I'm just trying to be clear on who

21 he was. You said he had come up there.

22 A: That Steve had come to the house.

23 Q: Okay.

24 A: And my husband had told me that Steve had come up to the

25 house and that they had gotten into a verbal argument.

GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

1 Q: Okay.

2 A: And that -- can I tell you what he told me?

3 Q: You can tell me what your husband told you.

4 A: My husband just said that he had threatened him and I

5 didn't -- I wasn't concerned as to what all was said at this

6 time, and I just was like okay and then he said, you know,

7 that he had shot him and ---

8 Q: Did your husband tell you what gun he shot him with?

9 A: I -- I knew.

10 Q: Why did -- how did you know?

11 A: Because I took it inside.

12 Q: Okay. What -- well, we'll get to that in just a minute.

13 When you say that Steve had -- your husband said that Steve

14 had threatened him. Did your husband say was that verbally or

15 physically?

16 A: I think it was verbally. I don't ---

17 Q: Okay.

18 A: I mean I don't know. He said he was out of the vehicle,

19 you know.

20 Q: Okay.

21 A: At the front of his vehicle. So I don't know what

22 physically transpired.

23 Q: I mean what -- okay, okay and I guess I'm saying your

24 husband didn't tell you that Steve, for instance, was a foot

25 away from him and in the process of say punching him or

GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

- 1 striking him or something like that and he shot him?
- 2 A: No. He said he was approaching him and that he had asked
3 him to leave.
- 4 Q: Okay, but the threats were verbal threats?
- 5 A: I think -- yes, sir.
- 6 Q: Okay. Did you husband tell you where your husband was
7 when this was going on?
- 8 A: He said he was sitting on the front porch of my office.
- 9 Q: Okay. Is your office at your house?
- 10 A: It is.
- 11 Q: Okay. Well, explain to me I guess what -- if I was
12 standing there kind of where was your husband and what's the
13 house -- give me kind of a relationship?
- 14 A: I have -- I have an office, a ten by ten office that sits
15 right at the end of my trailer right at -- if I pull in my
16 driveway straight, my headlights are on my office.
- 17 Q: Okay.
- 18 A: And there's a platform deck that sits at the front of the
19 office and my husband was sitting on that.
- 20 Q: Is the deck enclosed or is it opened up?
- 21 A: Open.
- 22 Q: Okay. So how many -- has it got stairs going up to it?
- 23 A: One step.
- 24 Q: One step and then a platform?
- 25 A: Yeah.

GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

- 1 Q: How big is the platform? How big are we talking about?
- 2 A: Six by six.
- 3 Q: Okay. So kind of like a landing area?
- 4 A: Yes.
- 5 Q: It's not like you got rocking chairs and ---
- 6 A: No.
- 7 Q: Okay.
- 8 A: Just a little step.
- 9 Q: All right and so your husband said he was sitting on the
- 10 step?
- 11 A: Yes, sir.
- 12 Q: Okay. You picked up your husband at the house. You then
- 13 took him back to your house?
- 14 A: Yes, sir.
- 15 Q: Okay. Well, when you got to your house, tell me the
- 16 first thing you did?
- 17 A: I took the gun. I got my keys, I took the gun off of the
- 18 back of the truck, and went inside to get a light because it
- 19 was dark because my outside porch light on the house or the
- 20 office weren't on at the time, and I turned on some lights to
- 21 go out and feel for a pulse.
- 22 Q: Okay. You mentioned the gun was in the back of the
- 23 truck. How did the gun get in the back of the truck?
- 24 A: My neighbor put it in the back of the truck.
- 25 Q: All right. I guess -- when did your neighbor put it in

GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

- 1 the back of the truck?
- 2 A: When I was at Carl's.
- 3 Q: You were at Carl's? Tell me why did the neighbor have
- 4 the gun?
- 5 A: I guess my husband ---
- 6 Q: Let me back up. How -- do you know how the neighbor got
- 7 the gun?
- 8 A: I -- I was told that my neighbor got the gun from my
- 9 husband, that he was asked to do something with the gun and my
- 10 neighbor went and retrieved the gun and brought it back to me
- 11 ---
- 12 Q: Okay.
- 13 A: --- when I asked for it.
- 14 Q: Did your husband tell you that he had told the neighbor
- 15 to do something with the gun?
- 16 A: No.
- 17 Q: Okay. Did you ask your husband where the gun was?
- 18 A: I was confronted when I pulled up at Carl's by my
- 19 neighbor that said he had the gun and I told him to retrieve
- 20 it and bring it back to me.
- 21 Q: Okay. Which neighbor is this that we're currently
- 22 talking about?
- 23 A: Mr. Watson.
- 24 Q: Okay. What's his first name?
- 25 A: George.

GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

- 1 Q: Did he put it in the back of the truck or did you take it
2 from him and put it in the back of the truck?
- 3 A: I believe he put it in the back of the truck.
- 4 Q: Okay and when you say back of the truck, you mean like an
5 extended cab or do you mean the outside back part like the
6 bed?
- 7 A: The bed of the truck.
- 8 Q: Okay. So let's go back. You got home. You -- where did
9 you put the gun?
- 10 A: In the back -- it was in the back -- oh.
- 11 Q: From the back of the truck ---
- 12 A: From the back of the truck to my bedroom. I laid it on
13 the bed.
- 14 Q: Okay. I gotcha. Was that the gun that Sonny had been
15 hunting with?
- 16 A: It was.
- 17 Q: Okay and that's why he had it with him?
- 18 A: That's correct.
- 19 Q: Okay. What kind of gun is that? Do you know?
- 20 A: Thirty ought six.
- 21 Q: Do you know what make?
- 22 A: I think it's a Remington.
- 23 Q: Okay. Once the police got there, did -- did you talk to
24 them at all?
- 25 A: Yes.

GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

1 Q: Did you tell them essentially what you're telling us here
2 today?

3 A: Yes.

4 Q: Okay. Did they talk to your husband?

5 A: Yes.

6 Q: All right. Did -- were you there when he was talking to
7 them?

8 A: Yes.

9 Q: Did you hear the conversation?

10 A: Some of it.

11 Q: Okay. From what you heard him say, did that line up with
12 what he had told you earlier in the evening?

13 A: Yes.

14 Q: Okay. Did you and him ever have any conversations about,
15 you know, kind of getting his story straight as to what he
16 needed to tell the police?

17 A: I just told him he needed to tell them what happened.

18 Q: Okay.

19 MR. OZMENT: I beg the Court's indulgence for just one
20 moment.

21 Q: When you got to the house, did you see Steve's vehicle
22 there?

23 A: I did.

24 Q: Where was it?

25 A: Parked right in front of my office.

GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

- 1 Q: All right.
- 2 A: I mean in that spot.
- 3 Q: And there's like a drive there?
- 4 A: Yes.
- 5 Q: Okay. Where was Steve's body?
- 6 A: In the doorway of his van.
- 7 Q: Okay. Where did you park your truck when you pulled up?
- 8 A: Kind of on the side of my office.
- 9 Q: Okay. So let's say you're looking at me. I'm your
- 10 office. The van was here. I guess here would be the steps
- 11 where the -- where's your truck?
- 12 A: His van was here. There was another vehicle here and I
- 13 just kind of pulled up.
- 14 Q: Okay and what side of the van was Steve's body on?
- 15 A: On the driver's side.
- 16 Q: Okay. Was his door open?
- 17 A: It was.
- 18 Q: Was he in front of the door or behind the door?
- 19 A: Behind the door.
- 20 Q: Okay. Did you have to move him at all to check for a
- 21 pulse?
- 22 A: No.
- 23 Q: You were able to reach and you did not feel a pulse at
- 24 that point?
- 25 A: No, I did not.

GLORIA SCOTT - CROSS EXAMINATION BY MR. OZMENT

1 Q: Did you see any signs of life at that point?

2 A: No.

3 Q: When you had spoken to your husband earlier, had -- after
4 he said he had shot Steve, did he say about how he died? Did
5 he die immediately or did he -- did he -- did he give you any
6 details on that?

7 A: No, sir.

8 MR. OZMENT: No further questions at this time, Your
9 Honor.

10 THE COURT: Redirect?

11 MR. GROVE: Thank you, Judge.

12 REDIRECT EXAMINATION

13 BY MR. GROVE:

14 Q: Gloria, earlier, you said that you didn't approve of
15 Steve's relationship with your daughter. Is Steve married?

16 A: Yes.

17 Q: Is your daughter married?

18 A: Yes.

19 Q: Are they married to each other? Or were they married to
20 each other? Were -- were Steve and your daughter married to
21 each other?

22 A: No.

23 Q: But both of them were married?

24 A: Correct.

25 Q: Is that the substance of why you didn't approve?

GLORIA SCOTT - REDIRECT EXAMINATION BY MR. GROVE

- 1 A: Yes.
- 2 Q: You also said that Steve hadn't been by your house in two
3 and a half -- three months?
- 4 A: Correct.
- 5 Q: And you also said that he would send his son by to pick
6 up his paychecks or to drop off things?
- 7 A: Yes.
- 8 Q: Or he would meet you somewhere else?
- 9 A: That's correct.
- 10 Q: Earlier, Mr. Ozment asked if -- if you were mad about
11 their continued relationship. Describe that for me?
- 12 A: I mean I didn't approve, but my main concern was my
13 grandchildren.
- 14 Q: Would you say disappointed with their relationship?
- 15 A: Very much so.
- 16 Q: Frustrated with their relationship?
- 17 A: Yes.
- 18 Q: And I -- I know you didn't measure this, but you said
19 that the van was pulled straight into the office, right?
- 20 A: Yes.
- 21 Q: Or in the direction of the office?
- 22 A: Yes.
- 23 Q: And that Sonny was sitting on the landing area right
24 there in front of the office?
- 25 A: Correct.

GLORIA SCOTT - REDIRECT EXAMINATION BY MR. GROVE

1 Q: Can you estimate for me -- and I know that's probably a
2 difficult thing to do. How far away was the van?

3 A: If I'm Sonny sitting on the office step, I would say the
4 van is probably at the tables out there. The front of the van
5 would be ---

6 Q: Okay.

7 A: --- that far.

8 Q: Did you observe -- you said that the door to the van was
9 open?

10 A: Yes.

11 Q: And that Steve was leaned in -- into the door?

12 A: He was in a crouched position inside of the door.

13 Q: So is it fair to say he was sort of leaned up against the
14 side of the van into the driver's door?

15 A: I think more of his back was where the door shuts.
16 Whatever that part is, his back was more up against that
17 portion of the -- of the van.

18 Q: Did you observe any bullet holes in the window of the
19 van?

20 A: No, sir.

21 Q: Did you observe any bullet holes in the door of the van?

22 A: No, sir.

23 Q: Okay and when you got to the house, you were the one that
24 checked for a pulse on Steve?

25 A: Yes.

GLORIA SCOTT - REDIRECT EXAMINATION BY MR. GROVE

1 Q: In fact, I think you may have testified earlier you were
2 on the phone with 9-1-1 when you checked for a pulse?

3 A: Yes.

4 Q: Did you find a pulse?

5 A: No.

6 Q: Okay.

7 THE COURT: Anything else, Mr. Grove?

8 MR. GROVE: No, Your Honor, nothing.

9 THE COURT: Anything else? All right.

10 MR. OZMENT: Nothing from the State.

11 THE COURT: All right. Thank you. You may step down.

12 (Whereupon, the witness leaves the stand at 12:13 p.m.)

13 THE COURT: All right, counsel, if you'll step back, I've
14 been advised that we have a verdict in the other case so we
15 want to take care of that matter at this time.

16 MR. GROVE: Certainly, Judge.

17 (Whereupon, there is a break in the proceedings from
18 12:14 p.m. until 12:33 p.m.)

19 (Whereupon, a bench conference is held as follows.)

20 MR. GROVE: Just for scheduling purposes, Judge,
21 presuming that Matt has to put up a case, he's got several
22 witnesses to call.

23 THE COURT: You need to speak up a little better.

24 MR. GROVE: Presuming that Matt has to put up a case and
25 you find that I've made a prima facie case, I've only got one

1 more witness. Where we're at your discretion as to the
2 scheduling, but we were thinking maybe call -- I'm going to
3 call the defendant and have his testimony, then make an
4 argument and then maybe break for lunch ---

5 THE COURT: Yes, sir.

6 MR. GROVE: --- because he'll have ---

7 THE COURT: That's what I'll do.

8 MR. GROVE: He'll have a couple of hours' worth.

9 MR. OZMENT: Okay.

10 THE COURT: Let me ask you something. I'm curious about
11 this. This is all new law.

12 MR. OZMENT: Right.

13 THE COURT: And everybody's kind of plowing new ground
14 here. If you put the defendant up -- the last one I had --
15 I've only had one of these -- one other of these Castle
16 Doctrine things, and the defendant did not testify. How does
17 that impact on his Fifth Amendment rights?

18 MR. GROVE: My position is that those statements can be
19 used for impeachment purposes at a trial should his testimony
20 be different otherwise, but absent that, it would be the
21 equivalent of a suppression hearing where the defendant could
22 testify and those statements could only be used against him
23 should he testify at a subsequent trial and it be
24 inconsistent.

25 THE COURT: I think I probably need to warn him that that

1 is your opinion.

2 MR. GROVE: Mm-hmm.

3 THE COURT: And it may not be the opinion -- and I don't
4 know what the State would want to do. The State may decide
5 they would want to use that in their case in chief and it
6 would be up to the trial judge to decide whether or not that
7 was prior sworn testimony, which normally is admissible
8 against somebody, but it's normally impeachment. But I think
9 I do need to give him little bit of warning about that just in
10 case.

11 MR. GROVE: Sure.

12 THE COURT: Okay.

13 MR. OZMENT: I think that's the right thing to do.

14 THE COURT: Yeah.

15 (Whereupon, the bench conference ends.)

16 THE COURT: All right. We are back on the record now
17 with regards to the matter of the State versus Scott and I
18 think we can go probably without interruption as far as other
19 matters are concerned. We did have a trial of a case going on
20 and I had no control over what we were doing there, but we had
21 to take care of those matters. But we are now concluded with
22 those matters and I can devote full attention to this matter.

23 Mr. Grove, you may proceed with the -- with your
24 presentation in support of your motion for immunity.

25 MR. GROVE: Thank you, Judge, and if I may beg your

1 indulgence one moment?

2 THE COURT: All right. You understand that you're not
3 asking the best source in the world?

4 MR. GROVE: I'll take what I can get, Judge.

5 MR. OZMENT: Your Honor, in regard to no more
6 interruptions, the Attorney General is actually here with one
7 plea. Maybe before we break for lunch ---

8 THE COURT: Okay.

9 MR. OZMENT: --- if you wouldn't mind maybe hearing one
10 plea so she can get back to Columbia?

11 THE COURT: All right. We may -- good morning. How are
12 you today? Good to see you.

13 THE ATTORNEY GENERAL: Good to see you, Judge.

14 THE COURT: Well, would you like to go ahead so that we
15 won't have any more interruptions and let me go ahead and take
16 that plea and then we can go ahead and break now and then that
17 way -- I don't know. This next witness may take a little bit
18 of time so go ahead and take the Attorney General's plea and
19 then come back at two o'clock and just go straight through?

20 MR. OZMENT: That is in your discretion.

21 THE COURT: Does that suit you?

22 MR. OZMENT: Yeah, that -- whatever is easiest.

23 THE COURT: Does that suit you, Mr. Grove?

24 MR. GROVE: That's perfectly fine with me.

25 THE COURT: We've got the AG here and we've got a plea.

1 How long is your plea going to take?

2 THE ATTORNEY GENERAL: Just a couple of minutes, Your
3 Honor, very short.

4 THE COURT: Oh, okay. Well, if it's just going to take
5 -- how long do you think this witness will take? It may take
6 a few minutes?

7 MR. GROVE: More than a couple, Judge.

8 THE COURT: All right. Maybe we ought to do that. Let's
9 -- let's go ahead and adjourn the hearing on Scott at this
10 particular time so we can take care of this Attorney General's
11 matter and let's say -- let's be back at 1:45. That's about
12 an hour and six or seven or eight minutes and go forward at
13 1:45 and go straight through on the Scott matter until we get
14 it concluded.

15 MR. OZMENT: That will be fine.

16 THE COURT: All right. We'll be in recess then on the
17 matter of the State versus Wayne Scott until 1:45 and the
18 spectators and everyone else -- let's do this, Mr. Ozment and
19 Mr. Grove. I know this is a matter of a lot of emotions
20 involved. I will excuse Mr. Grove, your client and the -- his
21 supporters at this time and ask everybody else to remain for a
22 few minutes until they get on the elevator. And we'll wait
23 just a few minutes, Mr. Ozment, and then I'll excuse you and
24 the victim's family.

25 MR. OZMENT: Thank you, Your Honor.

1 (Whereupon, there is a break in the proceedings from
2 12:39 p.m. until 1:47 p.m.)

3 THE COURT: All right. We're back on the record with
4 regard to the matter of the State versus Scott and the motion
5 pursuant to Section 16-11-410. The movant, Mr. Scott, was
6 presenting the testimony that he wished to present. Mr.
7 Grove, you may proceed.

8 MR. GROVE: Thank you, Honor, and before we begin, I've
9 handed a copy to Mr. Ozment. I would like to approach, Your
10 Honor, if I may, and hand you Simmons v. United States. It's
11 a federal court case and we had briefly discussed this at
12 sidebar prior to our lunch break regarding our client's
13 testimony and possible Fifth Amendment issues that may arise
14 sometime later. I did just for the purposes now want to put
15 my position on the record regarding his testimony today and
16 the State's potential to use that testimony later on.

17 My position would be the State's only availability to use
18 that testimony later would be to impeach with prior
19 inconsistent statements I suppose Your Honor could say.
20 Simmons -- the holding in Simmons, Simmons testified at a pre-
21 trial hearing, a Fourth Amendment suppression hearing, and
22 that testimony was used against him later on after the
23 suppression was denied. The Court held that -- the Supreme
24 Court held that that testimony should not have been used
25 against him as to guilt or innocence.

1 Certainly, it could have been used against him to
2 impeach, but not guilt or innocence. They essentially said it
3 created sort of a Hobson's choice where the defendant could
4 make an effort to present a valid claim that he found and
5 thought there was support for, but would have to do so through
6 testimony, and that would give him the choice of pursuing that
7 claim that he thinks he has valid grounds for versus waiving
8 his Fifth Amendment right and that that was not something the
9 Supreme Court was inclined to support.

10 I -- I understand Your Honor is not in a position to make
11 a ruling one way or the other. I only put that on the record
12 for -- for purposes of asserting my position prior to Mr.
13 Scott's testimony.

14 THE COURT: All right. I would acknowledge that and, of
15 course, the problem that I see -- and I'm not going to rule on
16 whether or not he waives his Fifth Amendment rights. I just
17 want him to be aware that down the line there could be that
18 possibility because I think you've got a different situation
19 in a immunity hearing where he's going to be testifying on the
20 merits of what happened, as opposed to a suppression hearing
21 as to whether certain evidence should be admitted because of
22 an invalid search warrant or no search warrant or whatever the
23 case may be.

24 Simmons apparently was a pre-trial motion for suppression
25 of certain evidence and I'm not sure what the reason for the

1 motion for suppression, but I think there is some difference,
2 and Simmons may be controlling and it may not, but I want Mr.
3 -- Mr. Scott, I want you to understand and I understand that
4 Mr. Grove wants to call you in connection with the motion that
5 he's making on your behalf to have this Court decide that you
6 are immune from prosecution pursuant to South Carolina Stand
7 Your Ground law and that if I should rule against you -- and
8 if you do testify and I should rule against you, this Court
9 cannot advise you, will not advise you, and will not take any
10 position on whether your testimony can be used against you in
11 a trial and to what extent it can be used against you. Do you
12 understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And that would -- in other words, you're
15 taking the witness stand in this case at your own peril. Do
16 you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right. Along with that warning then, I
19 want you to understand that because I don't know what the
20 ruling would be and I don't know how the State would intend to
21 use your testimony at a later time. It may be that it would
22 only be for impeachment purposes, but I do think there is a
23 difference between a -- a hearing pursuant to Section 16-11-
24 410 and an evidence suppression hearing because of an invalid
25 search warrant or whatever the case may be.

1 But I want you to understand that -- that you may by
2 taking the stand here -- I can't say this, but you may by
3 taking the stand here may waive your Fifth Amendment rights at
4 a trial. Do you understand that?

5 THE DEFENDANT: Okay.

6 (Whereupon, the defendant and his counsel confer.)

7 THE DEFENDANT: Yes, sir, I understand that.

8 THE COURT: You understand? All right. Thank you, sir.
9 Yes, sir, Mr. Ozment?

10 MR. OZMENT: Your Honor, at this point I'm not prepared
11 to argue and I think it's proper for the trial judge to have
12 the ultimate call as the gatekeeper on this issue. One thing
13 I would just like to point out that Your Honor may want to go
14 -- Mr. Scott -- Mr. Scott has also given statements to law
15 enforcement in this case which the State may intend to use in
16 its case in chief. So certainly, even if he didn't testify at
17 trial, those statements and the difference with what he
18 testifies here today would in a way be impeachment evidence,
19 and so that may be one distinction with the Simmons case. I
20 just wanted to bring that up.

21 THE COURT: All right, fine. That's on the record.
22 Okay, thank you. You understand, Mr. Grove, and he's willing
23 to go forward with those -- with those caveats?

24 MR. GROVE: Yes, Your Honor. Thank you.

25 THE COURT: All right. All right, thank you. We will

WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

1 proceed. Go ahead. You may continue to present the testimony
2 you wish to present in support of your motion, Mr. Grove.

3 MR. GROVE: Thank you. In light of that, Your Honor,
4 we'd call Wayne Albeon Scott, Jr.

5 THE CLERK: If you can, sir, place your left hand on the
6 Bible and raise your right hand as much as you can. Do you
7 swear to tell the truth, the whole truth, and nothing but the
8 truth, so help you God?

9 THE DEFENDANT: Yes, ma'am.

10 THE CLERK: Okay.

11 THE DEFENDANT: I do.

12 THE CLERK: If you will, be seated and state your full
13 name for the record.

14 THE DEFENDANT: Wayne Albeon Scott, Jr.

15 WAYNE SCOTT, JR., being first duly sworn,
16 testifies as follows:

17 DIRECT EXAMINATION

18 BY MR. GROVE:

19 Q: Mr. Scott, how are you? Everybody calls you Sonny; is
20 that right?

21 A: Yes, sir.

22 Q: Do you mind if I call you Sonny now?

23 A: No, that'd be fine.

24 Q: And you know why we're here?

25 A: Yes, sir.

WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

1 Q: And you've been sitting here and you've heard some
2 questions and answers being given and asked by -- by different
3 people; right?

4 A: Yes, sir.

5 Q: We're talking about Steve Springs and September of last
6 year?

7 A: Yes, sir.

8 Q: What were you doing September 24th of 2012?

9 A: When I got up, I went to work that morning.

10 Q: Where do you work?

11 A: Larry Byrd's Painting, paint contractor.

12 Q: Okay and who were you working with?

13 A: Me and Michael and a couple more other guys that he was
14 using that week.

15 Q: Do you remember where y'all were painting?

16 A: Yeah. It was over behind Dennis Brick off of 52.

17 Q: Okay.

18 A: I don't remember the name of the sub -- the subdivision,
19 something Gates.

20 Q: But somewhere here locally?

21 A: Summer Gates. I'm sorry. Yeah. The name of it was
22 Summer Gates.

23 Q: Okay, but that's -- that's somewhere here locally around
24 here?

25 A: Yes, sir, here in Florence. Yes, sir.

WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

- 1 Q: What did you -- how long did you work?
- 2 A: We worked about I think until about five o'clock.
- 3 Q: Okay. All day?
- 4 A: Yeah, all day. Yes, sir.
- 5 Q: What did you do after work?
- 6 A: Me and Michael got together and we was talking about
- 7 going hunting and I told him that my grandson would probably
- 8 go with me. So when we went by my house -- when me and him
- 9 decided to go, we went by my house to get my grandson, but he
- 10 decided that he wanted to go to Skate Night because it wasn't
- 11 like once a month with my wife. So she -- he went with her,
- 12 and me and Michael went hunting.
- 13 Q: Where did y'all go hunting?
- 14 A: We went out on Michael's property on Lazy Lane.
- 15 Q: Where's Lazy Lane?
- 16 A: Pamplico.
- 17 Q: Okay. I'm not going to hold you to a -- to an exact
- 18 amount of time, but how long did y'all hunt?
- 19 A: A couple hours, you know.
- 20 Q: And at some point, obviously, you stopped?
- 21 A: Yeah, yeah.
- 22 Q: Okay.
- 23 A: A few hours, yes.
- 24 Q: Right. What happened when y'all were done hunting?
- 25 A: We come out the woods and went to Michael's house and I

WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

1 was thinking about -- you know, I had some old fans and stuff
2 at my home and I was thinking about making box -- I mean fans
3 for my work for us to, you know, work and stuff for them
4 houses is so hot. So I called Mr. Springs to ask him a few
5 questions about how to go about hooking them up and all, and
6 Mr. Springs, for some reason, he just seemed different and he
7 went to blabbing off about his relationship with this ---

8 MR. OZMENT: Your Honor, I would object to any ---

9 A: --- young girl.

10 MR. OZMENT: --- hearsay.

11 THE COURT: Wait just a minute now. I'd be glad to hear
12 from you if you think it's admissible, Mr. Grove.

13 MR. GROVE: Your Honor, it's a statement by a party
14 opponent. He's the -- he's the victim in this case who is
15 supposed to be -- the deceased is who he's referring to in
16 this conversation with him. One, I think that it comes in
17 under statement by a party opponent. He's certainly the
18 person that I guess from whom the allegations extend.

19 THE COURT: How can -- how can the State refute that?

20 MR. OZMENT: Your Honor, the State is a party to this
21 case. Mr. Springs is not a party to this case.

22 THE COURT: Yeah. The victim is not the party. The
23 State is the party. You know, unless -- if you're proffering
24 it under most -- admission of party opponent, the objection is
25 sustained.

WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

1 MR. GROVE: I beg the Court's indulgence.

2 (Whereupon, there is a pause in the proceedings.)

3 Q: Don't tell me what Mr. Springs said, but you were having
4 a conversation with Mr. Springs?

5 A: Correct.

6 Q: And at this time, you were where?

7 A: At Michael Bruce's house.

8 Q: Okay. At some point, you left Michael Bruce's house?

9 A: Correct.

10 Q: Where were you going then?

11 A: Home.

12 Q: How long do you think you were at Michael Bruce's house
13 before you left?

14 A: Maybe fifteen, twenty minutes.

15 Q: Okay.

16 A: Not that long.

17 Q: And again, you had just finished hunting?

18 A: Yes, sir.

19 Q: Okay. So you were on your way home. How were you
20 getting there?

21 A: Mr. Michael Bruce.

22 Q: You rode in his vehicle?

23 A: Yes, sir.

24 Q: What kind of -- what kind of vehicle?

25 A: He's got a Charger.

WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

1 Q: Okay and on the way home, you're having a continued
2 conversation with Mr. Springs?
3 A: Well, off and on.
4 Q: And again, don't yet ---
5 A: Yeah.
6 Q: --- yet tell me what he said to you.
7 A: Like I said, off and on, off and on like ---
8 Q: What do you mean off and on?
9 A: I had to keep hanging up on him because he was just
10 cussing me and steady calling me and stuff.
11 Q: Okay. He'd called you?
12 A: Yeah.
13 Q: You mean when you say he called you, you mean he -- he
14 called you from his phone to your phone?
15 A: Yes, sir.
16 Q: You got an idea as to how many times?
17 A: It was two or more.
18 Q: Okay.
19 A: It was two or more I mean.
20 Q: How far away is Pamplico, Lazy Lane which is where you
21 were hunting, from your house?
22 A: Twenty minutes. Twenty -- twenty-five minutes.
23 Q: And -- and in that twenty minutes or so, how much of that
24 time do you think you were having a conversation with Mr.
25 Springs?

WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

1 A: Off and on just a few minutes. It wasn't -- really it
2 wasn't long conversations. They were short conversations.

3 Q: And you said he -- he called you several times?

4 A: Yes, sir.

5 Q: And how did the conversations end for him to call you
6 again?

7 A: Me hanging up the phone on him.

8 Q: Okay.

9 MR. GROVE: I beg the Court's indulgence.

10 THE COURT: Mm-hmm.

11 Q: You've heard some testimony already from Michael Bruce
12 about a conversation with Mr. Springs; is that correct?

13 A: Yes, sir.

14 Q: Did you hear what Michael Bruce said to Mr. Springs while
15 they were on the phone?

16 A: Yes, sir.

17 Q: At any point in your conversation with Mr. Springs, did
18 he threaten you?

19 A: Yes, sir.

20 Q: Okay. What did he say?

21 A: Because every time he called, he was threatening to beat
22 us, beat me and Michael. I don't know what ---

23 MR. OZMENT: Your Honor, I object to hearsay again.

24 THE COURT: All right. I'm going to allow that to --
25 just to the issue here, I'm going to hear what he has to say.

WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

1 Objection is overruled.

2 Q: Go ahead.

3 A: He -- he threatened me and Michael about beating us and
4 stuff. Really it just didn't seem like Steve. I didn't
5 really know what was wrong with him, you know, but it just
6 didn't seem like him to be that type of guy.

7 Q: His comments to you were ---

8 A: Yeah, about he was -- he was going -- whenever he seen
9 us, he was going to beat us.

10 Q: Okay.

11 A: Both.

12 Q: And he made those comments directly to you?

13 A: Yes, sir.

14 Q: And he made those comments to Mr. Bruce?

15 A: Yes, sir.

16 Q: And at some point, you got home?

17 A: Yes, sir.

18 Q: Michael Bruce dropped you off at your house?

19 A: Yes, sir.

20 Q: Did he stay with you?

21 A: For a few minutes. I tried to get in the house and, you
22 know, we was just carrying on a short conversation while I was
23 trying to get in the house and realized the house was locked
24 up. So I went there. I still had my gun on my shoulder, you
25 know, because it had a strap on it on one shoulder and ---

WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

- 1 Q: Let me stop you real quick. You said you were trying to
2 get in your house?
- 3 A: Yeah, it was locked.
- 4 Q: And you weren't able to?
- 5 A: No.
- 6 Q: Why not?
- 7 A: It was -- it was locked and my wife had my keys in the
8 truck.
- 9 Q: Why did your wife have the keys?
- 10 A: Because I'd left them in my truck.
- 11 Q: And your wife had the truck?
- 12 A: And my wife had the truck going to the skating rink.
- 13 Q: So after you realized you could not get in your house,
14 what did you do?
- 15 A: I walked out to the office to check her office to see if
16 it was locked where I could put my gun up and which it was
17 locked, too. So I just sat down on the -- just sat there on
18 the porch, just sat -- just sat down.
- 19 Q: Now, describe this office for me?
- 20 A: It's a ten by ten office. It has like a six by six
21 little platform out with one step.
- 22 Q: So if you're -- if you're sitting on the -- on the little
23 landing area that you've heard talked about before ---
- 24 A: I was sitting on the step.
- 25 Q: If you're sitting there, your feet are on the ground?

WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

- 1 A: Yes, sir.
- 2 Q: You're not -- you're not very high up? It's not on ---
- 3 A: No, two by six.
- 4 Q: It's not an elevated platform, it's right there at the
- 5 ground.
- 6 A: No.
- 7 Q: And so you sat there after you realized you couldn't get
- 8 in the house?
- 9 A: Yeah, and then Michael said, well, I'll see you later.
- 10 Q: Okay.
- 11 A: I said, well, I'm just going to sit here until my wife
- 12 gets here.
- 13 Q: And you -- I guess at that point you just waited on
- 14 Gloria to get home?
- 15 A: Yeah, I was waiting on her to get home.
- 16 Q: What happened after that?
- 17 A: A white van come down the dirt road and I realized who it
- 18 was and I was like, oh no, you know. I know he ---
- 19 Q: Let me stop you right there. You say a white van came
- 20 down the road?
- 21 A: Yes, sir.
- 22 Q: And you realized who it was?
- 23 A: Yes, sir.
- 24 Q: Who was it?
- 25 A: Steve Springs.

WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

- 1 Q: Okay.
- 2 A: Then he whipped up in my yard kind of fast. He pulled up
3 rather close ---
- 4 Q: Okay.
- 5 A: --- to me. I'd say anywhere from five to seven feet away
6 from me. Yeah, between five and eight -- eight feet I'd say
7 away from me.
- 8 Q: Okay, but ---
- 9 A: And I ---
- 10 Q: --- as far away as you and I are now?
- 11 A: Right.
- 12 Q: Okay.
- 13 A: He had his headlights on and he jumps out the van. He
14 cuts the van off and jumps out the van and goes to cussing me
15 and stuff about what I was going to do and what I was going to
16 tell my wife and all this, and I was like, man, I thought we
17 was friends, you know. Why are you doing this? Oh, this,
18 that and the other and all this here, and I -- I was like,
19 man, the best thing for you to do is -- and we'll talk about
20 it later, is get back in your van and please leave. Several
21 times I asked him to please leave and then at the end ---
- 22 Q: Let me stop you right there. When was the -- when was
23 the last time you had seen Steve at your house before then?
- 24 A: Maybe a few months.
- 25 Q: So was it unusual for him to have been at your house?

WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

- 1 A: Yes, sir, because he was asked not to come up there.
- 2 Q: Okay and you -- you asked him to leave?
- 3 A: Yes, sir.
- 4 Q: And then what happened?
- 5 A: Then he got more or less outrageous about it I reckon
- 6 because I -- I didn't want nothing to do with the situation
- 7 though he was getting mad with me because I told him I didn't
- 8 care what happened between them, you know. I didn't want
- 9 nothing to do with the situation that they was having.
- 10 Q: When you say I don't care what happened, what -- I don't
- 11 care what happened between them, who is them?
- 12 A: It would be him and Crystal or Gloria, any of them.
- 13 Q: Okay. Essentially, this is their business and not yours?
- 14 A: Right. I ---
- 15 Q: Okay.
- 16 A: It's my stepdaughter I mean. As long as my grandkids was
- 17 fine, I didn't care what they done.
- 18 Q: Right.
- 19 A: I didn't like the idea, but I didn't care what they done.
- 20 Q: Sure. You're still seat -- sittted down at this point?
- 21 A: Yes, sir.
- 22 Q: Okay. After you asked him to leave, what then?
- 23 A: He kept getting more irate and irate and irate, and he
- 24 was standing there with his hand on the door and then
- 25 eventually he said -- I said the best thing for you to do is

WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

1 leave and he said no. He said better than me telling you, he
2 says, I'll show you. And I was like, man ---

3 Q: And then what happened?

4 A: And then like, man, you know, go on and just leave me
5 alone, you know, and he said, no, just because you've got that
6 gun laying in your lap, you think I'm f'ing scared of you. He
7 said I'll take it and wrap it around your f'ing neck. And I
8 said, Steve, you know, we're supposed to be friends. Come on
9 now, you know, it ain't got to go to this, and then he come
10 around the door at -- you know, in a -- what would I say in a
11 threatening way.

12 Q: You felt threatened?

13 A: Yes, sir, highly threatened.

14 Q: What happened then?

15 A: I just picked the gun up, pointed it at him, and pulled
16 the trigger.

17 Q: How many times did you fire that gun?

18 A: One time.

19 Q: Do you know if it hit him?

20 A: I didn't know for sure whether he was faking and stuff or
21 whether it really hit him.

22 Q: Okay. How far away do you think he was when you fired
23 that shot?

24 A: Five feet, six feet, five.

25 Q: Okay.

WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

- 1 A: I'd say five.
- 2 Q: About as far away as you and I are now?
- 3 A: No, closer.
- 4 Q: Okay.
- 5 A: It was closer than that.
- 6 Q: What -- what did he do after he was shot?
- 7 A: He fell on the ground and he rolled around and fell on
- 8 the ground and I heard him say one thing. That was help me.
- 9 And I was more or less in shock about what just happened and I
- 10 don't know. I reckon it's just a habit, but I took the shell
- 11 out the gun and I had it in my hand and I breeched the gun
- 12 back ---
- 13 Q: Let me stop you right there. This -- this gun, what kind
- 14 of gun was it?
- 15 A: A thirty ought six high-powered rifle.
- 16 Q: Is that a bolt action?
- 17 A: Yes, sir.
- 18 Q: So it's just one -- one shell at a time?
- 19 A: Yes, sir.
- 20 Q: And you have to rack it back to get the shell out?
- 21 A: Correct.
- 22 Q: Okay.
- 23 A: And ---
- 24 Q: And just you said out of habit -- sorry I interrupted
- 25 you. Out of habit, you took the shell out?

WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

1 A: Right. I had it in my hand. I took the gun and got up
2 and I walked back to the back of the shed. I was like I
3 didn't know what to do and I was trying to call my wife, but I
4 was dialing either Michael's or Larry's number not meaning to
5 because, you know, I was pretty much shook up. I was in
6 shock, you know. I didn't know.

7 Q: Right.

8 A: I didn't know what -- what to do.

9 Q: Right.

10 A: You know what I mean? And I was really scared and I took
11 the gun and ended up behind -- behind the office. I said,
12 well, I've got to get out of here. I've got to go find
13 somebody to help me figure out what's what. I don't know what
14 to do, you know.

15 Q: Right.

16 A: I didn't -- I was just that shook up.

17 Q: Let me stop you right there. Eventually, were you able
18 to get a hold of your wife?

19 A: Yes, sir.

20 Q: Did she eventually come up?

21 A: Yes, sir.

22 Q: And it's your understanding she called 9-1-1?

23 A: Right. Well, when I talked to her, she said stay there,
24 and I said, no, I'm going to Carl's.

25 Q: When you -- and Carl is a neighbor of yours?

WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

- 1 A: Yes, sir, a good friend of mine.
- 2 Q: How far away do you think his house is from yours?
- 3 A: A hundred yards, a hundred and fifty yards.
- 4 Q: Is he the next house over?
- 5 A: No, sir. There's one behind me. Mr. Watson's is behind
- 6 me and then on across the dirt road is Carl Munn's.
- 7 Q: So right there behind your house?
- 8 A: Yeah. I mean it's on the -- on the same dirt road.
- 9 Q: And it's in a fairly rural area?
- 10 A: Yes, sir.
- 11 Q: The houses aren't stacked on top of each other?
- 12 A: No, no, no. And I had the gun out. Mr. Watson come over
- 13 -- come over and wanted to know was that me that shot and I
- 14 said yeah, my gun had a bullet in it that just hung up because
- 15 I didn't want him involved, you know. I didn't see no use for
- 16 him being involved and all, and he's ---
- 17 Q: Let me stop you right there.
- 18 A: Okay.
- 19 Q: So your -- your initial contact with him was not to tell
- 20 him exactly what was going on?
- 21 A: No.
- 22 Q: Okay and eventually, did you fill him in on what had
- 23 happened?
- 24 A: Not all of it. I just said I'd shot him. I was just in
- 25 shock and I said I shot him. He said shot who and I said

WAYNE A. SCOTT, JR. - DIRECT EXAMINATION BY MR. GROVE

1 Steve.

2 Q: Would -- would he have known who Steve was?

3 A: Yeah, I reckon. He seen his van over there, yeah.

4 Q: Right and again, Steve came to your house?

5 A: Yeah.

6 Q: Made threats to you?

7 A: Yes, sir.

8 Q: And you were threatened by him?

9 A: Yes, sir, highly threatened.

10 MR. GROVE: I don't have any further questions at this
11 time.

12 THE COURT: Mr. McNair -- I mean Mr. Ozment, excuse me.

13 MR. OZMENT: Thank you, Your Honor.

14 CROSS EXAMINATION

15 BY MR. OZMENT:

16 Q: How long have you worked that day, Mr. Scott? How long
17 had you worked that day?

18 A: About eight hours. Eight hours.

19 Q: About eight hours?

20 A: Between seven and a half and eight hours.

21 Q: What time did you go in?

22 A: It was like eight thirty, quarter to nine, something like
23 that.

24 Q: Had you been drinking at all that day?

25 A: You mean while I was working? No, sir.

WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

- 1 Q: What about while you were hunting?
- 2 A: No, sir.
- 3 Q: Okay. On the way home anytime?
- 4 A: Yes, sir. I drank a beer at Michael's.
- 5 Q: How many?
- 6 A: Just one.
- 7 Q: Did you have any beer with you while you were sitting on
- 8 the front porch?
- 9 A: Yes, sir.
- 10 Q: How many did you have then?
- 11 A: I had two. No, excuse me, I had three.
- 12 Q: After -- when did you come up with the idea about getting
- 13 the fans for the houses you were working in?
- 14 A: While I was back there hunting.
- 15 Q: While you were back there hunting?
- 16 A: Yes, sir.
- 17 Q: Tell me about what was your idea?
- 18 A: What's my idea?
- 19 Q: Yeah. What were you going to do with these fans?
- 20 A: I was going to mount them on like boards and use them in
- 21 them houses where we'd have some air to circulate because them
- 22 new houses, there ain't no air conditioning, you know, or
- 23 nothing to keep the air circulating.
- 24 Q: Okay.
- 25 A: Yes, sir.

WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

- 1 Q: Did you tell Michael about your idea? Did you ---
- 2 A: No. I mean ---
- 3 Q: --- mention something to him about it?
- 4 A: --- afterwards, yeah. I mentioned something to him
- 5 afterwards because he was like, you know, air conditioning? I
- 6 said, yeah, I was just going to ask him about, you know, fans
- 7 and that's the reason I told him -- I said, I don't know why
- 8 he's acting like this. Not -- you know, I don't know why
- 9 Steve was acting like that. Steve had never acted like that
- 10 before. We was considered as friends, you know.
- 11 Q: Okay.
- 12 A: I mean up until the day it happened, we was considered as
- 13 friends, you know, and we hadn't never had no conflict or
- 14 nothing. We always talked to each other, you know, called
- 15 each other, joked, cut fool on the phone, you know.
- 16 Q: Okay.
- 17 A: We'd see each other on jobs. We always spoke. Like I
- 18 said, I didn't want nothing to do with the situation.
- 19 Q: So the first time he threatened you was when you were in
- 20 -- on the phone -- on the phone driving back; is that right?
- 21 A: In the yard. In Michael's yard when ---
- 22 Q: Oh, okay, but on the phone is what I'm asking?
- 23 A: Oh, yeah.
- 24 Q: Okay. Did you take that to be a real threat?
- 25 A: At that time?

WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

1 Q: Yes, sir.

2 A: Yeah, in a way, but, you know, I didn't -- like I said, I
3 ain't never heard Steve cuss like that. I thought he was a
4 good church-going guy, you know, and everything, but then I
5 got to thinking about that thing and I was like, yeah,
6 something's wrong here, you know. I didn't know what the
7 reason was, you know, but when he called me back and started,
8 you know, cussing back at me again and all, yes, sir, I felt
9 really threatened.

10 Q: Did you think he was going to come over to your house?

11 A: I didn't think he was ---

12 Q: Okay.

13 A: --- because he knowed he wasn't allowed in my yard. He
14 was asked -- well, he was asked not to come to my house
15 several times, you know, since he was dating my stepdaughter.

16 Q: You weren't expecting him that night?

17 A: No.

18 Q: Okay.

19 A: No.

20 Q: How long had you been sitting there between the time
21 Michael left your house and Steve rolled up?

22 A: Ten -- fifteen minutes maybe, if that.

23 Q: You said Steve drove in kind of fast?

24 A: Yes, sir. You know, like he was angry because usually he
25 just creeps down the dirt road, you know, because he knows we

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1 got kids and stuff that play around there.

2 Q: Did he get out of the car fast like he was angry?

3 A: Yeah. Yes, sir.

4 Q: Okay.

5 A: He got out like he was angry.

6 Q: Did he leave the door open or did he close it?

7 A: He had the door open.

8 Q: How long did y'all kind of have words back and forth?

9 A: It wasn't very long. I mean really I can't -- I can't

10 give you an exact time, you know.

11 Q: I'm not ---

12 A: Maybe, you know, three minutes is a long time. I mean,

13 you know ---

14 Q: Okay.

15 A: --- if you think about it.

16 Q: Not -- not ten minutes?

17 A: No, it weren't no ten minutes, no.

18 Q: Longer than one minute?

19 A: Yeah, it was longer than one minute. Yes, sir.

20 Q: At what point did you start getting kind of scared?

21 A: Practically when he first pulled up and started at me and

22 the way he jumped out of the truck. That's been at the point

23 I was asking him if he would please leave, you know, not

24 really being loud, not being obnoxious toward him now. You

25 know, like I said, we was supposed to have been friends. I

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1 was just politely asking him to leave and then it got louder
2 and louder and louder, you know, back and forth and then I was
3 like, you know, you need to go.

4 Q: Okay.

5 A: Yeah.

6 Q: And he didn't leave?

7 A: No, sir.

8 Q: At what point did he come at you? I mean what -- what --
9 what triggered that?

10 A: It's when he told me -- well, I reckon when I told him
11 that -- well, when he told me that he'd wrap my gun around my
12 neck and I just told him that wasn't no good idea and that's
13 when he told me I will show you. I ain't telling you no more;
14 I will show you. And that's when he come around the door.

15 Q: Was your gun already loaded?

16 A: Yes, sir. I got a bad habit of not taking the bullet out
17 the barrel.

18 Q: How many bullets will that gun hold?

19 A: It will hold five, four in the chamber and one in the
20 barrel, but I don't think there was like three in it. I ain't
21 -- I ain't exactly sure. It was either three or four in it.
22 It wasn't fully loaded, no, sir.

23 Q: Okay. I'm assuming you hadn't killed a deer that day?

24 A: No, sir.

25 Q: When he started coming at you, what did -- what did you

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1 think he was going to do?

2 A: I didn't know. I knowed he was coming to hurt me. I
3 mean I had the fear that he was coming to hurt me. So I -- I
4 just, you know -- I couldn't get up and run from the position
5 I was sitting in.

6 Q: Did he have a weapon of any kind?

7 A: No, I don't think so. I'm not -- actually, it was dark
8 and I'm not sure if he had one or not.

9 Q: Did you see one?

10 A: No, sir. Like I said, it was dark. All the lights was
11 off.

12 Q: He didn't act like he had a gun or anything?

13 A: I don't remember. No, he just -- when he come around the
14 door, he come around the door in a lunge. He didn't walk
15 around the door. He didn't just walk around. He come around
16 the door in a lunge -- in a -- in a fast motion.

17 Q: So let me clarify. When y'all are having words, is he
18 still then behind the door?

19 A: Yeah.

20 Q: Okay. So let's say this is the van and this is the van
21 door.

22 A: Mm-hmm.

23 Q: When y'all are having words, he's still behind the door?

24 A: Well, right at the edge of the door. Yeah, there you go.

25 Q: So this is the van ---

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- 1 A: If that's the door open right there, he's got his hand on
2 the side of the door.
- 3 Q: Okay.
- 4 A: Right between the door and my fence.
- 5 Q: And did he kind of slowly come towards you or ---
- 6 A: No.
- 7 Q: --- did he all at once ---
- 8 A: No. He all at once came.
- 9 Q: From where the door was open?
- 10 A: Yes, sir.
- 11 Q: Okay. Does the van have a light on the inside?
- 12 A: I -- I don't remember. I'm pretty sure it did, but I
13 can't remember.
- 14 Q: Okay. So there was some light -- you're not sure, but it
15 may have been some light?
- 16 A: I think there was a light in there.
- 17 Q: Okay.
- 18 A: I don't -- you know, can't swear to it, but I think there
19 was. But I ain't sure that it was a light that stays on, you
20 know.
- 21 Q: You -- you can't remember, but there may have been?
- 22 A: Right, right.
- 23 Q: Okay.
- 24 A: Yes, sir.
- 25 Q: How far did he get to you before you pulled the trigger?

WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

- 1 A: Four foot -- five foot -- four foot.
- 2 Q: So I'm going to walk towards you. You tell me when to
- 3 stop.
- 4 A: Okay. About right there.
- 5 Q: About right here? Okay.
- 6 A: Maybe a little closer.
- 7 Q: Right here?
- 8 A: Yes, sir.
- 9 Q: Somewhere in here?
- 10 A: Yes, sir.
- 11 Q: Okay and when he was that close, you still don't know if
- 12 you saw a weapon on him or not?
- 13 A: Well, being I was looking more at his face than I was at
- 14 any hands or anything else, you know.
- 15 Q: All right.
- 16 A: And actually, he was swinging his hands. I mean not
- 17 fists at me, but, you know, side to side. You know how people
- 18 are when they're angry.
- 19 Q: Well, he was a big guy; right?
- 20 A: They -- yes, sir.
- 21 Q: I mean a big guy running is going to have arm movement?
- 22 A: Yeah. He wasn't running, but you know what I'm saying.
- 23 He was like, you know, moving his -- he was moving his hands.
- 24 Q: Okay.
- 25 A: Yes, sir, and it was dark out there. My porch light

WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

1 wasn't on or my -- her office light wasn't on at this time.

2 Q: How long have you known about Steve and Crystal?

3 A: Not -- not really very long because I mean I've heard
4 things, rumors about it. I mean they was just rumors,
5 hearsay, you know. You know, that's their problem. They're
6 grown, you know. As long as they don't interfere with my
7 grandbabies, I -- it didn't bother me none because I even got
8 to see my grandbabies more often.

9 Q: Well, when you and Sonny -- excuse me. When you and
10 Steve were arguing, was some of that about ---

11 A: Mm-hmm.

12 Q: --- that little situation with Crystal and your
13 grandkids?

14 A: Yeah. Well, not really grandkids, no, but about me
15 telling my wife this and that and he was going to make the
16 grandkids or something call him daddy or something. I mean,
17 you know, it was just back and forth all, you know, short ---

18 Q: So y'all were arguing about that stuff?

19 A: More or less.

20 Q: Yeah.

21 A: Yeah. That was what the whole situation was about.

22 Q: Okay. Had y'all argued about this before?

23 A: No, sir. We never had an argument until that night.
24 Like I said, I considered us as friends. I didn't -- you
25 know, I didn't even want that to be involved with our

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1 friendship.

2 Q: After you fired the shot, how long until -- George was
3 the first person you saw after you shot him, right?

4 A: Yes, sir.

5 Q: About how long was it until you saw George?

6 A: Two -- three minutes at the most. You know, like I say,
7 time -- you say two or three minutes sounds like a short time,
8 but actually it's not.

9 Q: I understand. I mean I'm sure in that situation time is
10 hard to judge; isn't it?

11 A: Yes, sir. Yes, sir.

12 Q: I understand. When George -- what -- did you give George
13 your gun?

14 A: No, sir.

15 Q: At any point?

16 A: No, sir.

17 Q: Where did you put your gun?

18 A: Laid it up behind the building.

19 Q: And that's where you left it?

20 A: Yes, sir.

21 Q: Did George take the gun from there?

22 A: I suppose so. I didn't see him take the gun.

23 Q: Did you talk to George about the gun?

24 A: Sir?

25 Q: Did you talk to George about the gun?

WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

1 A: George mentioned something about the gun and I told
2 George not to worry about that gun, that the law was going to
3 get it anyway because I wasn't running from the law. I reckon
4 he had the impression that he wanted to take the gun. I told
5 him leave the gun there, that the law was going to get the gun
6 and it didn't matter what because I was going to tell them
7 where it was it.

8 Q: Okay.

9 A: Because I had no reason to run, you know.

10 Q: Okay.

11 A: I mean I was upset and in shock and I left the scene. I
12 admit that, but as far as running from the law, no, sir, I
13 didn't. But -- no, I didn't -- I didn't ask George to take
14 the gun, no, sir.

15 Q: Okay. Did you go to your boat at any point?

16 A: No, sir.

17 Q: So you -- you were around the house. You talked to
18 George. Is the next place you went over to Carl's?

19 A: Yes, sir.

20 Q: Did you go back around to the front of the office where
21 you'd shot him and he was still laying? Did you go back ---

22 A: No, sir.

23 Q: --- over there at all?

24 A: No, sir.

25 Q: Did you go check on Steve or anything like that?

WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

1 A: No, sir. I wasn't going back around there. Like I said,
2 I was more or less in shock. I was upset, you know, about it
3 happening and all. No.

4 Q: Did you think about calling the law? Calling an
5 ambulance?

6 A: Yes, sir, but matter of fact, I asked -- asked George if
7 he could call them. I was so shook up at the time. Like I
8 said, I was trying to call my wife and, matter of fact, I was
9 dialing numbers that wasn't even hers and I don't even
10 remember how many times I done that before I did get in
11 contact with her and I told her I was going to Carl's and to
12 meet me up at Carl's. She said she'd be there in just a short
13 time and when she got there, I come out the house and got in
14 the truck and we went back to my house and I walked -- from
15 where we pulled up beside the office and I got out. Matter of
16 fact, I didn't even look that way at -- at Steve. I just
17 walked right on in the house. I mean I was still like I
18 couldn't believe it happened, you know.

19 Q: Did you -- when you were over at Carl's, did George come
20 over?

21 A: I -- yeah.

22 Q: Okay.

23 A: Yeah. Like I said, he come over and brought my gun.

24 Q: Okay. Was that -- was he there before your wife or after
25 your wife or do you remember?

WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

- 1 A: I don't know. I think after. I ain't sure.
- 2 Q: How long once you got back to your house before the law
3 get there?
- 4 A: It was a very short time.
- 5 Q: Do you remember talking to the law about this?
- 6 A: Yes, sir.
- 7 Q: Did you tell them what happened?
- 8 A: Yes, sir.
- 9 Q: Did you tell them the truth?
- 10 A: Yes, sir.
- 11 Q: Where were you when you talked to the law about it and
12 told them what happened?
- 13 A: Standing almost in front of Steve's van, and they asked
14 me where I was sitting and what happened, and I told them the
15 man tried to attack me. That's what come to the -- that's
16 what happened.
- 17 Q: You said this is a thirty ought six?
- 18 A: Yes, sir.
- 19 Q: High powered rifle?
- 20 A: Yes, sir.
- 21 Q: Remington?
- 22 A: Yes, sir.
- 23 Q: Do you remember what kind of ammunition it was?
- 24 A: 150 grain Core-Lokt.
- 25 Q: Where did you get this gun?

WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

- 1 A: Sir?
- 2 Q: Where did you get the gun?
- 3 A: Walmart several years ago.
- 4 Q: How many?
- 5 A: I don't know. I probably had the gun probably ten --
- 6 right at ten years probably.
- 7 Q: Did you own other firearms? Do you own other firearms?
- 8 A: Yeah.
- 9 Q: About how many?
- 10 A: I think three or four more.
- 11 Q: Are they all rifles? Shotguns?
- 12 A: No, sir. One of them is a shotgun and the other one is a
- 13 rifle.
- 14 Q: Okay.
- 15 A: And I own a bunch of pellet guns.
- 16 Q: Okay.
- 17 A: Pellet guns and BB guns for my grandson.
- 18 Q: Mr. Scott, do you know if you can lawfully own a firearm?
- 19 A: Yeah. I mean I hadn't never signed a gun law.
- 20 Q: Are you a convicted felon?
- 21 A: Yeah, but I ain't never signed a gun law.
- 22 Q: How are you a convicted felon?
- 23 A: I got caught for manufacturing marijuana.
- 24 Q: When was that?
- 25 A: In 2000 -- 2000, 2001 or '02. I ain't exactly sure.

WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

1 It's been so long ago.

2 Q: I understand. Do you remember what your sentence was?

3 A: Probation. It was paid off within twenty-four hours so I
4 mean I don't ---

5 Q: Okay.

6 A: It was paid off the next day or the day before -- day
7 after. So it was a ---

8 Q: Do you ---

9 A: --- short ---

10 Q: Do you remember what the maximum penalty was for that
11 when you ---

12 A: No, sir.

13 Q: Okay. Did you plead guilty or you went to trial?

14 A: I just pleaded guilty. I pleaded guilty to it.

15 Q: Was that up here?

16 A: Yes, sir. Here in Florence County, yes, sir.

17 Q: Do you remember signing a sentencing sheet before you
18 pled guilty? Signing a piece of paper that had your name on
19 it?

20 A: I don't remember. I don't remember.

21 Q: If I told you you signed one, would you recognize your
22 signature on it?

23 A: Yeah.

24 MR. OZMENT: May I approach, Your Honor?

25 THE COURT: Yes, sir.

WAYNE A. SCOTT, JR. -CROSS EXAMINATION BY MR. OZMENT

1 Q: Mr. Scott, I'm handing you your sentencing sheet. Is
2 that your signature there?

3 A: Yes, sir.

4 Q: And you would agree with me that says manufacturing MJ
5 right there?

6 A: Mm-hmm.

7 Q: All right.

8 A: Does it say about the gun law on it?

9 Q: Well, I'm just -- right -- I'm just asking you if this is
10 ---

11 A: Yeah.

12 Q: This is the sentencing sheet and this is what you pled
13 guilty to; right?

14 A: Yes, sir.

15 Q: Okay.

16 MR. OZMENT: No further questions at this time, Your
17 Honor.

18 THE COURT: Redirect?

19 MR. GROVE: Briefly, Judge.

20 REDIRECT EXAMINATION

21 BY MR. GROVE:

22 Q: Sonny, when that van is parked in front of you, Mr.
23 Ozment was asking about where Steve was standing.

24 A: Mm-hmm.

25 Q: Right? And you said basically if this is the van, it's

WAYNE A. SCOTT, JR. -REDIRECT EXAMINATION BY MR. GROVE

1 pointed right at you and if -- and if the door is open, he's
2 standing right here in front of the door?

3 A: Right. Yes, sir. At the edge of the door, you know,
4 where the rail runs across with his hand on the door.

5 Q: How much of him could you see? Some? Most?

6 A: Well, no, not really at first, not until he come around
7 the door. I mean he was standing there and just had his hand
8 on the door, you know.

9 Q: Right, but he had the door between?

10 A: But he was doing all the talking. Yes, sir. If I ain't
11 mistaken, the window was rolled down.

12 Q: He had the door between the two of you?

13 A: Uh-huh. I think the window was rolled down. I can't
14 swear to it.

15 Q: And Mr. Ozment earlier was testifying -- you were
16 answering questions about his arms moving ---

17 A: Right. Yes, sir.

18 Q: --- as he was coming at you?

19 A: He had it coming at me.

20 Q: And he's a big fellow?

21 A: Yeah.

22 Q: How big do you think Steve is?

23 A: He's probably 240 to 260.

24 Q: Is he taller than you?

25 A: Yes, sir.

WAYNE A. SCOTT, JR. -REDIRECT EXAMINATION BY MR. GROVE

- 1 Q: Is he bigger around than you?
- 2 A: Yes, sir.
- 3 Q: How tall are you?
- 4 A: Five -- five ten, if that. Five eight.
- 5 Q: How much do you think you weigh?
- 6 A: At that time, I weighed 131 pounds when I got locked up.
- 7 Q: You fired this shot when Steve was walking at you?
- 8 A: Coming at me, yes.
- 9 Q: Or coming at you?
- 10 A: He was coming at me. He wasn't walking though.
- 11 Q: How -- how did you hold the gun?
- 12 A: It was laying in my lap and I just picked it up. It was
- 13 still laying in my lap. The gun wasn't picked up and aimed,
- 14 no.
- 15 Q: You didn't -- you didn't pick it up and put it on your
- 16 shoulder?
- 17 A: No. No, sir.
- 18 Q: You didn't ---
- 19 A: I just turned the gun toward him and pulled the trigger,
- 20 yes, sir, to stop him.
- 21 MR. GROVE: I don't have any further questions. Thank
- 22 you.
- 23 THE COURT: Mr. Ozment?
- 24 MR. OZMENT: No recross, Your Honor.
- 25 THE COURT: All right. Thank you, sir. You may step

1 down.

2 (Whereupon, the witness leaves the stand at 2:31 p.m.)

3 MR. GROVE: Your Honor, that would conclude the defense's
4 presentation of facts.

5 THE COURT: All right. All right, counsel, it's my view
6 that I would hear from you at this point. I think it would be
7 appropriate to hear from, Mr. Grove, with regard to why you
8 think the Act applies in this case and I'll give Mr. Ozment a
9 chance to reply and then, if necessary, we can take testimony
10 from the -- from the State, but let me hear why you think that
11 the Stand Your Ground statute applies.

12 MR. GROVE: Thank you, Your Honor, may it please the
13 Court. You've heard testimony from three witnesses: a
14 gentleman who was with the witness in the moments leading up
15 to this incident -- or the defendant leading up to this
16 incident, the defendant's wife who was with him in the moments
17 after this incident, and obviously the defendant himself.

18 16-11-410, the Protection of Persons and Property Act,
19 provides for immunity from prosecution for those people who
20 can show to the Court that they were in their home, in their
21 car, at their business, and they're afforded a -- a
22 presumption of being in reasonable fear of their life if they
23 are inside any of those places and a break-in occurs.

24 But the Protection of Persons and Property Act doesn't
25 confine itself to those -- those incidents. It also provides

1 for any person who is not engaged in an unlawful activity, and
2 now I am looking at 16-11-440(c) specifically.

3 THE COURT: Are you relying on (a) or (c)?

4 MR. GROVE: I beg the Court's indulgence. I -- Your
5 Honor, he is not inside his residence, he is not inside a
6 vehicle, or in his place of business. I'm not relying on (a)
7 to the extent that it requires that a presumption be afforded
8 to a person who is inside one of those places while a break-in
9 is occurring.

10 THE COURT: It also requires that -- yeah, that -- that
11 break-in must be -- he must be using the process of unlawfully
12 and forcefully entering.

13 MR. GROVE: Correct and that is -- that is not the
14 position of the defense at all. Section (c) says a person who
15 is not engaged in an unlawful activity and who is attacked in
16 another place where ---

17 THE COURT: Stop right there. Who is attacked? Was he
18 physically attacked?

19 MR. GROVE: If Your Honor will look to the end of section
20 (c), to prevent injury -- to prevent death or great bodily
21 injury to himself or another person or to prevent the
22 commission of a violent crime as defined by 16-1-60. Our
23 position is that this defense was done in an effort to prevent
24 a violent crime from occurring.

25 THE COURT: But doesn't -- don't you have to meet the

1 requirements of the first part of that sentence? A person who
2 is not engaged in an unlawful activity and who is attacked in
3 another place where he has a right to be, and then it goes on
4 to say under the circumstances what he has the right to do,
5 but doesn't it require an attack?

6 MR. GROVE: Your Honor, I -- I -- I don't believe that it
7 does. I don't believe that you have to wait until you are the
8 victim of an attack to defend yourself. I don't believe that
9 you must be assaulted and to any particular degree before you
10 can defend yourself. If there is a reasonable expectation
11 that a violent crime is about to occur, this statute by my
12 interpretation affords protection to any reasonable force that
13 is extended.

14 THE COURT: All right. All right, I understand your
15 position. Let me hear from you, Mr. Ozment. He's not relying
16 on Section (a) about the entering the dwelling because -- and
17 he's not relying on that is all. He's relying on subsection
18 (c) of 16-11 ---

19 MR. OZMENT: Yes, Your Honor.

20 THE COURT: 16-11-410(c), a person who is not engaged in
21 an unlawful activity, but who is attacked in another place
22 where he has a right to be, including but not limited to his
23 place of business, has no duty to retreat and has the right to
24 stand his ground and meet force with force including deadly
25 force if he reasonably believes it is necessary to prevent

1 death or great bodily injury to himself or another person or
2 to prevent the commission of a violent crime. So I'll be glad
3 to hear from you.

4 MR. OZMENT: Yes, Your Honor, and I'm just going to take
5 it as the sentence is read. The first thing I come across is
6 an unlawful activity. It's the State's position in this that
7 Mr. Scott was in violation of 18 United States Code Section
8 921 and 922, specifically subsection (g), and I'll pass that
9 up to the Court and I've -- Mr. Grove, I think I pulled it out
10 of this. I don't know if he -- I've highlighted -- this is a
11 long federal statute. I've highlighted the parts that matter.

12 And under the law in this case, Mr. Scott in the federal
13 government's eyes is a convicted felon. That being he is
14 convicted of a crime in state court that carried more than two
15 years -- actually more than one year, but there's an exception
16 in there about two years in state court. That's neither here
17 nor there. He was convicted of a crime that's considered a
18 felony under state law and carried a maximum of up to five
19 years.

20 Moving on to Section 922, subsection (g), it is unlawful
21 for him to possess a firearm or ammunition. He was in
22 possession by his own admission of both a firearm and
23 ammunition. So the State first would argue he was not engaged
24 in lawful activity when this whole thing occurred.

25 Moving on to who is attacked in another place, I think

1 Your Honor was hinting with Mr. Grove, but the State's
2 position -- Mr. Scott said he came at him. He said he didn't
3 see any weapons. He said he didn't -- well, he said he
4 couldn't tell, but he certainly didn't affirmatively see any
5 weapons. He said that Mr. Springs was standing back from him
6 and was coming towards him, but he said he wasn't running. He
7 just said he was moving quickly. He said he was flinging his
8 arms, but certainly the right to meet force with force, no
9 force had been exerted at this point and certainly deadly
10 force was then exerted by Mr. Scott. So that would be the
11 State's position on the application of subsection (c).

12 THE COURT: All right. Reply, Mr. Grove?

13 MR. GROVE: Yes, Your Honor, if I may approach?

14 THE COURT: Yes, sir.

15 MR. GROVE: I'm handing to Your Honor State v. Burris.

16 That is a case that is not entirely directly on point. It
17 deals with the assertion of accident as a defense and I'll
18 direct Your Honor's attention to page 3 of that opinion,
19 heading 9. I'm quoting here.

20 Read together, McCaskill and Goodson stand for the
21 proposition that a person can be acting lawfully even if he is
22 in unlawful possession of a weapon, if he is entitled to arm
23 himself in self-defense at the time of the shooting.

24 Essentially, Mr. Ozment's argument is because Mr. Scott
25 has been convicted of a crime that carries more than a year,

1 he's in violation of a federal statute, thus making it
2 unlawful for him to have ---

3 THE COURT: Well, doesn't this case stand for if he --
4 correct me if I'm wrong, but doesn't -- and I'll -- I'll read
5 it in a minute. But doesn't Burris stand for the fact that a
6 person can be acting lawfully, i.e. self-defense, even if he
7 is in unlawful possession of a weapon, and that's not --
8 that's different from a violation of a statute.

9 MR. GROVE: Yes, Your Honor, but -- but in this case, a
10 sixteen-year-old was in possession of a firearm.

11 THE COURT: Okay.

12 MR. GROVE: And there is a law in South Carolina that
13 prohibits the possession of a pistol by a person under the age
14 of twenty-one. The State's position in that case was the
15 defendant was not entitled to a charge on accident and the
16 Court agreed, thus later being overturned, that despite the
17 fact that the sixteen-year-old was breaking the law by being
18 in possession of a firearm, that was not the unlawful activity
19 that the legislature or the Court has in mind when determining
20 whether or not a particular charge is appropriate.

21 THE COURT: Now, of course, that case predates the Stand
22 Your Ground law.

23 MR. GROVE: It does, Your Honor, but my argument would be
24 that the logic is still the same. Mr. Ozment's position is
25 that the unlawful activity that Mr. Scott was engaging in was

1 the possession of a firearm, and in this case it says that --
2 that's not the unlawful activity we're talking about. That's
3 the -- that's the opinion in Burris that unlawful activity
4 would be the commission of some other crime.

5 Recently, the Supreme Court heard a case, Isaac I believe
6 it is, on Stand Your Ground where a defendant broke into a
7 home and then committed an assault against the homeowner
8 himself and then tried to assert the Stand Your Ground law.
9 That would be an unlawful activity that you'd be engaged in to
10 which you could not assert the Castle Doctrine.

11 Mr. Ozment's position, I'm going to akin it to a person
12 being in a vehicle and being attacked by another individual.
13 They wouldn't be allowed to assert immunity under this statute
14 if they were driving under suspension.

15 THE COURT: I understand what you're saying. Okay. Tell
16 me -- tell me -- wait a minute. Before I call back on you,
17 Mr. Ozment, let's go back to the second part of it about being
18 attacked. Does the statute under Section -- subparagraph (b)
19 require him to be under attack?

20 MR. GROVE: Under subsection (c), it does, Your Honor.
21 I'll draw your attention to 16-11-420(e) of the General
22 Assembly. This is in their intent for the purposes of the
23 statute. It finds no person or victim of crime should be
24 required to surrender his personal safety, nor should a person
25 or a victim be required to needlessly retreat in the face of

1 intrusion or attack.

2 I think that that is obviously the intent of the
3 legislature here. You don't have to wait until you're mid-
4 assault. You don't have to wait until you have already been
5 assaulted to a particular degree. If there is a threat that
6 is ---

7 THE COURT: But isn't it -- isn't the whole thing with
8 the Stand Your Ground law -- and you correct me if I'm wrong,
9 but isn't the whole intent -- wasn't the whole intent of the
10 General Assembly to prevent people from being attacked in
11 their homes or in their businesses or in their vehicles? It
12 doesn't have anything to do with preventing them from getting
13 attacked out on the street or anywhere else and you got to be
14 -- you got to be attacked within their home and business.

15 Section (d) says the General Assembly -- the Assembly
16 finds that persons residing in or visiting this state have a
17 right to remain unmolested and safe within their homes,
18 businesses, and vehicles.

19 MR. GROVE: I -- I'm not in a position to argue with Your
20 Honor on that point. However, the testimony here has been Mr.
21 Scott is within feet of the door of his house and he's locked
22 out. He -- he doesn't have the opportunity to be broken in
23 on. He -- he -- he has nowhere else to retreat. He's
24 literally on his front doorstep. I don't know where else he
25 can go to avoid the impending attack of Mr. Springs and I do

1 not think that the legislature intended for him to wait until
2 he is already the victim of an attack before he begins
3 defending himself.

4 THE COURT: But isn't that what the statute very clearly
5 says?

6 MR. GROVE: I -- Your Honor, I'll have to disagree with
7 you respectfully on that point. I do not think that that is
8 its intent and I do not think that that is specifically what
9 it says. I do think that it allows for ---

10 THE COURT: It doesn't say assaulted. If the -- if the
11 General Assembly had merely meant assault and had used the
12 word assaulted instead of attacked. An assault can occur by
13 the threat, by somebody coming at you, and if the General
14 Assembly had meant it to be -- the statute to apply in an
15 assault situation, it could have very easily said a person who
16 is not engaged in unlawful activity and who is assaulted in
17 another place where he has a right to be.

18 An assault does not require a battery obviously. An
19 assault is simply the threat. But the General Assembly in
20 their wisdom used the word attack. Doesn't attack require --
21 imply an actual physical attack?

22 MR. GROVE: No, Your Honor, I don't think that it does.
23 No more so than if a gun was pointed at a homeowner that they
24 should wait for the trigger to be pulled before ---

25 THE COURT: Yeah, but that's not an attack. That's an

1 assault.

2 MR. GROVE: You're right. If there's ---

3 THE COURT: If you point a gun -- if I point a gun at
4 you, even if I don't pull the trigger, that's an assault.
5 That's not an attack.

6 MR. GROVE: I agree and -- and with a -- with a very
7 strict interpretation of the term attack, an assault would not
8 be an attack and you would have to wait for the trigger to be
9 pulled before you could defend yourself because you're only
10 being assaulted; you're not being attacked because there is no
11 accompanying battery.

12 THE COURT: But the General Assembly wrote the statute.
13 I didn't write it.

14 MR. GROVE: I cannot imagine. I cannot imagine that that
15 was their intent, Your Honor, because at the end -- at the end
16 of subsection (c), it allows for a person to prevent the
17 commission of a violent crime. I believe that that
18 encompasses any sort of an assault which does not have an
19 accompanying battery, nor does it require that a person wait
20 for that accompanying battery to arrive.

21 THE COURT: All right. All right, Mr. Ozment, let me
22 hear from you with regard to those two points, especially
23 about the unlawful activity in the Burris case.

24 MR. OZMENT: Your Honor, I'm going to pass up to you and
25 I've already given Mr. Grove a copy of State v. Slater. This

1 is after the Burris case. The Court goes into some detail on
2 the Burris case. I would turn -- the law I'm really going to
3 argue is on the second and third page. I've highlighted it.

4 What this case says is that Burris does not mean that
5 it's -- every -- every time you're possessing a gun unlawfully
6 that self-defense still applies and we're not arguing self-
7 defense here. This is an immunity hearing. However, what it
8 says is if the firearm which is possessed unlawfully, as it is
9 here, is the proximate cause of the death, that it is an
10 unlawful activity.

11 So it's not like a DUS like Mr. Grove was saying, and I'd
12 point Your Honor to page 3, which further explains, however,
13 that the unlawful possession of a firearm can under some
14 circumstances constitute an unlawful activity so as to
15 preclude an accident defense if the weapon is the proximate
16 cause of the killing.

17 It then goes on to talk about the Slater case in the next
18 paragraph. The things to look at proximate cause are that the
19 defendant in that case carried a cocked weapon in open view
20 into an already violent attack in which he had no prior
21 involvement. Here we have a loaded weapon in open view and
22 certainly if there had not been a gun there, Mr. Scott
23 testified he saw no other weapons there, I don't think we'd
24 have a dead man here today if Mr. Scott hadn't had that gun.
25 I would argue his possession of that gun is the proximate

1 cause of the death in this case.

2 Moving on to Mr. Grove's second point, I think he is
3 trying to argue (c), but trying to bleed back into (a) saying
4 that the house was locked so he couldn't be in the house so he
5 couldn't enter the house. I think that's bleeding into (a).

6 I also think they're kind of bleeding into self-defense
7 when he started talking about, well, he saw an assault coming
8 and he fired first. Well, I guess you can't see it, but he
9 was assaulted so he fired first and not requiring the attack.
10 I think that would be great in a self-defense argument. We're
11 here today for an immunity hearing.

12 THE COURT: Right.

13 MR. OZMENT: And in that, if we read in subsection (c),
14 if he reasonably believes it is necessary to prevent death or
15 great bodily injury. He's testified that Mr. Springs was
16 coming at him. He saw no weapon. He was just a big man with
17 his arms flying. Mr. Scott was standing there with a gun. I
18 cannot believe that he felt like he was about to die or
19 receive great bodily injury from what he testified was as far
20 as he knew an unarmed man, as he was holding a loaded rifle
21 pointed at him.

22 So I would argue that kind of three points, the first
23 being unlawful activity; next, that he was not attacked; and
24 lastly, that even if you somehow say he was attacked, he was
25 not in -- he, by his own testimony, was not in fear of death

1 or great bodily injury. He was merely in fear that he was
2 about to be attacked by a man who had no weapons.

3 THE COURT: All right, sir.

4 MR. GROVE: I'm prepared to respond, if Your Honor will
5 allow me.

6 THE COURT: Generally, we -- we're at the end of the line
7 after two times around, but I'll give you one more -- one more
8 shot.

9 MR. GROVE: Well, being as Mr. Ozment presented to you
10 State v. Slater, I would draw Your Honor's attention to the
11 facts of that particular case where Mr. Slater saw something
12 going on in a public parking lot and walked over to where that
13 public -- where the robbery was occurring with his loaded
14 weapon and approached a violent situation. That's ---

15 THE COURT: But he doesn't -- he's not -- what he's
16 arguing is that the fact that the case modifies the case that
17 you cited about being in possession of an unlawful weapon.
18 That's the point, not where it happened or how it happened or
19 anything else. It's still -- it's still the possession of an
20 unlawful weapon.

21 MR. GROVE: On page 2, Your Honor, second paragraph of
22 the right-hand ---

23 THE COURT: Which case?

24 MR. GROVE: --- column. In Slater.

25 THE COURT: Okay.

1 MR. GROVE: In the instant case, Slater fails to meet the
2 first requirement of self-defense charge, specifically Slater
3 was not without fault in bringing on the difficulty. Slater
4 approached the difficulty and the Court has said in Slater
5 you're not allowed to claim self-defense, you're not allowed
6 to be in unlawful possession of a firearm if you go into the
7 hornet's nest and then complain from being stung.

8 THE COURT: But doesn't what that stand for is that even
9 in this case with your man in unlawful possession of a
10 firearm, in a trial he can claim self-defense, but for
11 purposes of this immunity statute, he can't do that?

12 MR. GROVE: I disagree, Your Honor. I think that the
13 Burris case explains to us what the legislature meant and what
14 the Courts' opinion is of an unlawful possession of a firearm
15 and it is not simply an unlawful possession of a firearm.
16 First of all, it's a federal law that Mr. Ozment is relying
17 on, not a state law. So he's ---

18 THE COURT: Well, that's exactly what I was going to say.
19 What difference does that make?

20 MR. GROVE: I think it's a distinction that I'm prepared
21 to make now, Your Honor, instead.

22 THE COURT: You're saying just because it violates
23 federal law doesn't make it violate -- doesn't mean he's not
24 violating the law?

25 MR. GROVE: No, but I do think that that's an important

1 thing for Your Honor to consider is that he's in no violation
2 of state law. That ---

3 THE COURT: Where does he say that it's got to be a
4 violation of state law?

5 MR. GROVE: It -- it doesn't, Your Honor.

6 THE COURT: Okay.

7 MR. GROVE: It's merely a distinction that I'm trying to
8 make.

9 THE COURT: What if it was a city ordinance?

10 MR. GROVE: Fortunately, we're not in that position. We
11 don't have to make that decision.

12 THE COURT: Well, I mean what's the difference between an
13 ordinance and -- and federal law. If it's a violation of law,
14 it's a violation of law. It doesn't matter who -- what
15 legislative branch enacted the law.

16 MR. GROVE: I agree, Your Honor, but I do think that it
17 does matter what the law itself is. We wouldn't have Burris
18 without that. It does matter what the -- what the violation
19 of the law is, and Burris has said mere unlawful possession of
20 a firearm is not it. Slater distinguished itself by saying if
21 you bring the trouble on yourself, mere unlawful possession of
22 a firearm might be a distinction. That's not ---

23 THE COURT: Well, this is a nice esoteric argument, but
24 I'm still back to my question about the common meaning of the
25 word attack. You know, the common meaning of the word attack

1 means a physical attack and there is no attack in this case.
2 The statute clearly says that -- who is attacked in another
3 place he has a right to be, and you know, the -- the Pittman
4 case I think it is -- let me see if it's not Pittman. I think
5 I've got it right here.

6 State v. Pittman is the primary and cardinal rule of
7 statutory construction is to ascertain and effectuate the
8 intent of the legislature. And that's State v. Pittman, 373
9 S.C. 527, 647 S.E.2d 144. And there are also plenty of cases
10 that say that the language -- when the language is clear, I
11 have to enforce the language -- the clear language of the
12 statute.

13 Well, it seems like to me that in this case, if you're
14 relying on (c), let's forget about the unlawful activity for
15 just a minute. This is just kind of my thinking and I want to
16 review these cases. But it says who is attacked in another
17 place where he has a right to be, and the evidence is clear
18 and you would agree with this, wouldn't you, Mr. Grove, that
19 there is no attack?

20 MR. GROVE: Again, Your Honor, we're going to have to
21 disagree on that because I do think that there is an attack.
22 I think that attack accompanies -- encompasses assault. I
23 think attack provides for any and all potential attacks,
24 especially when they relate to the possibility of a violent
25 crime. You heard testimony that Mr. Springs is a much larger

1 man than Mr. Scott. I cannot -- again, I cannot imagine that
2 the legislature would rather Mr. Scott wait until an assault
3 is halfway through before he begins to -- before he is
4 entitled to immunity ---

5 THE COURT: Then all they've got to use is the word
6 assault instead of attack. If it's an -- assault is pulling a
7 weapon, coming at somebody with the present ability to inflict
8 harm, any of those things fall within the definition of an
9 assault. It doesn't -- it doesn't require you to get hit. It
10 just requires somebody to draw their fist back.

11 MR. GROVE: Certainly.

12 THE COURT: That's an assault.

13 MR. GROVE: Certainly. I agree with Your Honor that that
14 is an assault and, again, my position is that attack
15 encompasses the possibility of an assault. It also
16 encompasses the possibility of a battery. Again, we're
17 talking about a distinction here with ---

18 THE COURT: But you don't have any authority for that?

19 MR. GROVE: Your Honor, this is a law that's new enough
20 to where there is almost no authority on it whatsoever.

21 THE COURT: Well, there -- there's plenty of law on
22 attack and assault and battery. You know, there -- there's
23 plenty of -- I would imagine that there is law on attack and
24 assault and assault and battery both, but you're right.
25 There's not much law on the Stand Your Ground because the act

1 was only passed in 2011 and there are only a couple of cases,
2 Isaac and Duncan and, you know, those are about the only two
3 cases that I think that have gone up to the Court of Appeals
4 or Supreme Court interpreting this and, of course, Isaac
5 changed the -- the procedure.

6 Well, Duncan set forth the procedure, which is what we've
7 done today, and Isaac changed the procedure a little bit on
8 appeal, but -- but as far as I know, those are the only two
9 cases that apply specifically to this statute. So you know of
10 any others that apply specifically to this statute?

11 MR. GROVE: I'm not aware, not in the State of South
12 Carolina.

13 THE COURT: That's what I mean, yeah. Do you know of any
14 others, Mr. Ozment, other than Isaac and Duncan?

15 MR. OZMENT: I do have one District Court case that was
16 down in Charleston, Your Honor, but obviously that would be
17 persuasive as it is federal.

18 THE COURT: Okay. Was it -- was it an interpretation of
19 the South Carolina statute?

20 MR. OZMENT: It was, Your Honor. I can pass it up to
21 you.

22 THE COURT: Let me look at it then. It might ---

23 MR. OZMENT: It, however ---

24 THE COURT: --- be persuasive authority anyhow.

25 MR. OZMENT: It was -- it's a habeas proceeding and it is

1 dealing with the interpretation of the (a) section of the
2 statute.

3 THE COURT: Okay.

4 MR. OZMENT: So it doesn't necessarily have to do with
5 what we're arguing right now anyway.

6 THE COURT: He's referring to Federal v. Stevenson, Mr.

7 ---

8 MR. GROVE: Yes, Your Honor.

9 THE COURT: Okay.

10 MR. GROVE: Not a -- not a controlling case.

11 THE COURT: Right. All right, counsel, I need to review
12 these cases. I do appreciate what you've -- what you've
13 handed up. I'm not prepared to rule on it just yet, but I
14 think we've narrowed the issue down that you're relying on
15 section (c) and it becomes a question of under section (c)
16 whether, one, the violation where he's in unlawful possession
17 of the law, that precludes him from taking advantage of the
18 immunity granted by the -- by the Act, and also whether or not
19 he was under attack, and whether he was in fear of great
20 bodily injury.

21 I think that I've got to apply section (c) to the facts
22 as they are here in view of the case law that has been handed
23 up. Now, if there's anything else anybody would like to
24 offer, I'd be glad to hear from you.

25 MR. GROVE: Nothing that hasn't already been presented,

1 Judge.

2 THE COURT: All right. Mr. Ozment?

3 MR. OZMENT: Your Honor, would you like to make that
4 ruling or would you like the State to go ahead and put up
5 evidence at this time? It's obviously my preference for Your
6 Honor to rule on whether we have a prima facie case before the
7 State is required ---

8 THE COURT: You're right and I -- and I think that is the
9 appropriate thing to do. Well, let me look over the cases a
10 few minutes and see if I'm in a position to make a ruling at
11 this time or whether I feel like that I need to -- to take it
12 under advisement. Give me -- give me about fifteen minutes.
13 Okay.

14 MR. OZMENT: Thank you, Your Honor.

15 THE COURT: Thank you.

16 (Whereupon, there is a break in the proceedings from 2:57
17 p.m. until 3:30 p.m.)

18 THE COURT: All right. In the matter of the State versus
19 Wayne A. Scott, Jr., and the motion that has been made by the
20 defense under Section 16-11-410 of the Code of Laws of South
21 Carolina, commonly referred to the Stand Your Ground law, and
22 the cases that have interpreted that law specifically, and
23 most importantly State v. Duncan, 392 S.C. 404, 709 S.E.2d
24 662, a 2011 case. The facts, of course, are -- in this matter
25 are in the record and I do not need to recite the facts that

1 have been presented to the Court at this time.

2 The South Carolina General Assembly codified what is
3 commonly known as the Castle Doctrine by passing this act in
4 2006. In that, the General Assembly's legislative intent was
5 recited as follows:

6 It is the intent of the General Assembly to codify the
7 common law Castle Doctrine, which recognizes a person's home
8 is his castle, and to extend to the doctrine to include an
9 occupied vehicle and a person's place of business.

10 The General -- secondly, (b), the General Assembly finds
11 that it is proper for law-abiding citizens to protect
12 themselves, their families, and others from intruders and
13 attackers without fear of prosecution of civil action for
14 acting in defense of themselves -- in prosecution or civil
15 action for acting in defense of themselves and others.

16 Subparagraph (c) of the purpose states the General
17 Assembly finds that Section 20 Article I of the South Carolina
18 Constitution guarantees the right of people to bear arms and
19 the right shall not be infringed.

20 Subparagraph (d) of the purpose states the Assembly finds
21 that persons residing in or visiting this state have a right
22 to expect unmolested and safe within -- and I place the
23 emphasis on within -- their homes, businesses, and vehicles
24 because that's what the -- the language of the statute clearly
25 says.

1 And finally, in the purpose clause, the Act reflects the
2 General Assembly finds that no person or victim of a crime
3 should be required to surrender his personal safety to a
4 criminal or should a person or victim be required to
5 needlessly retreat in the face of intrusion or attack.

6 And then it -- that was in Section 16-11-420, and then,
7 of course, Section 16-11-440 is the Act itself.

8 Scott has already through his attorney already indicated
9 that he is not relying on subsection (a) granting him a
10 presumption of reasonable fear of imminent peril or death
11 entitling him to use deadly force because there's no evidence
12 that there was anyone in the process of unlawfully or
13 forcefully entering a dwelling or a residence. And so
14 subparagraph (a) of the statute does not apply.

15 Rather, according to Scott's own argument, he is relying
16 on section -- subsection (c), which states as follows: a
17 person who is not engaged in unlawful activity or who is
18 attacked in another place where he has a right to be,
19 including but not limited to his place of business, has no
20 duty to retreat and has the right to stand his ground and meet
21 force with force, including deadly force, if he reasonably
22 believes it is necessary to prevent death or great bodily
23 injury to himself or another person or to prevent the
24 commission of a violent crime as defined in Section 16-1-60.

25 That being the case and relying on that statute, there

1 are three things that I think that the person asserting the
2 right to the immunity must prove by the greater weight or
3 preponderance of the evidence. First, that a -- he's not a
4 person who is engaged in an unlawful activity; second, who is
5 attacked in another place where he has a right to be; and
6 third, reasonably believes it necessary to prevent death or
7 bodily injury to himself or another.

8 The State contends that he was engaged in an unlawful
9 activity, i.e. the possession of a weapon because he was a
10 convicted felon, and relies upon the federal law which
11 prohibits a convicted felon from being in possession of any
12 kind of a firearm. The defendant contends unconvincingly that
13 that is federal law and not what the statute meant to apply or
14 not meant that that statute should not apply. I disagree with
15 that. I think if it's an unlawful activity, it's an unlawful
16 activity, whether it's a violation of a state statute or a
17 federal law.

18 But it is not necessary for this Court to reach a
19 decision on whether the unlawful activity in this case, that
20 is the possession of the violent -- of the weapon, precludes
21 the defendant from asserting the immunity under the Stand Your
22 Ground law. I've reviewed Slater and Burris, and I'm making
23 no finding with regard as to whether the unlawful activity,
24 i.e. the possession of the weapon, precludes him from raising
25 the unlawful -- or raising the immunity granted by the

1 unlawful -- by the Stand Your Ground Act or any other defenses
2 that he might have in this case.

3 In my view, the defendant does not meet the second prong
4 of -- of subparagraph (c), that he be attacked. Had the
5 legislature meant a threat of attack or an assault,
6 accompanied or unaccompanied by a battery, it very clearly
7 could have said so.

8 It is the duty of this Court to give to the acts passed
9 by the General Assembly their plain and unequivocal meaning
10 and to me attacked means a physical contact attack. As I
11 said, the legislature could have used the term assault. It
12 could have used the term assault and battery. It could have
13 used the term a threat of assault, but it did not, or threat
14 of attack. It did not. It used the word who is attacked.
15 And in my view, the defendant has not met that prong of the
16 requirement of subparagraph (c).

17 Furthermore, Scott has not proven by the greater weight
18 or a preponderance of the evidence that he could reasonably
19 believe that he was in fear of death or great bodily injury.
20 The testimony is clearly -- the only testimony in the record
21 is that the victim in this case was unarmed, that he came --
22 he was behind the door of a vehicle originally. He came no
23 closer than four or five feet to an armed man who was sitting
24 there with a weapon in his lap at least. In my view, the
25 testimony of reasonable fear is simply not credible.

1 For those reasons, the Court denies the motion under the
2 Stand Your Ground Act and finds that the defendant is not
3 entitled to the immunity granted by that Act.

4 MR. GROVE: Thank you, Judge.

5 THE COURT: All right. Any questions?

6 MR. OZMENT: No, Your Honor. We appreciate it.

7 THE COURT: All right. I'm not going to do a formal
8 order. Counsel, if y'all need anything further, this lady has
9 it right here.

10 MR. GROVE: Thank you, Judge.

11 THE COURT: All right. Anything further?

12 MR. OZMENT: No, Your Honor, and I think as far as this
13 term of court goes for you, we are finished and Judge Brown is
14 going to handle everything tomorrow. So we've enjoyed it and
15 thank you very much.

16 THE COURT: All right. Before we adjourn, I am going to
17 recess at this time, but before I do that, Mr. Ozment, I'm
18 going to ask all of the victim's family to remain. Mr. Grove,
19 you and the members of the family of the defendant may leave
20 and I will not release the others until everybody is on the
21 elevator.

22 (Whereupon, the proceedings end at 3:38 p.m.)

23

24 --- END REQUESTED TRANSCRIPT ---

25

1 STATE OF SOUTH CAROLINA)
2) CERTIFICATE
3 COUNTY OF FLORENCE)
4

5 I, the undersigned, Krystal J. Smith, Official Court
6 Reporter for the Twelfth Judicial Circuit of the State of
7 South Carolina, do hereby certify that the foregoing is a
8 true, accurate, and complete Transcript of Record of all the
9 proceedings had and evidence introduced in the hearing of the
10 above captioned case, relative to appeal, in the Court of
11 General Sessions for Florence County, South Carolina, on the
12 19th day of September, 2013.

13 I do further certify that I am neither of kin, counsel,
14 nor interest to any party hereto.

15
16 Krystal J. Smith

17 Court Reporter
18

19 Florence, South Carolina

20 October 2, 2013
21
22
23
24
25

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF FLORENCE	)	2013-GS-21-0391
	)	
	)	
	)	
State Of South Carolina	)	)
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
Wayne Albeon Scott	)	)
<u>DEFENDANT</u>	)	October 21-24, 2013
		Florence, South Carolina

B E F O R E:

THE HONORABLE GEORGE C. JAMES, JUDGE; and a jury.

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

MATTHEW OZMENT, ASSISTANT SOLICITOR
Attorney for the Plaintiff

WILL GROVE, ASSISTANT PUBLIC DEFENDER
Attorney for the Defendant

KESHIA REED
Official Court Reporter

		<u>I N D E X</u>		
	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u> <u>RECROSS</u>
1				
2				
3	Michel McFadden In-Camera			
4	Mr. Ozment	53		
5	Mr. Grove		60	
6				
7	William Hester In-Camera			
8	Mr. Ozment	67		
9	Mr. Grove		74	
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11	Opening Statement			
12	Mr. Ozment	98		
13	Mr. Grove	101		
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15	Michael Rollins Rhodes			
16	Mr. Ozment	106		
17	Mr. Ozment		109	
18				
19	Michael Gifford			
20	Mr. Ozment	111		
21	Mr. Grove		120	
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23	Sara Johnson			
24	Mr. Ozment	131		
25	Mr. Grove		152	

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1	Eric Barnes			
2	Mr. Ozment	167		
3	Mr. Grove		168	
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5	Larry Quick			
6	Mr. Ozment	170		
7	Mr. Grove		173	
8				
9	William Hester			
10	Mr. Ozment	175	210	
11	Mr. Grove		194	221
12				
13	Catherine Leisy			
14	Mr. Ozment	229		
15	Mr. Grove		236	
16				
17	Hubert Black			
18	Mr. Ozment	240		
19	Mr. Grove		245	
20				
21	Larry M. Bruce, II			
22	Mr. Ozment	251		
23	Mr. Grove		260	
24				
25				

1		<u>I N D E X</u>			
2	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	Gloria Scott				
4	Mr. Ozment	266		289	
5	Mr. Grove		283		290
6					
7	Larry M. Bruce				
8	Mr. Ozment	294		310	
9	Mr. Grove		304		311
10					
11	Dr. Susan Erin Presnell				
12	Mr. Ozment	312		325	
13	Mr. Grove		320		
14					
15	Crystal Hanna				
16	Mr. Ozment	327			
17	Mr. Grove		339		
18					
19	Carl Munn				
20	Mr. Ozment	346		350	
21	Mr. Grove		349		
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23	William Hester				
24	Mr. Ozment	354			
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1		<u>I N D E X</u>			
2	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>CROSS</u>
3	George H. Watson, Jr.				
4	Mr. Ozment	357		394	
5	Mr. Grove		370		
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7	Sabrina Hartfield In-Camera				
8	Mr. Ozment	397			
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10	Sabrina Hartfield				
11	Mr. Ozment	405			
12	Mr. Grove		412		
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14	William Hester				
15	Mr. Grove	438			
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17	Kevin Hanna				
18	Mr. Grove	440		447	
19	Mr. Ozment		444		
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21	Gary Mahafey				
22	Mr. Grove	448		453	
23	Mr. Ozment		451		
24					
25					

1		<u>I N D E X</u>			
2	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	Closing Argument				
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<u>E X H I B I T S</u>				
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
1				
2				
3	S-1	Crime Log	90	120
4	S-2	Photograph	90	134
5	S-3	Photograph	90	134
6	S-4	Photograph	90	134
7	S-5	Photograph	90	134
8	S-6	Photograph	90	134
9	S-7	Photograph	90	134
10	S-8	Photograph	90	134
11	S-9	Photograph	90	151
12	S-10	Photograph	90	151
13	S-11	Photograph	90	151
14	S-12	Photograph	90	151
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16	S-14	Screw Driver		140
17	S-15	Knife		140
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19	S-17	Search Warrant	148	
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24	C-2	Note From Jury	539	
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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
C-4	Note From Jury	539	
C-5	Note From Jury	556	
C-6	Note From Jury	556	

1 THE COURT: State can call its next case.

2 MR. OZMENT: Thank you, Your Honor. The State
3 calls indictment 2013-GS-21-391 The State vs. Wayne Albeon
4 Scott, Jr.

5 THE COURT: Again, the indictment number
6 2013-GS-21-391?

7 MR. OZMENT: Yes, Your Honor.

8 THE COURT: All right, ladies and gentlemen of
9 the jury, for your information by the way my name is Buck
10 James. I'm a circuit judge from Sumter. Can everybody
11 hear me? I'm assigned to hold a term of general sessions
12 court in Florence County this week. At this time, we're
13 going to select a jury for the trial of the case of The
14 State of South Carolina vs. Wayne Albeon Scott, Jr.
15 According to the indictment, which I'm sure Judge Brown
16 probably mention to you, the fact that a person is
17 arrested or charged or indicted for any criminal offense
18 is not evidence that the person is guilty. The indictment
19 is simply the charging document that sets forth
20 allegations that the State has to prove beyond a
21 reasonable doubt. So the fact that I refer now to the
22 indictment is not intended to be a comment by me on the
23 facts. I simply have to explain what the indictment
24 charges, so I can ask you the first question. And that
25 will be is there anyone who knows anything about this

1 case?

2 (WHEREUPON, there were none.)

3 THE COURT: Count 1 of the indictment charges
4 the defendant with the offense of murder. And the
5 indictment alleges that on or about September 24, 2012, in
6 Florence County the defendant did willfully and with
7 malice aforethought kill one Steve B. Springs, by means of
8 shooting him with a riffle. Count 2 alleges that on or
9 about the same date also in Florence County, the defendant
10 committed the offense of being in possession of a firearm
11 during the commission of a violent crime. So, ladies and
12 gentlemen, first of all, is there anyone on this panel who
13 knows anything whatsoever about this case, either well or
14 slightly? Do you have any information about it, any
15 knowledge about it from any source whatsoever and that
16 would include but is certainly not limited to reading
17 anything about it or listening to anything about it, watch
18 anything about it, hearing someone talk about it or
19 anything else of any kind? Anyone know anything about
20 this case, if so you would please stand? All right. And
21 come on forward please. And your name?

22 PROSPECTIVE JUROR: Jessica McDaniel.

23 THE COURT: McDaniel, all right. Juror number
24 96. Lawyers can come up.

25 Ms. McDaniel, tell me what your answer to that

1 question is?

2 PROSPECTIVE JUROR: Okay. I grew up with his
3 stepdaughter.

4 THE COURT: With whose stepdaughter?

5 PROSPECTIVE JUROR: Mr. Scott.

6 THE COURT: So you heard something about this
7 case?

8 PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: What have you heard?

10 PROSPECTIVE JUROR: Just different stories.

11 THE COURT: Is there anything that you heard
12 that would make it difficult for you to be completely fair
13 and impartial to the defendant and to the State?

14 PROSPECTIVE JUROR: Knowing that I grew up with
15 them probably.

16 THE COURT: Here's what I want you to do, Ms.
17 McDaniel, in this case, you don't have to stand up in
18 response to any more questions at all. I may ask you in a
19 minute if anybody knows the defendant for example, you
20 don't have to stand up to any more questions. But you do
21 not need to say anything to your fellow jurors what we
22 talked about, okay. Thank you.

23 All right, anyone else?

24 (WHEREUPON, there was no response.)

25 THE COURT: All right. Ladies and gentlemen,

1 the defendant is seated at counsel table Mr. Wayne Albeon
2 Scott, Jr., if he please stand and face the jury panel.
3 This is the defendant, Wayne Albeon Scott, Jr., with his
4 attorney Mr. Grove. If I use the term immediate family
5 during the course of all these questions that would mean
6 your father, mother, brother, sister or child or anyone
7 else that you consider to be a close family member.

8 You can have a seat, Mr. Scott. Thank you.

9 Is there anyone on this panel or to your
10 knowledge is there anyone in your immediate family first
11 of all who might be related to Mr. Scott by blood or
12 marriage? In other words, are you kin to him or your
13 immediate family member perhaps kin to him?

14 (WHEREUPON, there are none.)

15 THE COURT: Is there anyone on the jury panel or
16 anyone in your immediate family who has any type of
17 connection or acquaintance or association of any kind
18 however strong or slight with the defendant, Mr. Wayne
19 Albeon Scott? Could have been went to school with him,
20 went to church with him, worked with him or had other --
21 even slight encounters throughout your life? All right,
22 no one stood.

23 The following list of potential witnesses. And
24 if the witnesses are present, if you would please stand
25 after I call your name and make sure you face the jury

1 panel. And the question is the same, ladies and
2 gentlemen, it will be is there anyone on this panel or to
3 your knowledge is there anyone in your immediate family
4 first of all who might be kin to any of these possible
5 witnesses? And secondly, do any of you or any family
6 members perhaps know or have any connection or
7 acquaintance or association with any of these possible
8 witnesses William Hester Florence County Sheriff's Office,
9 Xedrick Hall of the sheriff's office, Sara Johnson of the
10 sheriff's office, Mike Gifford also of the sheriff's
11 office, Rollins Rhodes. Is it Michel McFadden?

12 MR. OZMENT: Yes, Your Honor.

13 THE COURT: All right. Larry Quick and Keith
14 Lutcken all of the sheriff's office, also former county
15 coroner Bubba Matthews, Erin Presnell a medical doctor.
16 Presnell, isn't it?

17 MR. OZMENT: Yes, Your Honor.

18 THE COURT: Two witnesses -- potential witness
19 from SLED Toni Broome and Catherine Leisy, Eric Barnes of
20 the Florence County Sheriff's Office, Larry Bruce, Mike
21 Bruce, Gloria Shadoan Scott, George Watson, Crystal Hanna,
22 Carl Munn, two witness from Florence County EMS Joseph
23 Talbott and Bryan Hettinghouse, Keith Godbolt of the
24 Twelfth Circuit Solicitor's Office, Sabrina Hartfield,
25 Hubert Black, Kevin Hanna, patrolman Mahafey of the

1 Florence Police Department. Of course, I've already
2 referenced Gloria Scott. Did I not? Again, is there
3 anyone on this jury panel or to your knowledge anyone in
4 your immediate family who is either perhaps kin to or have
5 any type of connection or acquaintance or association with
6 any of these possibly witnesses of course that would be
7 now or in the past, so please stand? If you three
8 gentlemen could come form a line right at the corner of
9 the jury box, please.

10 THE BAILIFF: Number 55 Richard Harrell.

11 THE COURT: Haley. How do you spell your last
12 name?

13 PROSPECTIVE JUROR: H-A-R-R-E-L-L.

14 THE COURT: All right.

15 PROSPECTIVE JUROR: Bubba was my next door
16 neighbor for 20 years?

17 THE COURT: Who is that?

18 PROSPECTIVE JUROR: Bubba Matthews.

19 THE COURT: If he were to testify in this case,
20 would that have any impact at all in your ability to be
21 completely fair and impartial?

22 PROSPECTIVE JUROR: Not that particular thing
23 would, but one thing that might. My father-in-law was a
24 manager 25 years ago and was killed in a violent crime.
25 He was robbed and taken out behind the airport, shot a

1 couple times and run over.

2 THE COURT: That would be your father?

3 PROSPECTIVE JUROR: Father-in-law.

4 THE COURT: Would that have any impact?

5 PROSPECTIVE JUROR: It might.

6 THE COURT: Okay. What I'm going to do, Mr.
7 Harrell, is I'm going to set you aside in this case. You
8 do not have to answer any more questions in this case.
9 Even if the next question apply, you need to stay seated.
10 But please do not talk with any of your fellow jurors
11 about what you just referenced to me. Thank you.

12 All right.

13 THE BAILIFF: 159 Mr. Caulder, 159.

14 THE COURT: Caulder C-A-L-D-E-R.

15 PROSPECTIVE JUROR: C-A-U-L-D-E-R.

16 THE COURT: Yes, sir.

17 PROSPECTIVE JUROR: My father is Keith Von
18 Lutcken. Eric Barnes is a personal friend of mine. Mr.
19 Mahafey for the City is a neighbor of mine.

20 THE COURT: And the first person you said?

21 PROSPECTIVE JUROR: Keith Von Lutcken. He's my
22 father.

23 THE COURT: He's your father?

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: He work for the Florence County

1 Sheriff's Office.

2 MR. CLEMENTS: At that time, Your Honor, he was
3 the forensic tech for the sheriff's department. Now, he's
4 the coroner.

5 THE COURT: And the others?

6 PROSPECTIVE JUROR: Mr. Mahafey for the City, he
7 is my neighbor. And Eric Barnes is a personal friend of
8 mine.

9 THE COURT: Would any of those circumstances
10 have any impact on your ability to be fair and impartial?

11 PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: It would.

13 PROSPECTIVE JUROR: Yes, sir.

14 THE COURT: Last name is Caulder?

15 PROSPECTIVE JUROR: Yes, sir.

16 THE COURT: We're going to stand you aside in
17 this trial. Don't answer any more questions in this case.
18 Don't talk with of your any fellow jurors about any of the
19 information you've given me or anything else about the
20 case. Thank you.

21 MR. CLEMENTS: Also, Your Honor, for the record,
22 you've already excused him, but his mother works for my
23 office.

24 THE COURT: Okay. All right.

25 THE BAILIFF: 146 Mr. Watford W-A-T-F-O-R-D.

1 THE COURT: Mr. Watford?

2 PROSPECTIVE JUROR: Yes, sir.

3 THE COURT: Yes, sir.

4 PROSPECTIVE JUROR: I know Mr. Bubba Matthews.
5 I know both his daughters. We grew up in the same
6 neighborhood.

7 THE COURT: You know him and his daughters?

8 PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: How long have you known them?

10 PROSPECTIVE JUROR: I hadn't seen them in quite
11 awhile, since teenagers good while back.

12 THE COURT: How old are you know?

13 THE CLERK: I'm 40.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR: Probably the last time I saw
16 them probably been ten years ago somewhere around there.

17 THE COURT: If he were to testify in this case
18 and you were on this jury, would that create any problem
19 or difficulty for you being fair and impartial to the
20 State?

21 PROSPECTIVE JUROR: No, sir.

22 THE COURT: You can set that aside ---

23 PROSPECTIVE JUROR: Yes, sir.

24 THE COURT: --- base your verdict on the
25 evidence in this case?

1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: Thank you, Mr. Watford.

3 THE BAILIFF: Number 60 Mr. Hicks H-I-C-K-S.

4 THE COURT: Yes, sir.

5 PROSPECTIVE JUROR: I went to school with one of
6 the sheriff deputies.

7 THE COURT: Which one?

8 PROSPECTIVE JUROR: Michel McFadden.

9 THE COURT: How long ago was that?

10 PROSPECTIVE JUROR: Twenty years ago.

11 THE COURT: Have you all maintained contact
12 since then?

13 PROSPECTIVE JUROR: No, sir.

14 THE COURT: All right. Were you all close
15 friends in high school or just acquaintance?

16 PROSPECTIVE JUROR: Just acquaintance in high
17 school.

18 THE COURT: If he were to be a witness in this
19 case, could you weigh his testimony fair and impartially
20 along with all the other evidence in the case?

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: Could you be completely fair to the
23 defendant and to the State?

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: All right. Thank you.

1 THE BAILIFF: 152 Ms. Williams W-I-L-L-I-A-M-S.

2 THE COURT: Yes, ma'am.

3 PROSPECTIVE JUROR: I know Mr. Matthews, the
4 coroner. I work with him years ago at Glass Stone. He
5 was the exterminator then.

6 THE COURT: Okay. How long ago was that do you
7 think?

8 PROSPECTIVE JUROR: It's been a long time. He
9 wasn't coroner then.

10 THE COURT: Have you kept contact with him
11 since?

12 PROSPECTIVE JUROR: No, sir.

13 THE COURT: If he were to be a witness in this
14 case, could you be completely fair and impartial in
15 weighing his testimony and be completely fair and
16 impartial to the defendant and to the State?

17 PROSPECTIVE JUROR: Yes, sir.

18 THE COURT: All right. Thank you.

19 Beginning with Mr. Ozment, the lawyers for the
20 State could introduce themselves to the jury?

21 MR. OZMENT: Thank you, Your Honor. Good
22 morning. My name is Matt Ozment. I'm the assistant
23 solicitor here in Florence County. We also work in Marion
24 County. Sitting with me this morning right now is Ed
25 Clements, the elected Solicitor for our circuit. Also

1 working in our office is Todd Tucker, who you just met
2 John Jepertinger, Pat Parr, Bob Wells, Stephen Hill, Emily
3 Crayton, Catherine Anderson Wyse, I believe that's all.
4 Thank you.

5 THE COURT: Anyone else at your table assisting
6 you?

7 MR. OZMENT: Sitting with me now is Vicky Floyd
8 Singletary, she's our victim's advocate.

9 THE COURT: Mr. Grove.

10 MR. GROVE: Thank you, Your Honor. My name is
11 Will Grove. I'm an assistant public defender here in
12 Florence County. I, too, work in Marion as an assistant
13 public defender there. Members of my office are the
14 Circuit Defender Scott Floyd, Michael Bell, Vick Meetze,
15 Karen Parrott, Scott Suggs, Jay Jordan, Daniel Jordan and
16 seating with me is one of our investigator Thomas
17 McKinsey.

18 THE COURT: All right. Is there anyone on the
19 jury panel or to your knowledge is there anyone in your
20 immediate family first of all who is related by blood or
21 marriage to any of these attorneys who've introduced
22 themselves or any other individuals they referenced?

23 (WHEREUPON, on one stood.)

24 THE COURT: Is there anyone on the jury panel or
25 anyone in your immediate family who knows them, has any

1 connection, acquaintance or association with any of these
2 individuals, if so please stand?

3 Your name, sir?

4 PROSPECTIVE JUROR: Erik Marechal.

5 THE COURT: All right, come on up please, sir.
6 Anyone else?

7 THE BAILIFF: Juror number 93.

8 THE COURT: All right, come on up please, sir.
9 Yes, sir.

10 PROSPECTIVE JUROR: Ms. Singletary is a client
11 of mine.

12 THE COURT: And what do you do?

13 PROSPECTIVE JUROR: I'm an insurance agent.

14 THE COURT: Which person?

15 THE CLERK: The lady that works in the
16 solicitor's office.

17 THE COURT: I got you.

18 Do you know how long that's been the case?

19 PROSPECTIVE JUROR: About a year. I've not met
20 with her but with her spouse.

21 THE COURT: Do you know her husband's name?

22 PROSPECTIVE JUROR: Goes by Trey Singletary.

23 THE COURT: Okay. If she's not going to be a
24 witness in the case, but she will indeed be at counsel
25 table throughout the course of the trial perhaps, would

1 her involvement even if she didn't testify give you any
2 pause or difficulty being completely fair and impartial?

3 PROSPECTIVE JUROR: No, sir.

4 THE COURT: Could you set aside that
5 circumstance and base your verdict on the evidence and the
6 law here?

7 PROSPECTIVE JUROR: Yes, sir.

8 THE COURT: Thank you, sir.

9 All right, ladies and gentlemen, I have several
10 other questions to ask you. Of course, during the course
11 of any type of criminal proceeding if there is a jury
12 trial, there's a jury selection process and the jury sits
13 in a box similar to this one during the course of the
14 trial and perhaps at the end renders a verdict. Question
15 is this, is there anyone on the panel who has ever served
16 as a member of a trial jury in a criminal trial, if so
17 please stand?

18 Your name against the wall please.

19 PROSPECTIVE JUROR: Olivia Reynolds.

20 THE COURT: Ms. Reynolds.

21 THE BAILIFF: Number 118.

22 THE COURT: 118. Follow-up question, in that
23 case -- well, how many of them were there one criminal
24 trial or two?

25 PROSPECTIVE JUROR: One.

1 THE COURT: All right. Was it in this
2 courthouse?

3 PROSPECTIVE JUROR: Yes, sir.

4 THE COURT: And the only question I ask is just
5 this plain question. Where you -- did the jury reach a
6 verdict in that case?

7 PROSPECTIVE JUROR: No, sir.

8 THE COURT: Thank you, ma'am.

9 Your name please.

10 PROSPECTIVE JUROR: Barbara Pecca 114.

11 THE COURT: All right, Ms. Pecca is number 114.

12 How many times have you been on a trial jury?

13 PROSPECTIVE JUROR: Once.

14 THE COURT: And were you allowed to reach a
15 verdict?

16 PROSPECTIVE JUROR: No.

17 THE COURT: Thank you.

18 Your name please?

19 PROSPECTIVE JUROR: Georgia Williams 151.

20 THE COURT: All right. And how many criminal
21 trials have you been a member of a trial jury in?

22 PROSPECTIVE JUROR: One.

23 THE COURT: Were you -- did the jury reach a
24 verdict?

25 PROSPECTIVE JUROR: Yes, sir, they did.

1 THE COURT: Thank you, ma'am.

2 Is there anyone on this jury panel or is there
3 anyone in your immediate family who has ever been employed
4 with a law enforcement agency? And there's various kinds
5 there are police departments. There are county sheriff's
6 departments. There's SLED, which is a state law
7 enforcement type of organization. They're referred to
8 differently in other states, also federal law enforcement.
9 Is there anyone on this panel, anyone in your immediate
10 family who has ever been employed that would be now or in
11 the past by a law enforcement agency, if so please stand?

12 Your name, sir?

13 PROSPECTIVE JUROR: David Jones.

14 THE COURT: Was it you, sir, or a family member?

15 PROSPECTIVE JUROR: Family member.

16 THE COURT: And what family member?

17 PROSPECTIVE JUROR: My son.

18 THE COURT: Is he employed with law enforcement
19 agency now?

20 PROSPECTIVE JUROR: He's employed with the
21 county as emergency management dispatcher.

22 THE COURT: All right. Is that the extent of
23 his employment with law the enforcement agency?

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: How long has he been employed in

1 that capacity?

2 PROSPECTIVE JUROR: Almost two years, right
3 around two years.

4 THE COURT: All right. Would that service by
5 your son have any impact on your ability to be completely
6 fair and impartial?

7 PROSPECTIVE JUROR: No, sir.

8 THE COURT: Thank you, sir.

9 Your name please?

10 PROSPECTIVE JUROR: Helen Hickson.

11 THE COURT: Hickson?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Is it you or a family member?

14 PROSPECTIVE JUROR: Family member.

15 THE COURT: Ms. Hickson's number 61. What
16 family member?

17 PROSPECTIVE JUROR: Sister works at Richland
18 County Solicitor's office.

19 THE COURT: Okay. So she's not employed in law
20 enforcement, she's employed by a solicitor's office?

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: Okay. How long has she been
23 employed there?

24 PROSPECTIVE JUROR: About 20 years.

25 THE COURT: What does she do?

1 PROSPECTIVE JUROR: She works under a few of the
2 lawyers.

3 THE COURT: All right. Would that have any
4 impact on your ability to be completely fair and impartial
5 in this case?

6 PROSPECTIVE JUROR: No, Your Honor.

7 THE COURT: All right. On the front row your
8 name please?

9 PROSPECTIVE JUROR: Nellie Brown.

10 THE COURT: Ms. Brown, is it you or a family
11 member? Ms. Brown's number 13.

12 PROSPECTIVE JUROR: Family member.

13 THE COURT: Which one?

14 PROSPECTIVE JUROR: My son.

15 THE COURT: And is he employed now by a law
16 enforcement agency?

17 PROSPECTIVE JUROR: Yes, sir.

18 THE COURT: Which one?

19 PROSPECTIVE JUROR: Orangeburg.

20 THE COURT: Sheriff's office or city police?

21 PROSPECTIVE JUROR: State trooper.

22 THE COURT: He's a state trooper?

23 PROSPECTIVE JUROR: Yes, sir.

24 THE COURT: How long has he been employed in
25 that capacity?

1 PROSPECTIVE JUROR: Two or three years.

2 THE COURT: Would that have any impact on your
3 ability to be completely fair and impartial?

4 PROSPECTIVE JUROR: No, sir.

5 THE COURT: Thank you, ma'am.

6 Your name please?

7 PROSPECTIVE JUROR: Nancy Strickland.

8 THE COURT: Strickland?

9 PROSPECTIVE JUROR: Yes, 135.

10 THE COURT: All right, Ms. Strickland.

11 PROSPECTIVE JUROR: I got a nephew that's a
12 deputy sheriff in Florence County.

13 THE COURT: His name?

14 PROSPECTIVE JUROR: Shane Prince.

15 THE COURT: How long has he been employed in
16 that capacity?

17 PROSPECTIVE JUROR: I say about 15 years.

18 THE COURT: All right. Would that, ma'am, have
19 any impact on your ability to be completely fair and
20 impartial?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Thank you, ma'am.

23 Is it Ms. McDaniel?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Yes, ma'am.

1 PROSPECTIVE JUROR: My brother works at Lee
2 County.

3 THE COURT: Okay. How long?

4 PROSPECTIVE JUROR: About a year.

5 THE COURT: All right. Would that have any
6 impact on your ability to be fair?

7 PROSPECTIVE JUROR: No, sir.

8 THE COURT: Thank you.

9 Is there anyone on this panel or anyone in your
10 immediate family who has ever been employed by any type of
11 solicitor's office or prosecutor's office? I know one
12 lady or perhaps more than one lady stood in response to
13 that. You need not stand again. But again the question
14 is is there anyone on this panel or anyone in your
15 immediate family who has ever been employed by a
16 solicitor's office in South Carolina that's what the
17 prosecuting attorney is in each particular circuit or
18 county, other states it may be called a district attorney
19 or prosecuting attorney. So again, the question is is
20 there anyone on this panel or anyone in your immediate
21 family who has ever been employed by one of those types of
22 offices? No one stood. All right.

23 Is there anyone on the panel or anyone in your
24 immediate family who has ever worked on a political
25 campaign of any solicitor included but not limited to

1 Solicitor Clements or donated any money to any solicitor's
2 campaign?

3 (WHEREUPON, there were none.)

4 THE COURT: Is there anyone on the jury panel
5 who is a member of or a contributor to any organization
6 that has as its primary focus the promotion of law
7 enforcement or the enforcement of victim's rights that and
8 that would be a member of or contributor to and these
9 groups would not include, but they are not limited to
10 South Carolina Law Enforcement Officer's Association,
11 State Troopers Association, Mothers' Against Drunk Driver,
12 Students Against Drunk Driving, Citizens Against Violent
13 Crime or CADRE any other types of organizations? All
14 right, no one stood.

15 I'm sorry your name again, sir.

16 PROSPECTIVE JUROR: Erik Marechal.

17 THE COURT: Come on up please, sir. Yes, sir.

18 PROSPECTIVE JUROR: I donated money to several
19 of those organizations.

20 THE COURT: Do you remember which ones?

21 PROSPECTIVE JUROR: Be State Troopers
22 Association, sheriff's department, sponsor of MADD events.

23 THE COURT: Your business?

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: Okay. Would any of that give you

1 pause in being able to be fair and impartial to both
2 sides?

3 PROSPECTIVE JUROR: No, sir.

4 THE COURT: Thank you. All right. Ladies and
5 gentlemen, in the law or our -- under our system of laws
6 in this state certain crimes are classified as violent.
7 It's just a type of name that they're given and these
8 include but certainly are not limited to offenses such as
9 aggravated assault or murder, robbery, burglary, sexual
10 assault, things of that nature and that's just a kind of a
11 broad description. The question is is there anyone on the
12 jury panel or is there anyone in your immediate family who
13 has ever been accused of or who has ever been the victim
14 of or who has ever witnessed a crime of that nature, if so
15 please stand? All right. No one stood.

16 Is there anyone on the jury panel or anyone in
17 your immediate family that would include members of your
18 household who holds a hunting license at this time?

19 All right, in the green strip shirt, is it, Mr.
20 Watford?

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: All right, yes, sir. You have a
23 hunting license?

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: How long have you had one?

1 PROSPECTIVE JUROR: I've had one off and on for
2 about 30 something years.

3 THE COURT: Okay. And would that -- and do you
4 own a hunting riffle?

5 PROSPECTIVE JUROR: Yes, sir.

6 THE COURT: Would any of that have any impact on
7 your ability to be fair and impartial to both sides?

8 PROSPECTIVE JUROR: No, sir.

9 THE COURT: Could you base your verdict on the
10 evidence and law in this case?

11 PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: All right. Thank you, sir.

13 And I can't quite make it out. What your name
14 again, sir?

15 PROSPECTIVE JUROR: Number 60 Brian Hicks.

16 THE COURT: Mr. Hicks, your answer to that
17 question?

18 PROSPECTIVE JUROR: Yes, I own a hunting riffle
19 and no way would it affect me.

20 THE COURT: All right, thank you, sir.

21 Is there anyone on this jury panel or anyone in
22 your immediate family including those in your immediate
23 household who now owns a hunting riffle?

24 Of course, Mr. Watford, you need not stand up
25 again nor need Mr. Hicks stand up.

1 Your name, sir?

2 PROSPECTIVE JUROR: Ronald Shirlaw.

3 THE COURT: You own a hunting riffle?

4 PROSPECTIVE JUROR: I do.

5 THE COURT: Mr. Shirlaw is number 125.

6 All right, and your name, sir?

7 PROSPECTIVE JUROR: Stephen Elgin 36.

8 THE COURT: You own a hunting riffle?

9 PROSPECTIVE JUROR: Yes, sir.

10 THE COURT: Mr. Shirlaw -- and your last name
11 again?

12 PROSPECTIVE JUROR: Elgin.

13 THE COURT: Would that fact have any impact on
14 your ability to be fair and impartial if there was
15 reference to a hunting riffle in this case?

16 PROSPECTIVE JUROR: No, sir.

17 PROSPECTIVE JUROR: No, sir.

18 THE COURT: All right, thank you. Both answered
19 in the negative.

20 Your name, sir?

21 PROSPECTIVE JUROR: David Jones. I didn't
22 understand your question, sir, was it anyone own a hunting
23 riffle?

24 THE COURT: Yes, sir.

25 PROSPECTIVE JUROR: Yes, I do.

1 THE COURT: How long?

2 PROSPECTIVE JUROR: Forever.

3 THE COURT: If there's reference to a hunting
4 riffle as part of the evidence in this case, would that
5 have any impact on your ability to be fair and impartial?

6 PROSPECTIVE JUROR: No, sir.

7 THE COURT: Thank you. This is a similar
8 question to one I asked previously, but it is a little bit
9 different so listen carefully. Folks who are prosecuted
10 by a prosecutor's office or called defendant's and they
11 are also when an alleged crime is committed there are
12 people who are categorized as a victim. The question is
13 this, is there anyone on this jury panel or anyone in your
14 immediate family who has ever been prosecuted by the
15 Solicitor's office here in Florence County or ever been
16 the victim of a crime that was prosecuted by the
17 Solicitor's office here in Florence County? All right, no
18 one stood.

19 Is there anyone on this jury panel who plays
20 trivia at the 1720 Burger Bar? No one stood.

21 Is there anyone on this panel who knows of any
22 reason whatsoever why you should not serve as a juror in
23 this case and this would include but certainly not be
24 limited to keeping in mind your ability to be completely
25 fair and impartial to the State and to the defendant?

1 (WHEREUPON, no one stood.)

2 THE COURT: Is there anyone who is aware of any
3 bias or prejudice that you might have for against the
4 State, the defendant any of the lawyers or any of the
5 possible witnesses in this case, if so please stand?

6 (WHEREUPON, no one stood.)

7 THE COURT: Any additional questions from the
8 State?

9 MR. OZMENT: No, Your Honor.

10 THE COURT: Any from the defendant?

11 MR. GROVE: No, Your Honor. Thank you.

12 THE COURT: All right. Could you all come up
13 one more time and then we'll be prepared to go forward.

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

17 THE COURT: I am dismissing 96, 55 and 59.

18 MR. OZMENT: None from the State.

19 MR. GROVE: I got no problem with those.

20 THE COURT: Do you all want the list or you do
21 not want a list?

22 MR. OZMENT: I prefer to have it.

23 THE COURT: It doesn't matter to me, but if the
24 other side doesn't want it, I'm not going to let you have
25 it. The second trial ever let them have it? All right.

1 Ten and five and two alternates.

2 Ladies and gentlemen, you do know the process by
3 now. As soon as the computer prints the list, we'll begin
4 the process then. They're going to stand where they are?

5 THE CLERK: No, sir, they'll come up here to the
6 microphone and turn around.

7 THE COURT: What we're going to do, ladies and
8 gentlemen, we're going to select this jury before you
9 leave. We'll actually begin the trial tomorrow morning.
10 And those of you who are not selected to be on this
11 jury -- I guess somebody will tell me what the reporting
12 instructions are.

13 MR. CLEMENTS: Your Honor, we could have them
14 call back after 6:00 p.m. today, there will be a recording
15 that will give them further instructions whether to call
16 back or to come back.

17 THE COURT: All right. Those of you who are
18 picked to be on this jury will begin tomorrow morning at
19 nine. Those of you who are not picked will be calling the
20 number that you have -- you should have it on a piece of
21 paper after six this evening.

22 Is the State ready?

23 MR. OZMENT: Yes, Your Honor.

24 THE COURT: Defendant ready?

25 MR. GROVE: Yes, Your Honor, thank you.

1 THE COURT: All right, yes, ma'am.

2 THE CLERK: 135 Nancy Strickland.

3 (WHEREUPON, a white female, comes forward.)

4 THE CLERK: What say the state?

5 MR. OZMENT: Please present Mrs. Strickland.

6 THE CLERK: What say the defendant?

7 MR. GROVE: Beg the Court's indulgence.

8 (WHEREUPON, a pause in the proceedings.)

9 MR. GROVE: Swear the juror.

10 THE CLERK: Please have a seat in the jury box,

11 ma'am.

12 Forty-two Helen Ford.

13 (WHEREUPON, a black female, comes forward.)

14 THE CLERK: What say the State?

15 MR. OZMENT: Please present Ms. Ford.

16 THE CLERK: What say the defendant?

17 MR. GROVE: Please excuse Ms. Ford from the

18 trial of this case.

19 THE CLERK: You been excuse from this trial

20 only, ma'am. You may return to your seat.

21 Thirty-six Stephen Elgin.

22 (WHEREUPON, a white male, comes forward.)

23 THE CLERK: What say the State?

24 MR. OZMENT: Please present Mr. Elgin.

25 THE CLERK: What say the defendant?

1 MR. GROVE: Please swear Mr. Elgin.

2 THE CLERK: Please have a seat in the jury box,
3 sir.

4 158 George Yiannikouros.

5 (WHEREUPON, a white males, comes forward.)

6 THE CLERK: What say the State?

7 MR. OZMENT: Please present Mr. Yiannikouros.

8 THE CLERK: What say the defendant?

9 MR. GROVE: Beg the Court's indulgence.

10 (WHEREUPON, a pause in the proceedings.)

11 MR. GROVE: Please swear Mr. Yiannikouros.

12 THE CLERK: Please have a seat in the jury box,
13 sir.

14 Thirteen Nellie Brown.

15 (WHEREUPON, a black female, comes forward.)

16 THE CLERK: What say the State?

17 MR. OZMENT: Please present Ms. Brown.

18 THE CLERK: What say the defendant?

19 MR. GROVE: Please excuse Ms. Brown from the
20 trial of this case.

21 THE CLERK: You been excuse from this trial
22 only, ma'am. You may return to your seat.

23 118 Olivia Reynolds.

24 (WHEREUPON, a black female, comes forward.)

25 THE CLERK: What say the State?

1 MR. OZMENT: Beg the Court's indulgence.

2 THE COURT: Yes, sir.

3 (WHEREUPON, a pause in the proceedings.)

4 MR. OZMENT: Please present Ms. Reynolds.

5 THE CLERK: What say the defendant?

6 MR. GROVE: Please excuse Ms. Reynolds.

7 THE CLERK: You been excused from this trial,
8 ma'am. You may return to your seat.

9 148 John Weaver.

10 (WHEREUPON, a white male, comes forward.)

11 THE CLERK: What say the State?

12 MR. OZMENT: Please present Mr. Weaver.

13 THE CLERK: What say the defendant?

14 MR. GROVE: Beg the Court's indulgence.

15 (WHEREUPON, a pause in the proceedings.)

16 MR. GROVE: Please swear the juror.

17 THE CLERK: Please have a seat in the jury box,
18 sir.

19 Twenty-five Maurice Cooper.

20 (WHEREUPON, a black male, comes forward.)

21 THE CLERK: What say the State?

22 MR. OZMENT: Please excuse Mr. Cooper from the
23 purpose of this case only.

24 THE CLERK: You been excused from this trial
25 only, sir. You may return to your seat.

1 Sixty-one Helen Hickson.

2 (WHEREUPON, a black female, comes forward.)

3 THE CLERK: What say the State?

4 MR. OZMENT: Please present Ms. Hickson.

5 THE CLERK: What say the defendant?

6 MR. GROVE: Please swear Ms. Hickson.

7 THE CLERK: Please have a seat in the jury box,

8 ma'am.

9 114 Barbara Pecca.

10 (WHEREUPON, a white female, comes forward.)

11 MR. OZMENT: Please excuse Ms. Pecca from the
12 purpose of this case only.

13 THE CLERK: You been excuse from this trial
14 only, ma'am. You may return to your seat.

15 Eighty-four Caesar Law.

16 (WHEREUPON, a black male, comes forward.)

17 THE CLERK: What say the State?

18 MR. OZMENT: Please present Mr. Law.

19 THE CLERK: What say the defendant?

20 MR. GROVE: Beg the Court's indulgence.

21 (WHEREUPON, a pause in the proceedings.)

22 MR. GROVE: Please swear the juror.

23 THE CLERK: Please have a seat in the jury box,

24 sir.

25 107 Darryl Mitchell.

1 (WHEREUPON, a black male, comes forward.)

2 THE CLERK: What say the State?

3 MR. OZMENT: Please excuse Mr. Mitchell for the
4 purposes of this case only.

5 THE CLERK: You been excuse from this trial
6 only, sir. You may return to your seat.

7 124 Jamar Shefton.

8 (WHEREUPON, a black male, comes forward.)

9 THE CLERK: What say the State?

10 MR. OZMENT: Please present Mr. Shefton.

11 THE CLERK: What say the defendant?

12 MR. GROVE: Beg the Court's indulgence.

13 (WHEREUPON, a pause in the proceedings.)

14 MR. GROVE: Please swear the juror.

15 THE CLERK: Please have a seat in the jury box,
16 sir.

17 155 Erin Witherspoon.

18 (WHEREUPON, a black female, comes forward.)

19 THE CLERK: What say the State?

20 MR. OZMENT: Please present Ms. Witherspoon.

21 THE CLERK: What say the defendant?

22 MR. GROVE: Please excuse Ms. Witherspoon from
23 the trial of this case.

24 THE COURT: You been excuse from this trial
25 only, ma'am. You may return to your seat.

1 57 Michelle Hayes.
2 (WHEREUPON, a white female, comes forward.)
3 THE CLERK: What say the state?
4 MR. OZMENT: Please present Ms. Hayes.
5 THE CLERK: What say the defendant?
6 MR. GROVE: Beg the Court's indulgence.
7 (WHEREUPON, a pause in the proceedings.)
8 MR. GROVE: Please swear the juror.
9 THE CLERK: Please have a seat in the jury box
10 ma'am.
11 Forty-six Douglas Gainey.
12 (WHEREUPON, a white male, comes forward.)
13 THE CLERK: What say the State?
14 MR. OZMENT: Please present Mr. Gainey.
15 THE CLERK: What say the defendant?
16 MR. GROVE: Please excuse the juror from the
17 trial of this case.
18 THE CLERK: You been excuse from this trial
19 only, sir. You may return to your seat.
20 Twenty-eight Leia Cremens.
21 (WHEREUPON, a white female, comes forward.)
22 THE CLERK: What say the State?
23 MR. OZMENT: Please present Mrs. Cremens.
24 THE CLERK: What say the defendant?
25 MR. GROVE: Please swear Ms. Cremens.

1 THE CLERK: Please have a seat in the jury box,
2 ma'am.

3 Twelve Christopher Brown.

4 (WHEREUPON, a black male, comes forward.)

5 THE CLERK: What say the State?

6 MR. OZMENT: Please present Mr. Brown.

7 THE CLERK: What say the defendant?

8 MR. GROVE: Please swear Mr. Brown.

9 THE CLERK: Please have a seat in the jury box,
10 sir.

11 146 Terry Watford.

12 (WHEREUPON, a white male, comes forward.)

13 THE CLERK: What say the State?

14 MR. OZMENT: Please present Mr. Watford.

15 THE CLERK: What say the defendant?

16 MR. GROVE: Please swear Mr. Watford.

17 THE CLERK: Please have a seat in the jury box,
18 sir.

19 151 Georgia Williams.

20 (WHEREUPON, a black female, comes forward.)

21 THE CLERK: What say the State?

22 MR. OZMENT: Please present Ms. Williams.

23 THE CLERK: What say the defendant?

24 MR. GROVE: Please excuse Ms. Williams from the
25 trial of this case.

1 THE COURT: You been excused from this trial
2 only, ma'am. You may return to your seat.

3 152 Olivia Williams.

4 (WHEREUPON, a black female, comes forward.)

5 THE CLERK: What say the State?

6 MR. OZMENT: Please present Ms. Williams.

7 THE CLERK: What say the defendant?

8 MR. GROVE: Please swear the juror.

9 THE CLERK: Please have a seat in the jury box,
10 ma'am.

11 THE COURT: All right, two alternates.

12 THE CLERK: Ninety-four David Matthews.

13 (WHEREUPON, a white male, comes forward.)

14 THE CLERK: What say the State?

15 MR. OZMENT: Please excuse Mr. Matthews from the
16 purpose of this case.

17 THE COURT: You been excused from this trial
18 case only, sir. You may return to your seat.

19 Seventy-five David Jones.

20 (WHEREUPON, a white male, comes forward.)

21 THE CLERK: Does the State wish to challenge
22 this juror for cause?

23 MR. OZMENT: No, madame clerk.

24 THE CLERK: What say the defendant?

25 MR. GROVE: Please swear Mr. Jones.

1 THE CLERK: Please have a seat in the jury box,
2 sir.

3 119 Theresa Riley.

4 (WHEREUPON, a white female, comes forward.)

5 THE CLERK: What say the State?

6 MR. OZMENT: Please present Ms. Riley.

7 THE CLERK: What say the defendant?

8 MR. GROVE: Please swear the juror.

9 THE CLERK: Please have a seat in the jury box,
10 ma'am.

11 THE COURT: All right. Any motions or others
12 matter pertaining to jury selection from the State?

13 MR. OZMENT: No, Your Honor.

14 THE COURT: From the defense?

15 MR. GROVE: No, Your Honor.

16 THE COURT: Can I see the lawyers up here one
17 more time.

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

21 THE COURT: All right. Ladies and gentlemen, as
22 I mentioned earlier, we're going to begin the trial of
23 this case tomorrow morning at nine o'clock. When you
24 leave the jury box in just a moment, you'll go with the
25 bailiff and she'll show you where to report tomorrow.

1 Between now and then, you are not permitted in any way to
2 discuss anything involving this case whether it be the
3 immediate principles or the lawyers or any of the possible
4 witnesses with anyone in this world. No one at all. You
5 cannot even discuss the case amongst yourselves even
6 though this is more than likely the only thing that the 14
7 of you have in common. You cannot talk about it at all,
8 that instruction includes the fact that you cannot read
9 anything about this case, listen to anything about it,
10 watch anything about it or attempt to gather any
11 information about it from any source at all and that would
12 be certainly including but not limited to any research
13 device or smart phone or computer just put this case out
14 of your mind until you get back here tomorrow. That
15 instruction that I've just given you will hold true until
16 you are released to actually deliberate this case.

17 It will be very important for you to be here
18 tomorrow morning at nine o'clock rested and prepared to
19 pay attention tomorrow because of some commitments that
20 have nothing to do with this particular case. We're going
21 to stop tomorrow at noon, that will give you an idea that
22 you'll have the afternoon tomorrow free. But please keep
23 in mind, my instruction that you're not to discuss this
24 case at all and not try to gather any information about it
25 in any manner whatsoever.

1 Here in Florence County, it's a little bit
2 different from most other counties. You go up and down
3 the elevators with various people. If you are -- if you
4 find yourself on an elevator coming up or going down with
5 someone who perhaps may be involved in this case even you
6 want know it because a lot of the witnesses weren't here
7 and they mention anything about this case, tell them
8 immediately that you are on a jury and ask them to please
9 stop. If anything like that happens, it want be malicious
10 or intentional on anyone's part, but if something like
11 that does happen, please bring it to one of the bailiffs
12 attention. So I'll see you tomorrow morning at nine
13 o'clock enjoy the rest of your day. And thank you very
14 much for your patience this morning. Thank you.

15 (WHEREUPON, the jury is excused for the day.)

16 THE COURT: Now, ladies and gentlemen, who were
17 not selected as jurors for the trial of this case, you
18 should have that piece of paper with the phone number on
19 it, call that number after 6:00 p.m. this evening and
20 you'll hear a voice. The voice will say come back
21 tomorrow or it may say call back tomorrow or maybe a
22 different kind of instruction. I don't really know.
23 Please follow the instruction that you hear. If you don't
24 follow the instruction and you fail to show back up, if
25 there additional cases to be called, I guess the nicest

1 way I can put it is, you will get a free ride up here and
2 it will be in a car you don't really want to be in. So
3 please follow these those instructions. Typically, I do
4 hear from jurors who don't come back. Well, I didn't know
5 that message was on the phone was meant for me. The
6 message that you hear after six this evening is meant for
7 you, okay. All right. Thank you for your patience.
8 Ladies and gentlemen, you are free to go and I look
9 forward perhaps to working with you again. All right.
10 Thank you.

11 (WHEREUPON, remaining jury panel was excused.)

12 THE COURT: Mr. Ozment and Mr. Grove, would you
13 all like to start our business after lunch or you want to
14 work through and then -- I don't know how long the Denno
15 matter will take.

16 MR. OZMENT: One of my -- one of the officers I
17 think I told them to be here at two o'clock in
18 anticipation of coming back after lunch, so I think I can
19 see if I can get him but probably come back either way.

20 THE COURT: And how about the other issues one I
21 think is relatively brief about the two witnesses. The
22 other was -- can't remember what it was. It might have
23 been the one you gotten resolved.

24 MR. OZMENT: I think we resolved everything.

25 THE COURT: So we had the Jackson vs. Denno

1 matter and Mr. Grove's motion to deal with those two
2 witnesses.

3 MR. OZMENT: Yes, Your Honor.

4 THE COURT: Why don't we do this so we can make
5 better use of our time, let's be back at a quarter to two.
6 And we can start with that motion from Mr. Grove and then
7 by two o'clock your witness should be here. All right.
8 Thank you. For your time this morning, we'll see you back
9 at 1:45.

10 (WHEREUPON, a lunch break was taken.)

11 THE COURT: All right. Mr. Grove, you had a
12 motion that you wanted to bring to my attention.

13 MR. GROVE: I do, Your Honor. I'll make it
14 orally. I don't have a formal written motion. I was
15 notified by Mr. Ozment with the Solicitor's office of two
16 new witnesses in this case. One I was notified on
17 Thursday afternoon about 5:10 or 5:15. And the other I
18 was notified Friday around sometime between 12 and one in
19 the afternoon. They're both fact witnesses. I do believe
20 -- I don't know whether he actually intends to call them
21 or not, but they would be State witnesses should they
22 testify aside from just general late notice, Your Honor,
23 I'd ask that you consider excluding their testimony based
24 on a violation of the Sixth Amendment and my ability to
25 prepare full and complete defense of my client. These are

1 obviously people that I've had an opportunity to
2 investigate. I have spoken with Mr. Ozment as to the
3 general perimeters of what their testimony would be but
4 having essentially one business day of one of them and
5 half of a business day on the other before the trial
6 begins. My only objection to them testifying would be
7 that it interferes with my ability to fully and completely
8 represent my client.

9 THE COURT: Okay, all right. What are their
10 names?

11 MR. GROVE: I believe their names are Hubert
12 Black. They are the last two on the witness list.
13 Sabrina Hartfield.

14 THE COURT: Hubert Black and Sabrina Hartfield?

15 MR. GROVE: That's correct, Judge.

16 THE COURT: All right, Mr. Ozment.

17 MR. OZMENT: Your Honor, Mr. Grove knew about
18 these witnesses first of all virtually the same time that
19 I knew about these witnesses. These are individuals who
20 never spoke to law enforcement, never gave a statement
21 with the exception of subsequent statements since when we
22 talked about their discovery. And I don't think under
23 Rule 5 I have to give over witnesses with the exception of
24 alibi witnesses, which is the E section of the rule.
25 Other than that, I don't think there is any requirement

1 that I disclose witnesses. And just basically out of
2 courtesy to Mr. Grove, I did disclose them as soon as I
3 knew about them just to prevent any sort of trial by
4 ambush situation.

5 As far as preparing a cross-examination of them,
6 certainly we know neither of them are going to testify
7 today. He was notified last week, that gives them four or
8 five or six days before they actually testify and prepare
9 a cross. Certainly, I'm not sure, you know, if he would
10 like to ask for a continuance at this time that's a
11 different matter, but he hasn't asked for a continuance.
12 And I don't see how excluding them would even be entitled
13 to that under any theory.

14 THE COURT: All right, Mr. Grove.

15 MR. GROVE: Your Honor, I don't want a
16 continuance. I'm prepared to go forward. My client's
17 prepared to go forward. We been waiting for this day for
18 a while. And again I'm not presenting you with any case
19 law. I've looked and I don't think that there's any out
20 there. My argument rests on the Sixth Amendment says my
21 client is entitled to a full and fair defense and a
22 complete one. And I've got a duty to him to provide that.
23 My only concern is that these two witnesses being brought
24 about in the 11th hour erodes my ability to do that. I'm
25 prepared to go forward otherwise. I did just want to note

1 that for the record.

2 THE COURT: All right. Okay. The Jackson v.
3 Denno witness is to be here at two.

4 MR. OZMENT: Yes, Your Honor, Investigator
5 Hester is one of them. He took the second statement, but
6 he is already here. We could go forward with him now.

7 THE COURT: Any objection to doing that, Mr.
8 Grove?

9 MR. GROVE: No, Your Honor. I did a -- I guess,
10 we do have a third motion that will take less time than
11 the previous one about sequestering of witnesses. I don't
12 have an issue with it. I don't imagine that Mr. Ozment
13 does, we talked about it leading up to today. Before we
14 begin this motion, that will obviously contain some
15 testimony that may or may not be presented at the trial.
16 I know that there's at least one other witness in the
17 courtroom. I don't know about others.

18 THE COURT: The lead investigator is Mr. Hester?

19 MR. OZMENT: Yes, Your Honor.

20 THE COURT: And the family of Mr. Springs are
21 any of them going to testify?

22 MR. OZMENT: No, Your Honor.

23 THE COURT: What's your position on witness
24 sequestration?

25 MR. OZMENT: Your Honor, I'm fine with my

1 witnesses being sequestered as long as they go toward the
2 defense witnesses also.

3 THE COURT: All right. In that respect, I
4 typically would allow an expert to be in the courtroom
5 because I think the rule sometimes permits an expert to
6 testify or give opinions based on evidence that's
7 introduced that the expert knows about. I think Dr.
8 Presnell falls into that category. I don't know about
9 Toni Broome or Catherine Leisy. Are they experts? Are
10 they trace evidence?

11 MR. OZMENT: Yes, Your Honor.

12 THE COURT: Okay. Well, I know they're not here
13 now.

14 MR. OZMENT: No, Your Honor.

15 THE COURT: I'll allow Dr. Presnell and the SLED
16 witnesses to be present and not sequestered but any other
17 witnesses, of course, other than would have to be
18 sequestered same way goes for yours.

19 MR. GROVE: That will be fine, Judge.

20 THE COURT: I really don't have any way of
21 knowing if those people might walk in, so I'll count on
22 you two gentlemen to make sure that's followed.

23 MR. GROVE: Sure.

24 THE COURT: Okay. You want to call your first
25 witness in the Denno matter?

1 MR. OZMENT: We have to remove one witness from
2 the courtroom, Your Honor.

3 THE COURT: Okay.

4 MR. OZMENT: Both of them are now here, so we're
5 ready to go.

6 THE COURT: Okay. Which one would you like to
7 present first?

8 MR. OZMENT: We'll take the first one -- the
9 first statement that was taken, which is Deputy Gifford.

10 THE COURT: All right. Okay, Deputy Gifford,
11 you can come on up and be sworn.

12 THE CLERK: If you will, sir, place your left
13 hand on the Bible, raise your right hand. Do you swear to
14 tell the truth, the whole truth, and nothing but the truth
15 so help you God?

16 THE WITNESS: I do.

17 THE CLERK: Please be seated and state your full
18 name for the record.

19 THE WITNESS: Deputy Michel McFadden.

20 WHEREUPON,

21 Michel McFadden,
22 after first having been duly sworn, testified as follows:

23 DIRECT EXAMINATION IN-CAMERA

24 BY MR. OZMENT:

25 Q How are you today, Deputy Gifford?

1 A I'm good.

2 Q What do you do for a living?

3 A I work for the Florence County Sheriff's Office in
4 the patrol division.

5 Q How long have you been at that line of work?

6 A Three and a half years.

7 Q All right. Did you have that line of work back in
8 September of last year?

9 A Yes, sir.

10 Q Specifically on September 24th 2012, did you respond
11 to an incident on Sharon Road?

12 A I did.

13 Q Did you respond in your capacity as a patrol deputy?

14 A I did.

15 Q Tell me what happened when you -- what did you
16 observe when you arrived on scene?

17 A Once I arrived on scene, I saw Mr. Scott handcuff
18 sitting on his front porch. I saw a white cargo van
19 sitting in the driveway with Mr. Springs crouched over in
20 between the door and the door frame.

21 Q All right. I noticed you said Mr. Scott was already
22 handcuffed. Was there already other deputies on the scene
23 at that point?

24 A Investigator Rhodes had made it on the scene first
25 and had handcuffed him already.

1 Q All right. Were you the second then to arrive?

2 A Yes, sir.

3 Q Okay. Did you have occasion to speak with Mr. Scott
4 on that evening?

5 A I did. I initially read him his rights and then
6 started asking him questions about what had happened.

7 Q All right. Let me back up briefly. When you said
8 you read him his rights, what do you mean by rights?

9 A I read him his Miranda warnings.

10 Q And when you read them, what did you read them off
11 of?

12 A I keep a card on my person.

13 Q All right. Is that the card issued to you in your
14 capacity as a deputy sheriff?

15 A Yes, sir, we get several copies and always keep one
16 in my pocket.

17 Q All right. And do you have it with you today?

18 A I do.

19 Q Would you mind reading off what you read out to
20 Mr. Scott that night?

21 A It says you are in the custody of Florence County
22 Sheriff's Office. My duty is to advise you of the
23 following rights. You have the right to remain silent.
24 Anything you say may be used against you in court. You
25 have a right to have a lawyer and consult with him before

1 while and answering any questions. If you cannot afford a
2 lawyer, one would be provided to you without cost. And
3 then it ask do you understand your rights and are you
4 willing to talk to me at this time.

5 Q Did he seem to understand those rights?

6 A Yes, sir, he verbally told me he did.

7 Q All right. Did he tell you that he wanted his lawyer
8 or told you he wanted to be silent or to use any of those
9 rights?

10 A No, he said he would talk with me.

11 Q Okay. While you were going over his rights, then
12 when you subsequently talked to him, did you threaten him
13 at all?

14 A No.

15 Q Did you promise him anything to talk to you?

16 A No.

17 Q Any sort of deal or leniency anything like that?

18 A No.

19 Q Did you have your service weapon drawn or taser
20 drawn?

21 A No.

22 Q A dog out or anything like that?

23 A No.

24 Q Okay. What was his demeanor at that point?

25 A He was pretty quite sitting on the front porch.

1 Q Okay. Did he seem under a lot of stress anything
2 like that?

3 A No.

4 MR. GROVE: Objection, Your Honor, that's
5 speculation.

6 THE COURT: Overruled.

7 BY MR. OZMENT:

8 Q Did he seem like he was stressed or anything like
9 that?

10 A No.

11 Q Okay. Did you detect in your interaction with him
12 that he might have been drinking that night?

13 A Yes, sir, I had smelled it. It was coming from his
14 breathe, so I asked him about it. He had said he had had
15 a few.

16 Q Okay. Was he slurring his words?

17 A Slightly.

18 Q Okay. But did he seem to still understand everything
19 you were asking him and interacting with you as a person
20 who knew what they were doing?

21 A Yes, sir, he wasn't falling down drunk.

22 Q Okay. When you would ask him a question, did his
23 answer seem appropriate?

24 A Yes.

25 Q All right. Moving into what he actually told you, I

1 guess how did you start the conversation with him as to
2 what happened that night?

3 A I just asked him a generic question like I usually do
4 on the scene. I ask him what happened to cause us to come
5 out and that usually gets people to pretty much give me a
6 whole story just from one question.

7 Q All right. And was that the case here?

8 A Yes, sir.

9 Q What did he tell you?

10 A He basically told me that the -- Mr. Springs arrived
11 at his location uninvited, unannounced, where a verbal
12 altercation ensued between the two. At that time,
13 Mr. Springs was still behind the driver door. As the
14 verbal altercation grew, Mr. Springs stepped out from
15 behind the door and approached Mr. Scott. And he said he
16 felt threatened because he saw something in his hand even
17 though he was unable to make out what was in the subject
18 Mr. Springs' hand. He knew he had something. He said he
19 felt threatened, so he grabbed his riffle and shot at the
20 victim.

21 Q Did he tell you where his riffle was before he shot
22 at the victim?

23 A Initially, it was leaning up, I think, against the
24 trailer or the porch, but it wasn't in his hand. And
25 then, I guess, as Mr. Springs exited from around the open

1 driver door, that's when he grabbed the riffle.

2 Q All right. Did he state that he fired the riffle?

3 A He did.

4 Q All right. What did he say happened after he fired
5 the riffle?

6 A He got scared and so he hid the shell casing from the
7 cartridge that he fired. And then I believe he said he
8 placed the gun back inside, but the shell casing was
9 thrown into a -- basically a fire pit to where it couldn't
10 be recovered. And then he went to a friend's house and
11 told his friend what happened and then I think eventually
12 called his wife and told his wife what happened. And then
13 his wife is the one that called us.

14 Q You stated that he said the victim had something in
15 his hand, but he couldn't tell where it was. Did he tell
16 you how he was holding that item or where he was holding
17 that item?

18 A He said he was holding the item below his waist,
19 below the victim's waist or Mr. Springs' waist.

20 Q Okay. At any time during this conversation, did he
21 go back to his Miranda rights? Did he invoked any of
22 those?

23 A No.

24 Q At any point, did he seem hesitant like he didn't
25 want to talk to you?

1 A No.

2 Q I think we finished with he went over to someone
3 else's house, then his wife called the police. Did you
4 talk to him at all after that about anything else?

5 A Talk to who?

6 Q Talk to Mr. Scott at all?

7 A No, sir.

8 MR. OZMENT: No further questions at this time,
9 Your Honor.

10 THE COURT: Mr. Grove.

11 MR. GROVE: Thank you, Your Honor.

12 CROSS-EXAMINATION IN-CAMERA

13 BY MR. GROVE:

14 Q Good afternoon, Deputy?

15 A Good afternoon.

16 Q You testified earlier Investigator Rhodes was on
17 scene already?

18 A Yes, sir.

19 Q And I think you said this you were the second to
20 arrive?

21 A .Correct.

22 Q Or if you weren't the second, you were one of the
23 first few?

24 A I was the first patrol deputy there, but, yes, an
25 investigator was already on scene.

1 Q Okay. And as far as Mr. Scott's demeanor, you said
2 he seem -- he was quiet. When you asked questions of him,
3 did he give you short answers, long answers?

4 A Depended on the question, some of them were yes or
5 no, some of them were open-ended questions.

6 Q What kind of yes or no questions did you ask him?

7 A Where is the bullet casing, thought would be
8 open-ended question. I asked him if he had been drinking.
9 He would say, yes.

10 Q And the -- first of all, what was his response to
11 where is the bullet casing?

12 A He described that he threw it into basically a fire
13 pit.

14 Q Was the fire bit burning?

15 A Not at that time.

16 Q Okay. Did you go to the fire pit?

17 A We did.

18 Q Did you find it?

19 A We did not.

20 Q Did you ask him where the gun was?

21 A Several times. Because it had changed locations
22 three different times, if that's what you're asking.

23 Q How do you mean?

24 A It was leaning up against him when the whole thing
25 started. It was in his hand during the incident. And

1 then when we arrived, it was inside in a bedroom.

2 Q I asked a poorly worded question.

3 A That's fine.

4 Q When you arrived on scene knowing that there had been
5 a firearm discharged, one of your first questions was
6 where is the gun?

7 A Correct.

8 Q What did he tell you about the location of the gun
9 at that time?

10 A It was inside the house.

11 Q Did someone go and retrieve it?

12 A I believe somebody did eventually.

13 Q Was it where he said it was?

14 A I don't know because I didn't go inside.

15 Q Was it loaded?

16 A I don't know I didn't go inside.

17 Q Did he tell you if -- did he make a comment as to
18 whether it was loaded or unloaded?

19 A No.

20 Q Where did he tell you inside it was?

21 A I don't believe he was specific.

22 Q Okay. You said smelled of alcohol and that he told
23 you he had been drinking?

24 A Yes, sir.

25 Q How much?

1 A He told me he had one beer while he was in the woods
2 hunting. And then he said he had three to four more beers
3 after he shot the riffle.

4 Q Okay. You said that his -- I believe what Mr. Ozment
5 asked you his speech was slurred. You said slightly?

6 A Yes, sir.

7 Q No doubt in your mind that he was coherent?

8 A Correct.

9 Q That he was sober enough to speak with you?

10 A Correct.

11 Q That he had his wits about him?

12 A Correct.

13 Q That he knew what he was doing?

14 A Yes, sir.

15 Q That he answered you appropriately?

16 A Yes.

17 Q That he -- while you say he smelled of alcohol, would
18 you say he was intoxicated?

19 A Depends on to what degree you would consider him
20 intoxicated.

21 Q You said that he was not falling down drunk?

22 A Correct. He was coherent enough to maintain a
23 conversation.

24 Q Sure. You said you asked generic questions at the
25 beginning to sort of allow him to tell the story to you;

1 is that correct?

2 A Correct.

3 Q You say that he in his comments to you told you that,
4 Steve Springs, the deceased, came uninvited and
5 unannounced?

6 A Correct.

7 Q They told you that Steve Springs came specifically
8 against instructions not to come?

9 A He did not tell me that.

10 Q All right. That Steve pulled up in the driveway.
11 Sorry. He told you Steve pulled up into the driveway in a
12 white van?

13 A Yes.

14 Q He told you that Steve opened the door?

15 A Yes.

16 Q He told you that Steve stood behind the door and they
17 argued?

18 A Correct.

19 Q Did he tell you what the substance of their argument
20 was?

21 A I believe it had to do with Steve Springs dating what
22 would be Mr. Scott's stepdaughter.

23 Q Did he tell you what they said back and forth?

24 A I don't recall that he did.

25 Q Okay. But they had -- they exchanged words while

1 Steve was standing behind the van door?

2 A Correct.

3 Q Steve came around from behind the van door and
4 approached him?

5 A That's what I was told.

6 Q Okay. Did Mr. Scott tell you at what point the
7 riffle went from leaned up against the steps to into his
8 lap?

9 A I believe he told me that as Mr. Springs stepped out
10 from behind the door, that's when he grabbed the riffle.

11 Q And then they had more words, did he tell you that?

12 A Correct, yes.

13 Q And then he tells you that Mr. Springs came at him in
14 some fashion, approached him?

15 A Yes.

16 Q And then he shot him?

17 A Yes.

18 Q One time?

19 A Yes.

20 Q Did he indicate to you that Steve had been
21 threatened, that this was not a friendly conversation they
22 were having?

23 A He did not state that Steve threatened him
24 specifically. He stated he felt threatened.

25 Q Then afterwards regarding the disposal of a shell

1 casing said he was scared and didn't know what to do?

2 A Correct.

3 Q And regarding Mr. Springs having something in his
4 hand, you said he wasn't sure what it was, but he saw
5 something in his hand?

6 A Correct.

7 Q Had he been read his Miranda rights before you got
8 there?

9 A I would not know that.

10 Q You personally read him from that same card?

11 A Yes, sir.

12 Q Is that the same card you had then or have you gotten
13 a replacement card?

14 A The same one.

15 MR. GROVE: I don't have anything further.

16 Thank you.

17 THE COURT: Redirect?

18 MR. OZMENT: I don't have any redirect, Your
19 Honor.

20 THE COURT: Mr. Gifford, you can step down.

21 Thank you.

22 (WHEREUPON, the witness leaves the witness
23 stand.)

24 THE COURT: Any other witnesses on this
25 particular statement?

1 MR. OZMENT: Not on this statement, Your Honor.

2 THE COURT: Does the defendant -- would you like
3 to offer any evidence on this particular statement?

4 MR. GROVE: No, Your Honor.

5 THE COURT: Okay. All right. Next one.

6 MR. OZMENT: Your Honor, the State calls
7 Investigator William Hester to the stand.

8 THE COURT: Raise your right hand please. Your
9 name?

10 THE WITNESS: William Hester.

11 THE COURT: Do you swear to tell the truth, the
12 whole truth, and nothing but the truth so help you God?

13 THE WITNESS: I do.

14 THE COURT: You can have a seat. H-E-S-T-E-R?

15 THE WITNESS: Yes, sir.

16 THE COURT: Okay.

17 WHEREUPON,

18 William Hester,
19 after first having been duly sworn, testified as follows:

20 DIRECT EXAMINATION IN-CAMERA

21 BY MR. OZMENT:

22 Q How are you today, Investigator Hester?

23 A I'm good.

24 Q Good. What do you do for a living?

25 A I work for Florence County Sheriff's Office as a

1 criminal investigator.

2 Q How long have you been with the sheriff's office?

3 A Eight years.

4 Q All right. Back on September 26, 2012, were you
5 working as an investigator at that time?

6 A I was.

7 Q All right. Do you have occasion to respond to a call
8 out on Sharon Road here in Florence County?

9 A I did.

10 Q What was the nature of that call?

11 A It was reported to me that it was a shooting.

12 Q All right. When you arrived on scene, what did you
13 find?

14 A When I arrived on scene, EMS was still there. The
15 deputies were still there. And I observed the white van
16 in the -- parked in the driveway and I saw Mr. Scott
17 sitting on the front porch with his hands behind his back
18 in cuffs.

19 Q All right. Did you approach Mr. Scott?

20 A I did.

21 Q Did you have some interaction with him?

22 A Yes, sir.

23 Q Did he end up making a statement to you that night?

24 A He did.

25 Q When you arrived, were you aware if he had been

1 Mirandized already or not?

2 A As I approached, Mr. Scott, Deputy Gifford advised me
3 that he did Mirandize him prior to my arrival.

4 Q Were you aware as to whether or not he'd already
5 given a statement that night to anyone?

6 A Deputy Gifford did tell me that he gave him a brief
7 statement about the run down of the events that took
8 place.

9 Q All right. Did you then also take a statement from
10 Mr. Scott?

11 A I did. Prior to -- I think Deputy Gifford was
12 standing beside me and I asked Mr. Scott in front of Mr.
13 Gifford if he understood everything that the deputy read
14 to him and he confirmed he did.

15 Q All right. And did you specifically bring up his
16 Miranda rights?

17 A I did.

18 Q Okay. And did you go over them?

19 A No, sir, I did not go over them. I asked him if
20 Deputy Gifford did indeed read them, he said he did. And
21 he did understand when we were speaking with him.

22 Q Okay. Did you threaten him in any way at any time?

23 A No, sir.

24 Q Did you promise him anything at any time from making
25 a statement?

1 A No, I did not.

2 Q Any sort of incentive, any sort of plea deal,
3 leniency, bond anything like that?

4 A No.

5 Q Okay. Make any threats?

6 A No, sir.

7 Q At any time have your service weapon drawn?

8 A No, sir.

9 Q At any point pull your taser out anything like that?

10 A No, sir.

11 Q Have a K-9 out?

12 A No.

13 Q In speaking with Mr. Scott, did he seem to understand
14 the questions you were asking him?

15 A He did.

16 Q Did he respond to them in an appropriate way?

17 A He did.

18 Q Did you observe if he appeared to be intoxicated in
19 any way?

20 A He was able to stand and walk on his own. He was
21 able to stand in one place for a period of time while we
22 spoke off to the side where the van was. He appeared to
23 be coherent to be able to speak with me, yes, sir.

24 Q Okay. At any point during the conversation with him,
25 did he stop you or hesitate or say, you know, I like a

1 lawyer anything like that?

2 A No, he did not on scene.

3 Q Okay. How did you start your conversation with Mr.
4 Scott after we talked about -- you referred to his Miranda
5 rights, what did you ask next?

6 A After Deputy Gifford walked away, I asked him again
7 what happened. What was the result of Mr. Springs being
8 shot.

9 Q Okay. And what did he tell you?

10 A I think he got a little more in depth with me because
11 I asked him, you know, to try to tell everything that took
12 place in the days before, hours before whatnot. He said
13 that he was riding home with a friend of his that he works
14 with that they had been hunting that night and I don't
15 remember the exact time. He had received a phone call
16 from Mr. Springs and the phone call started to become
17 heated. There was an argument cussing back and forth. He
18 advised me that he hung up on him several times, but
19 Mr. Springs continuously called back. He stated one of
20 the -- ending calls was that Mr. Springs was coming to his
21 residence. I asked him why he was coming to his
22 residence. He said that he told me that he was going to
23 come and take care of some business and that was what he
24 told me about the phone call. He stated that he was
25 sitting out on the front porch, which is a little small

1 stoop that sits in front of his wife's office. The -- he
2 did not have keys to get into his residence because his
3 wife took the keys when she went to go somewhere. He
4 stated that -- I asked him if the porch light was off
5 because it was an extremely bright porch light on while we
6 were having our conversation. And he stated, no, the
7 porch light was off because she had turned all the lights
8 off and it was -- and I believe it was around 8:30 or
9 maybe nine o'clock and it was really dark out there.
10 There weren't any streets lights on. He stated that
11 Mr. Springs came down the road on Sharon Drive, pulled
12 into his driveway, shut the vehicle off and immediately
13 got out of his vehicle standing in the apex of his door
14 began yelling and arguing with him. He stated that he
15 told Steve he needed to leave, that this was not a good
16 time or a place to be having this argument. He stated
17 that Mr. Springs stepped to the outside of the door. As
18 he did, he told Mr. Springs don't take another step or I'm
19 going to shoot you. And he stated what when Mr. Springs
20 stepped one foot to the door, he fired the round which he
21 stated and showed me the way he had the riffle layed in
22 his lap across his leg.

23 Q Okay. So now, I guess, explain to me how he told you
24 he had the riffle?

25 A He was sitting in a seated position. He said

1 initially the riffle was laid across his lap. He stated
2 as he saw Mr. Springs he pulled the riffle just level with
3 his leg and didn't bring it up but just laid it in his
4 lap pointing in the direction where Mr. Springs was.

5 Q Okay. Did he state that Mr. Springs had any sort of
6 weapon or something that can be used as a weapon?

7 A He stated he thought he saw something in his hand. I
8 asked him which hand he couldn't specifically tell me
9 which hand it was. But he said he thought he saw
10 something in his hand and that's what made him feel
11 threatened.

12 Q Okay. Was he -- withdraw that. What do you say
13 happened once he lifted the gun and pulled the trigger?

14 A He stated that he got scared and went around the
15 backside of the mobile home and went toward -- went to
16 Carl's house, which is a neighbor two houses down.

17 Q Okay. Did he tell you what he did with the shell
18 casing?

19 A He said he ejected the shell casing and threw it into
20 a fire pit. The way that the house was set up and where
21 the fire pit was. There was actually two different fire
22 pits with a burn barrel there. We looked he specifically
23 showed us kind of said, okay, it's the one on the ground,
24 but we went over there and we could not find it.

25 Q Once he got over to Carl's house, what did he say

1 happened?

2 A He said he called his wife told her what took place
3 and she was already in route to the house told her where
4 he was. He was sitting down drinking a beer at Carl's
5 house.

6 Q Okay. Did he give you any statement after that?

7 A No, sir, not to the specifics of what took place.

8 Q Okay. At any point during that statement, did he
9 refer back to his Miranda rights asked to stop speaking
10 anything like?

11 A No, sir.

12 Q Did he ask for an attorney?

13 A No, sir.

14 Q After his statement did you give him any kind of
15 promise or incentive anything like that?

16 A No, sir.

17 Q All right.

18 MR. OZMENT: No further questions at this time,
19 Your Honor.

20 THE COURT: Mr. Grove.

21 MR. GROVE: Thank you, Your Honor.

22 CROSS-EXAMINATION IN-CAMERA

23 BY MR. GROVE:

24 Q How many officers do you think were on scene when you
25 arrived, Investigator?

1 A There was three officers and a supervisor when I
2 arrived plus EMS.

3 Q And as the evening progressed, I'm sure more arrived?

4 A There was. There was a captain over investigations,
5 a captain who is our P.I.O. captain and myself and another
6 investigator.

7 Q Not unusual for a lot of people to respond to a call
8 like this?

9 A Not unusual at all.

10 Q You said I guess right before you began speaking with
11 Mr. Scott that you didn't re-Mirandize him, but that you
12 did refer to Deputy Gifford's Miranda?

13 A That's correct.

14 Q And so you didn't go through each and every element
15 of it with him again?

16 A No, sir.

17 Q You just said a few moments ago you made a statement,
18 you were Mirandized before is that still...

19 A That's correct.

20 Q How long between talking with Deputy Gifford and
21 talking with you were Mr. Scott statements do you think?

22 A There was no more than five minutes. I was on scene
23 pretty quick shortly after the deputies got there.

24 Q Was Mr. Scott the first person you spoke with as far
25 as investigations?

1 A Yeah, he was the first one I spoke with after
2 speaking with Deputy Gifford who had all the information.

3 Q You spoke with several other people that night,
4 right?

5 A I did.

6 Q You spoke with his wife Gloria?

7 A Uh-huh.

8 Q A fellow name Carl?

9 A Right.

10 Q George, Crystal?

11 A Correct.

12 Q You spoke with all of them at some point, but you
13 spoke with him first?

14 A That's correct.

15 Q And you didn't threaten him? You didn't promise him
16 any deals? I guess, at this point was he charged with
17 anything?

18 A At that point, no, he was not throughout the
19 investigation that's when he was charged.

20 Q And he seem to understand what you were talking
21 about?

22 A Yes, sir.

23 Q And he appeared to be coherent?

24 A That's correct.

25 Q You said in a statement that he told you he was got a

- 1 ride home with a friend. Did he identify a friend?
- 2 A He did.
- 3 Q When Mr. Springs got on the scene, Mr. Scott tells
- 4 you that they had some sort of an argument; is that
- 5 correct?
- 6 A On the scene?
- 7 Q Yes, sir.
- 8 A Yes, sir.
- 9 Q And that -- lead up to that argument was several
- 10 phone calls?
- 11 A That's correct.
- 12 Q And did Mr. Scott tell you that those phone calls
- 13 were from Mr. Springs to Mr. Scott?
- 14 A He did.
- 15 Q And did Mr. Scott tell you that he hung up on Mr.
- 16 Springs more than once?
- 17 A He did.
- 18 Q That he tried to end these conversations?
- 19 A He did.
- 20 Q And I believe that you testified that he was specific
- 21 with Mr. Springs and that he should not come over?
- 22 A That's correct.
- 23 Q The lights were on by time you got there; is that
- 24 correct?
- 25 A That's correct.

1 Q He indicated to you that they were not on at the
2 time?

3 A Correct.

4 Q He also indicated to you that he had been locked out;
5 is that right?

6 A Correct.

7 Q And that his wife had his keys?

8 A Yes, sir.

9 Q So between -- is it fair to say that between your
10 arrival or law enforcements arrival his wife, Gloria, she
11 arrived on scene, right?

12 A She did.

13 Q And she had the keys?

14 A That's correct.

15 Q And she was able to take the gun and put it inside,
16 right?

17 A Yes, sir, she was the one that placed it inside.

18 Q And she was able to turn the lights on?

19 A Correct.

20 Q And you said there's a bright porch light, right?

21 A There is.

22 Q But there aren't any street lights or anything?

23 A There is one in front of his house, but he has a
24 tree obstructing that, so you could not see -- you
25 couldn't see that street light because of a tree

1 obstructing it.

2 Q And have you got a guess or a ballpark as to how far
3 away that street light might be from the porch that we're
4 talking about or the stoop, I guess.

5 A 50 feet.

6 Q Okay. Is this a dirt road?

7 A No, sir, it's a paved road. There is a dirt road in
8 front of it, but it's a paved road where they live.

9 Q Okay. When Mr. Springs pulled into the driveway,
10 where was he van positioned when you got there?

11 A His van was positioned directly in front of the
12 office which it sits connected but sits off to the right
13 side of the mobile home.

14 Q And there's a driveway that you just go straight to
15 the office; is that correct?

16 A Straight to the office correct.

17 Q And Mr. Scott told you that he was sitting on the
18 stoop right in front of that?

19 A That's correct.

20 Q So essentially this van is basically directly in
21 front of you; is that correct?

22 A That's correct.

23 Q Had the gun already been retrieved by the time you
24 got there?

25 A I don't think so. I believe that when crime scene

1 arrived, she and Gloria went inside together and retrieved
2 the weapon. I believe that's how it was.

3 Q Okay.

4 A I never went inside the residence to see exactly
5 where the riffle was.

6 Q But it was essentially immediately turned over?

7 A It was.

8 Q Is that correct?

9 A That's correct.

10 Q There was not an issue retrieving the gun?

11 A No, there was not.

12 Q There was an issue with the shell casing, right?

13 A That's correct.

14 Q He told you where that was, but you couldn't find it?

15 A That's correct.

16 Q Did he walk you over to where he said it had been?

17 A No, sir. We asked him -- we describe where the burn
18 pile was on the ground. He said, yeah, that's where I
19 threw it.

20 Q But he didn't disguise the fact that he had done
21 something with it and that it was in that general
22 vicinity?

23 A Correct.

24 Q Are you surprised that you weren't able to find it?

25 A No.

- 1 Q Is it overgrown a little bit over there?
- 2 A Yeah, it was very overgrown and I believe there was a
3 lot of different kinds of shell casings in this pile.
- 4 Q Mr. Scott told you when Mr. Springs came around the
5 door of the van, he had something in his hand or he
6 thought he saw something in his hand?
- 7 A Yeah, he thought he saw something in his hand.
- 8 Q Wasn't specific?
- 9 A Was not specific.
- 10 Q And that following discharge in firearm he told you
11 he shot one time?
- 12 A Right.
- 13 Q That he then ejected the shell casing, correct?
- 14 A Correct.
- 15 Q Then he went to Carl's, right?
- 16 A That's correct.
- 17 Q Then he called Gloria on his way to Carl's when he
18 was at Carl's?
- 19 A I believe he stated he called when he got to Carl's
20 and when she arrived she called 9-1-1.
- 21 Q You think Carl's is 50 yards away maybe?
- 22 A It's more than 50 yards. I mean, it's a good ways.
23 It's on a different road. It's probably if I had to put
24 it in yards 300 to 400 yards away.
- 25 Q I believe you testified earlier he was two doors

1 down?

2 A Yeah, the way the mobile homes are set up there's one
3 behind him. And there's one on another road that
4 connections off of that. You could barely see his house
5 from the back side of the house.

6 Q It is not far?

7 A No, three or 400 yards I would say.

8 Q It's not in a different town?

9 A No.

10 Q It's not on the other side of town?

11 A No.

12 Q He told you that he told Gloria where he was?

13 A That's correct.

14 Q He told you that Gloria came and picked him up?

15 A Correct.

16 Q They went back to the house?

17 A That's right.

18 MR. GROVE: Beg the Court's indulgence.

19 THE COURT: All right.

20 (WHEREUPON, a pause in the proceedings.)

21 BY MR. GROVE:

22 Q Did Mr. Scott indicate to you what exactly was said
23 between him and Mr. Springs?

24 A I believe the original conversation was about his
25 wife causing problems between Steve and his personal life.

1 Q And this was a problem Steve had?

2 A That was a problem that Steve had that he was trying
3 to solve the problem through Wayne.

4 Q And when Steve got to the house after several
5 unreturned or unanswered or abruptly ended phone calls,
6 the argument continued?

7 A I don't know the specifics on the argument just
8 through the investigation I know there was a brief
9 argument prior to being shot.

10 Q That occurred on scene?

11 A On scene, yes, sir.

12 Q And Mr. Scott informed you that on multiple occasions
13 he told Mr. Springs to leave him alone, to not come over,
14 to leave when he was on scene?

15 A Yes, sir.

16 MR. GROVE: Thank you. I don't think I have
17 anything further, Your Honor.

18 THE COURT: Redirect?

19 MR. OZMENT: None, Your Honor.

20 THE COURT: Step down.

21 (WHEREUPON, the witness leaves the witness
22 stand.)

23 THE COURT: Any other witnesses on this
24 particular statement?

25 MR. OZMENT: No, Your Honor.

1 THE COURT: Any from the defendant?

2 MR. GROVE: No, Your Honor.

3 THE COURT: What's the State's position?

4 MR. OZMENT: Your Honor, the State's position is
5 that he was not under arrest for anything yet, but he was
6 also properly Mirandized out of an abundance of
7 precaution. There was no sort of threat. There was no
8 sort of intimidation. There was no sort of incentive
9 anything to make this statement not freely and voluntarily
10 given and should be a truthful statement as far as he was
11 given an opportunity to explain himself or answered
12 questions appropriately. Obviously, an issue with
13 intoxication, but those officers who spoke to him back to
14 back said that they found that he was coherent. He could
15 walk around, he could stand. He was answering questions
16 appropriately as they asked him. And these statements
17 should be admissible.

18 THE COURT: All right, Mr. Grove.

19 And by the way, he didn't sign anything. These
20 are verbal statements that evidently the officers took
21 notes or made notes from the conversation?

22 MR. OZMENT: That's correct, Your Honor. They
23 weren't recorded or memorialized on paper.

24 THE COURT: All right. What's your position on
25 either one of the statements you want to discuss first

1 suits me?

2 MR. GROVE: Your Honor, Deputy Gifford he was
3 the first to testify, obviously, and the first to take a
4 statement more less from Mr. Scott. I don't believe I
5 have any objections to the statement he made.

6 THE COURT: To Deputy Gifford?

7 MR. GROVE: Correct. In hearing his testimony
8 today, I'll leave that in your discretion by all means,
9 but he said that he Mirandized him. He said that he
10 seemed to know what was going on. He said that he was the
11 first on scene. He may have been cuffed at the time, but
12 I don't believe he testified that he was under arrest for
13 anything at the moment. Investigator Hester did not
14 re-Mirandize him. He didn't do a new line of questioning
15 with him. I ask Your Honor to consider that in reference
16 to the second statement that you heard testimony on, but
17 I'm satisfied on the other grounds. It doesn't appear
18 that either of them believe him to be intoxicated. It
19 doesn't appear that either of them made any threats or
20 offered any promises or were physical with him in any way
21 that might otherwise draw out an improper statement.
22 Again, you heard Investigator Hester testify that he
23 re-Mirandize him. I believe he said it was may be five
24 minutes between one statement and the other. I'll leave
25 that in your discretion however, Your Honor.

1 THE COURT: Anything else?

2 MR. GROVE: No, sir.

3 THE COURT: Anything from the State?

4 MR. OZMENT: No, sir.

5 THE COURT: With regard to the two statements,
6 the findings I'll make are by the greater weight of the
7 evidence which the case law requires me to entertain that
8 standard. With regard to Deputy Gifford, you have no
9 objection to that statement coming, but I do find that all
10 the appropriate Miranda warnings were given. And those
11 were summarized happily by the witness. Also, I find that
12 Mr. Scott did knowingly and voluntarily give up his right
13 to he remain silent and he gave the statement to Deputy
14 Gifford freely and voluntarily without hope of reward, no
15 promises, no threats, no duress and all in all it was a
16 voluntary product of his free and unconstrained will. I
17 make the same findings as to the statement given to
18 Investigator Hester. The fact that he was not
19 re-Mirandized doesn't bear any weight in this particular
20 case because one line of questioning was engaged in
21 immediately after the first. He may not have been under
22 arrest, but he was in custody. He was not free to go, so
23 I think the Miranda warning was necessary and in all
24 instances the constitutional safeguards have been complied
25 with and both statements will come in if the State seeks

1 to introduce those.

2 All right. On the issue of the Sixth Amendment
3 argument, you made about the two witnesses. If your Sixth
4 Amendment argument were to carry today, wouldn't that
5 pretty much gut our Rule 5? In other words, the witnesses
6 in many instances aren't disclosed to the defendant until
7 the judge reads the witness list during jury
8 qualification.

9 MR. GROVE: Your Honor, I think it would gut
10 late notice on witnesses that are crucial to a
11 prosecution. I think it would gut as Mr. Ozment alluded
12 to trial by ambush. And I'll readily admit I believe
13 every word that he says when he tells me that he notified
14 me as soon as he was notified. That is not an issue that
15 I have in this case by any stretch.

16 THE COURT: But they don't have any written
17 statements or any summaries. It's just what they told the
18 Solicitor's investigator or these sheriff's investigator?

19 MR. OZMENT: On one of them. One of them had
20 never given any written any sort of written anything. On
21 one of them the Ms. Hart...

22 THE COURT: Do you have that statement or
23 summary?

24 MR. OZMENT: Yes.

25 MR. GROVE: I've gotten the summary of the

1 notes, yes, sir, Your Honor.

2 THE COURT: Okay. I think that the Sixth
3 Amendment argument fails and I'm going to deny your motion
4 to exclude them. Now, if they are here, certainly if
5 they're willing to talk to you you can talk to them. I'll
6 give you that much leeway, but your motion to exclude them
7 I respectfully deny it.

8 MR. GROVE: Thank you, Judge.

9 THE COURT: And you have resolved between
10 yourselves the issue that you e-mailed me about Friday
11 pertaining to the admissibility of the castle doctrine
12 hearing testimony?

13 MR. GROVE: I'll defer to Mr. Ozment on that.

14 MR. OZMENT: Yes, Your Honor, the State does not
15 intend to introduce that in its case in chief. However,
16 we would reserve and I don't know if Mr. Grove agrees with
17 me or not, but we would reserve that we think it would be
18 admissible as impeachment evidence should the defendant
19 testify.

20 THE COURT: All right. Mr. Grove, you want to
21 cross that bridge when we come to it or you want to go
22 ahead and argue that now?

23 MR. GROVE: Judge, we save that for another day.

24 THE COURT: Okay.

25 MR. GROVE: It want be many days from now and I

1 don't imagine that that particular discussion will take
2 very long, but that's certainly something we can address
3 at another time.

4 THE COURT: Okay. Tomorrow morning what do you
5 want to accomplish before we break around noon?

6 MR. OZMENT: Certainly, Your Honor, we can do
7 openings and I want to get as many witnesses in as I can.

8 THE COURT: Okay. Do you have -- of the 18 or
9 20 that are listed, you intend to call just about all of
10 those people or is it going to be half of that? I'm just
11 trying to get an idea of when we might get to the defense
12 case if the defendant puts up a case?

13 MR. OZMENT: Your Honor, I went through and
14 estimated and obviously some of it could very a little bit
15 depending on who's called. I'm calling an adverse witness
16 in this case, so certainly in that I may depending on what
17 she says it may affect what witnesses are called after
18 that, but I counted up 15 to 17 I anticipated actually
19 calling.

20 THE COURT: Is she under subpoena?

21 MR. OZMENT: She is.

22 THE COURT: Okay. All right. Anything before
23 we break from the State?

24 MR. OZMENT: Nothing from State, Your Honor.

25 MR. GROVE: No, Judge, thank you.

1 THE COURT: Okay. I'll be here before nine if
2 everybody just be around about ten minutes until just in
3 case we have anything else to cover. All right.

4 MR. OZMENT: Thank you, Your Honor.

5 MR. GROVE: Thank you, Your Honor.

6 THE COURT: We adjourn for the day.

7 (WHEREUPON, the proceedings were concluded for
8 the day to be reconvened on October 22, 2013.)

9 (WHEREUPON, State's Exhibits Nos. 1-13 was
10 marked for identification only.)

11 THE COURT: Okay. Everybody ready to go for the
12 State?

13 MR. OZMENT: Yes, Your Honor.

14 THE COURT: For the defense?

15 MR. GROVE: Yes, Judge.

16 THE COURT: All the jury here?

17 THE BAILIFF: Yes, sir.

18 THE COURT: You can bring them in.

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

20 THE COURT: All right. Ladies and gentlemen of
21 the jury, we are ready to proceed with the trial of this
22 case. Before we do actually begin, the clerk is going to
23 administer an oath to you.

24 (WHEREUPON, the jury was sworn.)

25 THE COURT: All right. Ladies and gentlemen,

1 before we do begin, I want to talk to you for just a few
2 minutes about how the trial will proceed and what your
3 responsibilities are and how they differ in -- with
4 respect to what my responsibilities are. How many of you
5 have actually ever sat on a jury of any kind just like you
6 are now? So some of you may have heard these comments
7 before, but under our system of laws, ladies and
8 gentlemen, a jury is the body that makes finding of fact
9 in a particular case. In this particular case, you will
10 be the only people in the world who will be able to make a
11 determination as to whether or not the State has met its
12 burden of proving the elements of the crimes charged in
13 this case.

14 As I mention to you yesterday, the defendant has
15 been charged with two offenses. One is the crime of
16 murder. The other is possession of a weapon during the
17 commission of a violent crime. The defendant has entered
18 pleas of not guilty to those two charges. Those two not
19 guilty pleas put the burden of proof on the State to prove
20 the elements of the crimes charged beyond a reasonable
21 doubt. And very briefly I will explain this to you in
22 detail later. The burden of proving something beyond a
23 reasonable doubt is proving to a jury that would make the
24 jury firmly convinced that the defendant is guilty. And
25 again, I will instruct you very thoroughly on that at the

1 end of the case.

2 The defendant has no burden whatsoever. The
3 State has the sole burden of proof. Now, ladies and
4 gentlemen, the fact that a person has been arrested or
5 charged or indicted for any criminal offense literally
6 from A to Z is not evidence of anything. The indictment
7 is simply a charging document. It's what figuratively
8 walks this case into the courtroom. The case has to get
9 into the courtroom somehow and in South Carolina, as most
10 of other states do, we have the indictment process.

11 Now, the trial itself will be conducted in
12 stages. And primarily, the case will be tried according
13 to the evidence because you just sworn an oath to try this
14 case according to the evidence and the law so help you
15 God.

16 Now, the evidence will come to you in different
17 ways. Primarily, as you probably are aware, it will come
18 to you in the form of testimony that is when a witness is
19 sworn, sit in this chair next to you and testifies. In
20 other words, the witness will answer questions that are
21 asked. You are to evaluate the testimony of the witnesses
22 who do testify. You can during the exercise your
23 evaluation of that testimony choose to believe every
24 single word of what a witness has to say or you can
25 disbelieve every word or you can believe parts and

1 disbelieve the rest, that will be entirely up to you. And
2 if you are looking for a recipe on how to do that, the
3 only thing that I can tell you is that you are to use your
4 good common sense. When you look at someone talk every
5 day, you're trying to decide whether or not you believe
6 what that person has to say subconsciously at least.
7 That's the same way you do it as a juror. You will notice
8 that when the witnesses testify in most courtrooms or in
9 every courtroom that I've ever seen, the witness chair is
10 next to the jury that's because it's up to you to
11 determine what to believe and who to believe. I have
12 responsibility or role in that particular process. It
13 doesn't matter what I think about what a witness has to
14 say factually. It matters solely what you think.

15 Now, things that you can take into account if
16 you would like when you're determining whether or not you
17 believe a witness, again using your common sense how does
18 the witness appear is the witness hesitant or
19 straightforward when the witness is answering questions,
20 has that witness said something different or perhaps the
21 same on a prior occasion, what was the witness' ability to
22 know what he or she claims to know. Also, was there other
23 testimony or evidence in the record that strengthens or
24 weakens what that witness has to say. Also, is that
25 witness pre-deposed or does that witness have a bias or

1 prejudice for or against one particular result over
2 another. And again anything else that you think is
3 appropriate, you can take into account. Now, that's
4 testimony.

5 Another way evidence comes is by way of an
6 exhibit. Those are typically things that you can see or
7 touch. It might be a photograph. It might be a document.
8 It might be an automobile tire in any given case. It
9 might be a pen or a pencil. Typically, it's things that
10 you can see or touch.

11 Another way evidence may come in any given case
12 is by way of a stipulation. That's when two the sides
13 agree that a certain fact or a set of facts is true. If
14 there is a stipulation typically by agreement one of the
15 lawyers will publish it or read it to you or they'll ask
16 me to do that. And I'll let you know if there are any
17 stipulations as the case goes along. If evidence comes
18 in, you can consider it. If I tell you during the course
19 of the trial that you are to disregard something you have
20 just seen or heard or under your duty or your oath to
21 follow the law, the law is if I tell you to disregard
22 something, you must do that and I'm sure that you will.
23 That's how the evidence will come in during the course of
24 the trial.

25 One of the areas where I come in is during the

1 trial of the case, you may hear one or both of the lawyers
2 at any given time stand up and make an objection. You
3 seen that on TV, they stand up and they holler. They want
4 do that here because regardless of what you see on TV in
5 this state at least we do have rules of procedures and
6 rules of evidence and the lawyers know those rules and
7 they'll follow them. It want be like television. They
8 want just start talking and hollering. If an objection is
9 made, that does not mean that the lawyers trying to keep
10 something out that you really have the right to hear or
11 see. By the same token, if a lawyer makes an objection,
12 that does not mean that lawyers -- or the lawyer who ask
13 the question that's objected to that doesn't mean that
14 he's trying to slip something in that you ought not hear.
15 We have the rules of evidence. My copy is in this brown
16 book.

17 There are in many instances good faith
18 differences of opinion as to whether or not a question is
19 proper or whether or not an answer or piece of evidence is
20 admissible and I'll make that determination. So that's an
21 area of law, so I'm the judge of the law. I'll make those
22 determinations. Sometimes I'll have to send you out to
23 the courtroom because I want to give the lawyers the right
24 to put on the record the reasons behind their legal
25 positions. And if I do that, I apologize in advance

1 that's just simply sometimes the way the process works.
2 Sometimes I may send you out and bring you back in in just
3 a few minutes or immediately after that, I'll have to send
4 you right back out. If you blame anybody for that, blame
5 me. It's simply I want to make sure that the record is
6 clear and that both sides have the right to argue their
7 positions.

8 Now, another way that I come into the trial of
9 this case is at the end of the case I'll give you what is
10 called a charge on the law. The evidence will come in by
11 way of the testimony and the exhibits and so forth. At
12 the end of the case, I'll give you a charge on the law.
13 You put your common sense view of the evidence and the law
14 as I give it to you. You put those things together. I'm
15 confident at the end of this case that you'll be able to
16 reach a verdict that does speak the truth.

17 Now, the case itself will be conducted in
18 phases. The State will present its case in chief first.
19 The State will do that by calling witnesses introducing
20 other evidence. After the State rests, the defendant if
21 he choose, he does not have to. The defendant can present
22 evidence as well, but keep in mind that the defendant
23 having no burden at all has no obligation to put up any
24 type of evidence or case at all. Once all the evidence is
25 in, the lawyers will give you a closing argument and I'll

1 give you a charge on the law.

2 In just a few minutes, the lawyers will stand up
3 and give an opening statement. Mr. Ozment for the State
4 will give an opening statement. He will tell you what he
5 thinks the evidence will or will not show. The lawyers
6 know that the opening statement is not an opportunity for
7 argument. It's just they're laying out what they believe
8 the evidence will or won't show. What they say is not
9 evidence. Keep that in mind, what lawyers say is not
10 evidence. Also, the defendant, if he chooses, can give an
11 opening statement. He does not have to. The defendant,
12 if he wants to, can wait until the State rests and give
13 you an opening statement then, that will be up to the
14 defense to make that determination.

15 Your primary obligation in using your common
16 sense number one you got to pay very close attention. You
17 cannot begin making up your mind after you see or hear the
18 first couple of witnesses. That's because the testimony
19 of the first witness is no more and no less important than
20 the first, fifth, sixth, tenth or 20th. In some cases,
21 you may have as many as 50 or 100 witnesses. We want have
22 that here but please keep an open mind, please pay
23 attention at all times and don't think, okay, I've
24 listened enough for the last hour. I'm just going to let
25 my mind wonder. Both of these -- both sides of the case

1 are counting on you to pay very close attention, that's
2 the only way that you can fulfill your oath, that's the
3 only way that you can give them what you sworn to do and
4 that's to give them both a fair trial.

5 All right. Now, if during the course of the
6 morning anyone on the jury needs to take a break, try to
7 catch my attention. I'm pretty bad about looking over
8 there. I don't do it very often, but if you do want to
9 take a break, just raise your finger up in the air and
10 I'll see you and we'll do that. We'll probably break in
11 about an hour or so. And as I mentioned yesterday, we're
12 going to stop before lunch today for the day, so just let
13 me know if you need some assistance.

14 All right. Any objection of those remarks from
15 the State?

16 MR. OZMENT: No, Your Honor.

17 THE COURT: From the defendant?

18 MR. GROVE: No, Your Honor.

19 THE COURT: Mr. Ozment.

20 MR. OZMENT: Thank you, Your Honor. If it may
21 please the Court. Good morning. In almost every murder,
22 you have three parts. You have planning. You have the
23 act and you have the cover up. This is no different. The
24 planning can be -- and the judge will tell you this at the
25 very end of the case, the planning can be just a few

1 seconds, can be the second decide, I'm going to kill him.
2 In this case, you're going to hear in the evidence that
3 there was a little more than that went into this. You're
4 going to hear evidence that two weeks before this happened
5 Mr. Scott told a co-worker that he was thinking about
6 killing Steve Springs. You're also going to hear the
7 facts of the day that he actually killed him. I'll let
8 you draw your own conclusion from that.

9 Then we have the act. On September 26, 2012,
10 Steve Springs and Mr. Scott had been on the phone arguing
11 a little bit. Steve Springs drove to Wayne Scott's house,
12 got out of the car. At that point everyone agrees
13 something happened. A neighbor hears a gunshot.

14 So we come with a cover up. Neighbor comes out
15 of his house. Neighbor will testify from this witness
16 stand that he saw Mr. Scott kind of running around.
17 Mr. Scott said first said, oh, my gun went off. It was
18 jammed. And then he said, well, actually I just killed
19 him. Neighbor said what are you talking about you just
20 killed him, who did you kill. He said I just killed
21 Steve. You will then hear Mr. Scott told a neighbor
22 something to the effect if you don't want same to happen
23 to you, I want you to take this gun and get rid of it. I
24 want you to help me move this body. The neighbor said
25 woo, woo, I'm no part of this. But out of fear, he did

1 take the gun and he put it in the woods. You will then
2 hear Mr. Scott went over to the neighbor's house --
3 another neighbor's house and had a couple of beers. You
4 will also hear that the neighbor saw Mr. Scott take a
5 screwdriver out of his boat, whip it off and walked back
6 around to where the dead man lay. A few minutes later you
7 will hear that the sheriff deputies arrived. What do they
8 find next to the dead man a red screwdriver matches the
9 exact description of the screwdriver that the neighbor saw
10 Mr. Scott take out of his boat and walk over to where the
11 body was.

12 So we have the planning, we have the cover up,
13 obviously, the meat of any of this is going to be the act.
14 You're going to hear what Mr. Scott says told law
15 enforcement that night happened. It will be up for you to
16 weigh if that makes sense whether this was in
17 self-defense, whether it was an accident or whether it was
18 a cold-blooded, planned out and covered up murder. That's
19 what the State intends to prove. It was planned. It was
20 acted and finally, it was covered up. I appreciate your
21 attention. Thank you.

22 THE COURT: All right, Mr. Grove.

23 MR. GROVE: Thank you, Your Honor. May it
24 please the Court.

25 THE COURT: Yes, sir.

1 MR. GROVE: When I was 17, I was a junior in
2 high school and it was springtime. I had just inherited a
3 three-times-hand-me-down Jeep Cherokee from my dad, then
4 my oldest sister, then my middle sister. And finally,
5 finally it made its way all the way down to me and I loved
6 it to death and I use to wash it in the driveway seems
7 like every weekend. And up to that point, I was depending
8 on other people for rides to school. I rode the bus to
9 school. I catch a ride with a friend from time to time.
10 And I got that car and anybody who's ever gotten a car for
11 the very first time can remember that feeling of freedom
12 and you loved being out there driving. I loved that car
13 to death.

14 I lived in apart of the county that was fairly
15 rural. We didn't have a high school in my town. We had a
16 high school that was about eight or ten miles away. It
17 was a consolidated school from that corner of the county.
18 So I had to drive ten to 15 minutes to school every
19 morning. There were two ways to get there 557 and 49.
20 Forty-nine when you got to the outskirts of town, you hang
21 a left and go down there several miles. And then you hang
22 a right and go down there several miles and you end up at
23 the school. 557 you got straight out of town and you kind
24 of wind and weave and you go up and down and bob around
25 and finally you end up right there at the school.

1 Forty-nine takes a long little longer, but it is a little
2 straighter. It's a more direct route -- well, straight
3 out of the way but straight roads and fairly flat.
4 Obviously, the more direct route had a little bit of a
5 winding turn to it and a little bit of angulation.

6 My parents always use to tell me take 49. You
7 go to school at least once a day sometimes twice if I had
8 some sort of practice that goes with after school, I come
9 home and then that evening I go back. Take 49 it's
10 straighter, it's safer, that's the way you ought to go.
11 And it seems like hindsight now that I think about it even
12 when they were driving and we weren't going to the -- in
13 the direction of the school, but we happen to be going
14 down 49, they would comment on how much safer it was and
15 how much straighter it was and how isn't this a much
16 better way to go.

17 Well, one time it was an afternoon early
18 evening, I guess, it was still daylight outside. I was
19 running late and I had to get to school. I come up to the
20 stop sign, stoplight where you either make a left or you
21 go straight. Well, the left-hand turn, the light had
22 turned red. I was gone have to sit, I was gone have to
23 wait and I didn't have the patience for that. The
24 straight road there was a green light. I said, well, I
25 know I'm not suppose do this, but here we go, so I take

1 off down 557 going straight. And now that I think about
2 it, I don't have all the details clear with me. I don't
3 remember how fast I was going. I was probably speeding a
4 little bit because I was in a hurry. And I probably being
5 17 years old being a relative new driver wasn't paying as
6 much attention as I should. But I came over a hill and
7 traffic had come to a dead stop on the up sloop of that
8 hill and I didn't have enough time to stop and slammed on
9 the breaks and I ran into the fellow that was at the back
10 of the line. I'm embarrassed, I'm humiliated everybody
11 was okay. My parents got called and, of course, they get
12 called out there and they drive out there and I had to
13 tell them I gone the way I had been told not to go and
14 something bad had happened and they were upset with me.
15 They were glad that everything was okay, but it was a
16 lesson that I had to learn that they didn't tell me stay
17 away from that road because they wanted me to go down that
18 road. They told me stay away from that road because they
19 genuinely wanted me to stay away from that road. They
20 told me go the other way it's safer even if it's going to
21 take you a little bit longer, even if it's not exactly
22 what you want to do, that's the good idea.

23 Ladies and gentlemen, what you're going to hear
24 the day of the incident, my client, Wayne Scott, everybody
25 calls him Sunny. Sunny said Steve stay away, leave me

1 alone. I don't want any part of this, go home. Steve
2 didn't go home. Steve hung up the phone. Steve came
3 over to Sunny's house confronted him at Sunny's house.
4 Sunny sitting right there on a stoop, said Steve get back
5 in your van, go home, leave me alone. He didn't go home.
6 He came at him. Sunny Scott shot him, that's absolutely
7 true, ladies and gentlemen and he had absolute right to.
8 He didn't tell Steve leave me alone, go away, stay away.
9 I don't want any part of this because he wanted he wanted
10 him to come over and start a fight. He told him to stay
11 away leave me alone. I don't want any part of this
12 because he wanted him to stay away and leave me alone and
13 he didn't want any part of this.

14 Sunny didn't have anywhere else to go. He's
15 locked out of his house sitting right there on the front
16 stoop. He been hunting earlier that day. He got a riffle
17 leaned up next to it. Steve came at him, did the only
18 thing he thought he could.

19 You're going to hear a lot of testimony from the
20 stand. You're going to hear from officers. You're going
21 to hear from people who said or saw or heard something.
22 And the judge is absolutely right I want you to stay with
23 us. I want you to give us your attention to each and
24 every witness from start to finish. The ones at the
25 beginning. The ones at the end and everyone in between.

1 Because every one of them is going to be important, ladies
2 and gentlemen. Every one of them is going to have
3 something valuable to contribute to this case be it
4 through critical evidence, be it through a bias or be it
5 through a defense. So give us your attention, listen
6 carefully and keep in mind, when you're told don't touch
7 the hot stove, when you're told don't play with matches
8 you could get burned, when you're told don't speed or go
9 the other way you could get into a wreck, people aren't
10 telling you that because they want you to do it and have
11 something bad happen. That's being told because they're
12 trying to avoid trouble. That's what happened here. At
13 the conclusion of this case, I'm sure that you will see
14 that Sunny Scott is not guilty of murder and because he's
15 not guilty of a murder, he's not guilty of possession of a
16 weapon during the commission of a violent crime. Thank
17 you.

18 THE COURT: Thank you, Mr. Grove.

19 All right. State can call its first witness.

20 MR. OZMENT: Thank you, Your Honor. The State
21 would call Rollings Rhodes to the stand.

22 THE CLERK: Raise your right hand. You swear to
23 tell the truth, the whole truth and nothing but the truth
24 so help you God?

25 THE WITNESS: I do.

1 THE CLERK: Please be seated, state your full
2 name for the record.

3 THE WITNESS: Michael Rollins Rhodes.
4 WHEREUPON,

5 Michael Rollins Rhodes,
6 after first having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. OZMENT:

9 Q How are you today, Investigator Rhodes?

10 A I'm well, thank you.

11 Q Good. What do you do for a living?

12 A I am a narcotics investigator, I'm assign to the
13 FBI's violent crime task force.

14 Q You're actually employed through the ---

15 A Sheriff's office.

16 Q All right. How long have you worked for the
17 sheriff's office?

18 A Eleven years.

19 Q Okay. What role did you have at the sheriff's office
20 back in September of 2012?

21 A Narcotics investigator.

22 Q All right. Now, a narcotics investigator would that
23 mean you investigate drugs not murder for instance?

24 A Right, right.

25 Q On September 24th of last year, did you have occasion

1 to go to Sharon Road?

2 A I did?

3 Q What was that about?

4 A For a shooting is what it initially came out as.

5 Q All right. When you got to the scene, what did you
6 find?

7 A When I parked kind of in front of the residence and I
8 was -- I was actually parked behind a white van, walked
9 beside the van and saw a male subject laying kind of in
10 the door way of his -- on the driver's side -- he was
11 laying on the ground, but the door was open. He was kind
12 of a little behind the door, kind of not really under the
13 vehicle but right there. And then Mr. Scott was sitting
14 on a -- it's not really a porch. It's kind of a -- you
15 can say a porch, small porch in front of the van.

16 Q All right. And the porch was attached to something?

17 A Yeah, it was like a -- I don't know if it was a shop
18 or a work shed or something like that.

19 Q Okay. Was there any law enforcement EMS anything on
20 the scene when you arrived?

21 A Not initially, no.

22 Q All right. So you were the first person to get
23 there?

24 A Right.

25 Q Why were you the first person to get there?

1 A I was actually assisting Coward Police Department
2 with another case and happen to be in Florence when the
3 call came out and was a lot closer to other responding
4 unit.

5 Q All right. So that's how you ended up first?

6 A Right.

7 Q All right. When you were there was the subject --
8 you said it was kind of not under the van but on the edge
9 of the van. Did he appear responsive in any way?

10 A No, he wasn't.

11 Q All right. Did you observe any signs of life with
12 him?

13 A Uh-uh, no.

14 Q All right. What about Mr. Scott, what was his
15 demeanor?

16 A He was, like I said, sitting on the little stoop or
17 porch. I mean, he was calm. He wasn't upset or anything
18 like that.

19 Q All right. What did you do when you approached him?

20 A I asked him who did the shooting and he said I did.
21 I then placed him in handcuffs.

22 Q All right. How long from that time until other
23 deputy responded?

24 A I mean, they were fairly close behind me. It wasn't
25 a long time.

1 Q Less than five minutes?

2 A I would say so, yeah.

3 Q After you put him into handcuffs -- why did you put
4 him into handcuffs?

5 A Because he said he shoot the guy and I wanted to
6 detain him. I didn't know what his state of mind was or
7 what the situation was.

8 Q All right. After that, did you have any more
9 involvement in this case?

10 A I didn't.

11 MR. OZMENT: No further questions, Your Honor.

12 THE COURT: Cross-examination.

13 MR. GROVE: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. GROVE:

16 Q Good morning, Mr. Rollins.

17 A Good morning.

18 Q Steve lying in the door way? Steve is the deceased?

19 A Right.

20 Q He's lying in the door way of his van?

21 A Right.

22 Q Anything else around the scene that you saw?

23 A Not that I saw, no.

24 Q Did you see a gun?

25 A I don't recall not right then, not around the crime

1 scene itself, no.

2 Q Did you collect any evidence of your own?

3 A No.

4 Q Did you interview any witnesses?

5 A No.

6 Q You were the first one on the scene?

7 A Right.

8 Q And they were -- backup, I guess, the investigators
9 were shortly behind you?

10 A Right.

11 MR. GROVE: No further questions.

12 THE COURT: Redirect?

13 MR. OZMENT: No redirect, Your Honor.

14 THE COURT: Thank you, sir. You can step down.

15 (WHEREUPON, the witness leaves the witness
16 stand.)

17 MR. OZMENT: We'd ask that Investigator Rhodes
18 be released from his subpoena?

19 THE COURT: Any objection?

20 MR. GROVE: No objection, Your Honor. Thank
21 you.

22 THE COURT: All right, next witness.

23 MR. OZMENT: Your Honor, State calls Deputy Mike
24 Giffords to the stand.

25 THE COURT: Mr. Ozment, could you come move that

1 microphone back towards the center part of that shelf?

2 MR. OZMENT: Yes, Your Honor.

3 THE CLERK: If you will, sir, go to the witness
4 stand, place your left hand on the Bible and raise your
5 right hand. Do you swear to tell the truth, the whole
6 truth, and nothing but the truth so help you God?

7 THE WITNESS: I do.

8 THE CLERK: Please be seated and state your full
9 name for the record.

10 THE WITNESS: Deputy Michael Gifford.

11 WHEREUPON,

12 Michael Gifford,
13 after first having been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. OZMENT:

16 Q How are you today, Deputy Gifford?

17 A Good.

18 Q What do you do for a living?

19 A I work with the Florence County Sheriff's Office on
20 the patrol division.

21 Q How long have you been with the sheriff's office?

22 A Three and a half years.

23 Q Okay. Were you working on patrol back on
24 September 24th 2012?

25 A I was.

1 Q Did you have occasion on that day to go to [REDACTED]
2 Sharon Road?

3 A I did.

4 Q What county is that in?

5 A Florence County.

6 Q All right. About what time did you respond out to
7 Sharon Road?

8 A It was late in the evening somewhere between eight
9 and ten o'clock.

10 Q Okay. When you got to that location, what did you
11 find?

12 A I saw Mr. Scott on the front porch handcuffed. There
13 was a white in color cargo van parked in his driveway and
14 Mr. Springs was in the apex of the door.

15 Q All right. When you got there, did Mr. Springs have
16 any sign of life that you could tell?

17 A No, sir.

18 Q When you first got there, what did you do?

19 A I approached Mr. Scott. I gave him his Miranda
20 warnings and then took a brief statement from him.

21 Q All right. And when you say Miranda warnings tell me
22 what you mean by that?

23 A We're issued a card and I keep it on us and I just
24 advise him of his Miranda warnings.

25 Q If you don't mind read that card and tell me what

1 those rights are?

2 A You're in the custody of Florence County Sheriff's
3 Office. It's my duty to advise you of the following
4 rights. You have the right to remain silent. Anything
5 you say maybe used against you in court. You have a right
6 to have a lawyer consult with him before and while
7 answering any questions. If you cannot afford a lawyer,
8 one will be provided to you without cost. And then I
9 asked him if he understood, he said he did. I asked him
10 if he be willing to talk to me and he said he would.

11 Q All right. And the individual that you were talking
12 to, do you see him in the courtroom?

13 A Yes, sir, it's the defendant.

14 Q All right. And where is he sitting?

15 A Currently?

16 Q Yeah.

17 A Right there at the defendant's table Mr. Scott.

18 Q Not the gentlemen in the suit?

19 A No, sir.

20 Q Okay. So what -- how did you start your -- after
21 Miranda warnings, how did you start your conversation with
22 Mr. Scott?

23 A Just generically asked him what happened, that
24 usually gets people to give a brief synopsis of why we're
25 there. So it wasn't a very specific question just how I

1 always start.

2 Q What was his response to that question?

3 A He explain to me that Mr. Springs arrived at his
4 house uninvited, unannounced, pulled up in a driveway
5 where a verbal altercation ensued between the two over the
6 course of a few minutes. And at some point, Mr. Springs
7 approached him with something in his hand. He did tell me
8 he didn't know what was in Mr. Springs' hand, but he had
9 something in his hand.

10 Q He was specific that he had -- Mr. Springs had
11 something in his hand?

12 A He was specific that he had something in his hand.
13 He was also specific that at that time he didn't know what
14 was in his hand.

15 Q All right. Did he tell you where he was holding it
16 or how he was holding this item?

17 A He said he was holding it below his waist.

18 Q All right. Did he tell you how long Mr. Springs was
19 there at this point while they were verbally arguing?

20 A We did not discuss that.

21 Q Okay. So he says that he saw Mr. Springs had
22 something in his hand and it was below his waist. What
23 did he say happened next?

24 A He said Mr. Springs approached him. He said he told
25 Mr. Springs to not come towards him. And at some point

1 when Mr. Springs was walking towards him, he picked up a
2 rifle which was leaned up next to him and fired off one
3 shot which hit Mr. Springs.

4 Q All right. And so ---

5 A In front of the van door.

6 Q And when so when he was talking to you when he said,
7 you know, don't approach me or don't take another step, he
8 said that Mr. Springs was already approaching him?

9 A Correct.

10 Q Okay. And then he shot after he approached further?

11 A Correct.

12 Q Okay. Did he describe that approach? Did he give
13 you any idea of how fast it was anything like that?

14 A No, we didn't get into those specifics.

15 Q Okay. Did he describe to you how he was -- why he
16 had a rifle with him?

17 A He had been deer hunting earlier in the evening.

18 Q Okay. Did he tell you where the rifle was when
19 Mr. Springs arrived?

20 A He was said it was leaned up next to him.

21 Q Okay. At what point, did it go from leaned up next
22 to him to, I guess, pointing at him? Did he tell you how
23 that worked?

24 A He told me he grabbed it at some point when
25 Mr. Springs was walking towards him.

1 Q Okay. Did he tell you how he fired it?

2 A He said he did not put the gun on his shoulder and
3 aim. He sort of fired from the hip or from his lap area,
4 so he didn't personally show me. He just said he fired it
5 from his lap area without aiming.

6 Q Did he state he pulled the trigger?

7 A He did.

8 Q All right. What did he say happened after he pulled
9 the trigger?

10 A He said that Mr. Springs stumbled back towards the
11 other side of the van door, which we called the apex which
12 is back towards around the -- where he would go to get
13 into the driver seat. He threw the cartridge casing into
14 a burn pile or a fire pit type area and put the gun
15 inside.

16 Q All right. Did he ever mention to you having
17 interaction with a man name George Watson?

18 A I believe that was his neighbor.

19 Q But did Mr. Scott tell you in that conversation that
20 he had at any point in this -- during this had any
21 interaction with Mr. Watson?

22 A No.

23 Q What did -- after he through the shell casing in the
24 burn pile, what did he say he did next?

25 A Put the gun inside. I believe he called his wife ---

1 Q All right.

2 A --- or went -- he went to a friend's house where he
3 called his wife from a friend's house.

4 Q All right. Did he get in a car and drive or did he
5 walk to a friend's house?

6 A We didn't get into that specifics. It's behind his
7 house, so I don't think he had to drive.

8 Q So you know where the friend's house is?

9 A No, it was -- no, I don't.

10 Q Okay. So he had returned before you got there?

11 A Correct.

12 Q Okay. Going back to before the shot, did he tell you
13 that Mr. Springs threatened him?

14 A Not verbally.

15 Q You mean ---

16 A Mr. Scott did not say that he was verbally
17 threatened. He informed me that he felt threatened
18 because there Mr. Springs was walking towards him.

19 Q All right. But he didn't tell you that Mr. Springs
20 made any verbal threat?

21 A Correct.

22 Q Okay. When you were talking to Mr. Scott that
23 night, did you have any inclination that he might have
24 been drinking some?

25 A A little bit. He admitted he had been drinking and

1 you could smell a little bit of alcohol on his breathe.

2 Q Did he seem to have his whits about him then?

3 A He did.

4 Q Did you have any trouble talking to him?

5 A No.

6 Q Was he making -- answering your questions
7 appropriately as you asked them?

8 A He was.

9 Q Okay. After you spoke to Mr. Scott and you heard his
10 story, did you look on the ground for any signs of this
11 struggle like Mr. Scott had talked about?

12 A I did.

13 Q What did you observe on the ground?

14 A I mean, there was no torn turf, no drag marks, no
15 scuff marks. There was a couple -- I don't want to call
16 them weapons. I think there was a pocket knife laying
17 there and a screwdriver. There were tools laying there.
18 I don't have a specific recollection what they were, but
19 there was no signs of a struggle.

20 Q All right. There was no signs of someone that run or
21 been dragged or fallen in that area?

22 A Correct.

23 Q Okay. Did you do anything to secure the scene that
24 day?

25 A Put up crime scene tape.

1 Q And why did you put up crime scene tape?

2 A It gives us a way of where to focus. It keeps people
3 out of the crime scene to prevent contamination.

4 Q All right. And when you say crime scene tape, you
5 mean like the stuff I've seen on TV the yellow tape?

6 A Yes.

7 Q Okay. Now, once you get that tape up, how do you
8 keep -- how do you regulate who goes in and out of a crime
9 scene at that point?

10 A Two ways. We have other deputies on scene outside
11 the crime tape who prevent people that don't need to be
12 inside from coming inside, but we also maintain what we
13 call a crime scene log, which annotates everybody that
14 comes in the crime scene tape.

15 Q So it's like, you know, getting on a -- it's like
16 taking roll on the way. You just write down every one's
17 name when they come into a crime scene?

18 A We write down their name, their agency, their reason
19 for coming in and then they sign it.

20 Q All right. Did you take a crime scene log in this
21 case?

22 A Yes, sir.

23 MR. OZMENT: Your Honor, may I approach?

24 THE COURT: Yes, sir.

25

1 BY MR. OZMENT:

2 Q Deputy Gifford, I'm going to hand you what's been
3 marked as State's Exhibit 1. Can you identify that for
4 me?

5 A That is the sheet we use for our crime scene entry
6 log.

7 Q All right. And is this the crime scene log from this
8 particular case?

9 A It is.

10 Q Do you see your name on it?

11 A I do.

12 Q All right. And is that the log that you kept?

13 A Yes, sir.

14 MR. OZMENT: Your Honor, at this point the State
15 would move State's Exhibit 1 into evidence.

16 THE COURT: Any objection?

17 MR. GROVE: No, Your Honor.

18 THE COURT: All right. One is in.

19 (WHEREUPON, State's Exhibit No. 1 was admitted
20 into evidence.)

21 MR. OZMENT: No further questions at this time,
22 Your Honor.

23 THE COURT: Okay. Cross-examination.

24 MR. GROVE: Thank you, Your Honor.

25 CROSS-EXAMINATION

1 BY MR. GROVE:
2 Q Good morning, deputy.
3 A Good morning.
4 Q So you were the second officer on scene, is that
5 right accurate?
6 A Yes, sir.
7 Q And you spoke with Sunny after you got on scene
8 Mr. Scott?
9 A Yes, sir.
10 Q Did you Mirandize him?
11 A I did.
12 Q All right. And then you recorded a statement of his?
13 A Yes, sir, not audio, not by videotape just with
14 notes.
15 Q Do you have a device that could record a statement?
16 A I do.
17 Q But you choose not to do that?
18 A Well, my car was outside the crime scene and he was
19 inside, so I didn't want to take him out.
20 Q Sure. Did you have him write a statement?
21 A I did not.
22 Q But you could have?
23 A He was in cuffs, so he wasn't able to write.
24 Q You could have taken him out of cuffs though,
25 couldn't you?

1 A Not at that juncture.

2 Q Not to write a statement during the course of an
3 investigation?

4 A Well, my area of investigations just to get a generic
5 scenario of what happened to determine if somebody needs
6 to be further investigated, so that's not something I
7 would typically do.

8 Q Did you write down everything he said word for word?

9 A No.

10 Q So you're paraphrasing?

11 A Some things, yes.

12 Q You say that Sunny smelled a little bit like alcohol,
13 but didn't seem to be drunk?

14 A Correct.

15 Q And I think that he told you that he had had a couple
16 of beers afterwards, after the shooting occurred, correct?

17 A He told me he had one before the shooting and three
18 to four afterwards.

19 Q Right. So most of the alcohol he's telling you he
20 consumed was after the fact?

21 A Correct.

22 Q Earlier Mr. Ozment was asking you questions about
23 what else you saw around the scene and he's asking you
24 about whether or not you saw signs of a struggle. What
25 was the ground like?

1 A There was some gravel. There was some concrete.

2 There was some grass and dirt.

3 Q Woodchips?

4 A If he had bushes possibly, but I don't recall any
5 woodchips being where we were walking.

6 Q You done any training on how to identify signs of a
7 struggle in gravel or concrete or woodchips?

8 A Not through the academy.

9 Q Okay. So really you don't know whether or not there
10 had been a struggle is what you're telling me?

11 A I didn't see signs of a struggle.

12 Q What would a sign of a struggle have been?

13 A Drag marks, shoe footprints where it looks like they
14 had turned. Those would be two instances.

15 Q Did you take any pictures of the scene?

16 A I did not. We had crime scene for that.

17 Q Did you walk around the scene?

18 A Yes, sir.

19 Q You made footprints on the scene?

20 A Yes.

21 Q So if there are pictures, we'll see footprints of
22 yours there?

23 A Possibly if I stepped in dirt.

24 Q Is it possible to step somewhere and not make a
25 footprint?

1 A On concrete.

2 Q Mr. Ozment was also asking you questions about other
3 things you saw at the scene and you said you saw a
4 screwdriver and a knife, but you wouldn't call those
5 weapons. You wouldn't call a knife a weapon?

6 A Not if you using it to cut an apple, it's not a
7 weapon.

8 Q Any apples on the scene?

9 A No.

10 Q Was there anything that looked like it needed
11 tightening any screws loose on the scene?

12 A I didn't check for that.

13 Q The lights on the van were they on or off?

14 A I don't recall.

15 Q But the door was open?

16 A The door was open and the van was not running.

17 Q Keys in the ignition?

18 A Did not check for that.

19 Q This knife where was it?

20 A I don't recall specifically. I didn't take any
21 pictures of it. I just remember seeing two to three, four
22 items laying next to the door which I -- if I remember
23 correctly was a screwdriver and a knife.

24 Q Okay. Did you have an opportunity to inventory the
25 van or was that somebody else's job?

1 A That was crime scene in this particular instance.

2 Q Right. As you testified to earlier, your job was to
3 essentially secure the scene and get initial ideas as to
4 what happened, right?

5 A Yes, sir.

6 Q Okay. Is it to say the gist of Mr. Scott's statement
7 to you is he been hunting. He came home. Steve Springs
8 approached him. He felt threatened and he shot him?

9 A Yes.

10 Q There's obviously details in there, but that's the
11 meat and potatoes of it would you say that?

12 A Yes.

13 Q And you say when you got on scene that Investigator
14 Rhodes had already been there?

15 A Yes.

16 Q Do you know for how long?

17 A I don't.

18 Q And you don't remember exactly what time this was,
19 but it was in the evening?

20 A It was evening.

21 Q Right. I'm not going to hold you to a specific time,
22 but it was after dinner. It was dark outside?

23 A Correct.

24 Q And you didn't get into specifics with Sunny about
25 how long Steve had been on the scene before the shooting

1 occurred?

2 A I did not.

3 Q And you didn't get into specifics with him did you
4 about how Steve was coming at him, right?

5 A I did not.

6 Q He remarked that Steve was coming at me and I shot
7 him, correct?

8 A Correct.

9 Q Have you got a copy of your report with you?

10 A I do.

11 MR. GROVE: Beg the Court's indulgence.

12 (WHEREUPON, a pause in the proceedings.)

13 BY MR. GROVE:

14 Q You say that when you're testifying on direct
15 answering Mr. Ozment's questions that Steve Springs
16 stumbled back after he was shot?

17 A Yes, sir.

18 Q That that was a remark Mr. Scott made to you. Did he
19 describe a stumble?

20 A No.

21 Q Did he say if it kept his feet?

22 A No.

23 Q Did he fall or crawl?

24 A We didn't get into those specifics.

25 Q Okay.

- 1 A The only specifics we talked about is that Mr. Scott
2 said he shot Mr. Springs while he was in the front of the
3 open driver door, but when I was on scene, Mr. Springs was
4 behind the driver door leaned up against the van.
- 5 Q How long have you been a deputy?
- 6 A Three and a half years.
- 7 Q And how long did you spend at the academy?
- 8 A Nine weeks.
- 9 Q And that was before you -- they put you out on your
10 own as they say?
- 11 A Correct.
- 12 Q And did you have any law enforcement training before
13 you went to the academy?
- 14 A I was the security officer at McLeod for a year and a
15 half.
- 16 Q But you hadn't had any formal training as far as
17 investigations are concerned?
- 18 A Correct.
- 19 Q You learned a lot at the academy?
- 20 A Correct?
- 21 Q They probably taught you firearm usage, right?
- 22 A Correct.
- 23 Q Did they teach you how to drive a car?
- 24 A Yes.
- 25 Q There was special training about all that stuff,

1 right?

2 A Correct.

3 Q They taught you about what your roles are when you're
4 the first one to respond to the scene, right?

5 A Correct.

6 Q They taught you about taking notes, right?

7 A Correct.

8 Q They taught you about making a reports, right?

9 A Correct.

10 Q They taught you to leave details out of your reports,
11 right?

12 A No.

13 Q They taught you if there's a detail worth noting to
14 put in there, didn't they?

15 A Correct.

16 Q To be thorough?

17 A Correct.

18 Q Take your time because I could certainly be missing
19 it, but can you tell me where in your report it says that
20 Steve Springs stumbled after he was shot?

21 A I didn't put that word in there.

22 Q You left that detail out?

23 A Correct.

24 Q But my client told you that?

25 A To the best of my recollection, yes.

1 Q Is it possible that somebody else said that and you
2 remember now that you heard it from my guy, but you may
3 have gotten it from somewhere else?

4 A Possible.

5 Q After you created the crime scene log that you've
6 already seen from Mr. Ozment, what did you do after that?

7 A Stayed on scene just to help secure the scene until I
8 was told to leave.

9 Q Okay. But essentially it was monitoring who came and
10 who went, right?

11 A Correct.

12 Q And getting a generic idea as to what happened so
13 that you could report that to other people who responded,
14 correct?

15 A Correct.

16 Q And then maintained security at the scene?

17 A Correct.

18 MR. GROVE: No further questions at this time.

19 THE COURT: Redirect?

20 MR. OZMENT: None, Your Honor.

21 THE COURT: Thank you, sir. You can step down.

22 MR. OZMENT: Your Honor, we ask that Deputy
23 Gifford be relieved from his subpoena.

24 MR. GROVE: No objection, Your Honor.

25 THE COURT: You can leave or stay whichever you

1 like.

2 (WHEREUPON, the witness leaves the witness
3 stand.)

4 THE COURT: Everybody on the jury, okay.
5 All right, next witness.

6 MR. OZMENT: Your Honor, the State would call
7 Sara Johnson to the stand.

8 THE COURT: If there's anybody on the jury -- is
9 anybody on the jury taking notes? Is there anybody want
10 to take notes? If we do have one, is that a note pad that
11 you brought with you, sir?

12 JUROR: Yeah.

13 THE COURT: That's certainly fine. But if you
14 do take notes, just make sure you continue to pay
15 attention. Anybody else who does want to take notes, some
16 are better note takers than others. You would like a note
17 pad. Can you get that for her? Two note pads. Your note
18 pad when you break for lunch for the day, it will stay
19 here. It'll be locked up. Nobody is going to read it.
20 But the note pad will stay here just so the note taking
21 will take place completely in the courtroom. All right.
22 Just wait a second for the note pads. Just write your
23 name on the top of it. Anybody need a pencil?

24 (WHEREUPON, a pause in the proceedings.)

25 THE COURT: Next witness you said Sara Johnson?

1 MR. OZMENT: Yes, Your Honor.

2 THE CLERK: Place your left hand on the Bible
3 and raise your right. Do you swear to tell the truth, the
4 whole truth, and nothing but the truth so help you God?

5 THE WITNESS: I do.

6 THE CLERK: Please be seated and state your full
7 name for the record.

8 THE WITNESS: Sara Johnson.

9 WHEREUPON,

10 Sara Johnson,
11 after first having been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. OZMENT:

14 Q How are you today, Ms. Johnson?

15 A I'm well. Thank you.

16 Q What do you do for a living?

17 A I am a patrol deputy with the Richland County
18 Sheriff's Department.

19 Q And before you were with Richland County, where were
20 you?

21 A Florence County Sheriff's Department.

22 Q What did you do for the Florence County Sheriff's
23 Department?

24 A Crime scene investigation.

25 Q All right. What sort of things does a crime scene

1 investigator do?

2 A They respond to the scene, collect evidence, process
3 anything that may be there collected for the case.

4 Q Okay. Take photographs?

5 A Yes.

6 Q And back on -- in September of 2012, were you working
7 with crime scene at that time?

8 A Yes.

9 Q And on September 24th of 2012, did you go to an
10 address on Sharon Road in Florence County?

11 A Yes.

12 Q All right. Do you remember the nature of that call?

13 A It was a deceased -- when I got notified, it was a
14 deceased person at the call.

15 Q Okay. Do you recall about what time you got on scene
16 that night?

17 A Approximately 9:40 p.m.

18 Q All right. When you got on scene and I don't expect
19 for you to remember every part of it, but how many people
20 were already there?

21 A I would say about probably ten or so.

22 Q All right. When you got on scene what's the first
23 thing that you did?

24 A I met with the first responding deputy and the
25 investigator to kind of get a run down of what all had

1 happened so far.

2 Q All right. And they just talked to you and told you
3 kind of what was going on?

4 A Correct.

5 Q All right. When you got there, was the crime scene
6 taped off with crime scene tape?

7 A Yes.

8 Q All right. Was there already a crime scene log being
9 kept?

10 A Yes.

11 Q All right. What did you do next?

12 A After speaking with them, I approached the tape and
13 started taking the photographs of the area surrounding the
14 residence. And before I start collecting things, I take
15 photographs and put little tents down so that you can
16 document exactly where everything was, so I started taking
17 the photographs.

18 Q All right.

19 MR. OZMENT: May I approach, Your Honor?

20 THE COURT: Yes, sir.

21 BY MR. OZMENT:

22 Q Okay. Deputy Johnson, I'm going to show you State's
23 Exhibits 2 through 8. You don't have to go through and
24 tell me what's on each one, but just go through those and
25 tell me if you took those photographs?

1 A Yes.

2 Q Are those photographs of the scene that night?

3 A Yes.

4 Q Did you take them that night?

5 A Yes.

6 Q Do they accurately reflect how you remember the scene
7 looking that night?

8 A Yes.

9 MR. OZMENT: Your Honor, at this time the State
10 would move exhibits two through eight into evidence?

11 THE COURT: Okay.

12 MR. GROVE: I would ask for a moment so I can
13 identify which is which, Your Honor.

14 THE COURT: All right.

15 MR. GROVE: No objection.

16 THE COURT: Two through eight are in.

17 (WHEREUPON, State's Exhibits Nos. 2-8 were
18 admitted into evidence.)

19 BY MR. OZMENT:

20 Q I'll get back to those photos in just a minute.
21 After you took the initial photographs of everything on
22 the scene, what did you do next?

23 A We examine the decedent's body.

24 Q All right. Where did you find the deceased person?

25 A In -- there was a van and the door was open. And he

1 was sitting like in the open door frame of the van leaning
2 up on the floorboard of the van.

3 MR. OZMENT: Your Honor, may I approach?

4 THE COURT: Yes, sir.

5 BY MR. OZMENT:

6 Q Okay. Deputy Johnson, I'm going to get you to look
7 at what's already in evidence as State's Exhibit 2. Is
8 that how you found Mr. Springs when you arrived on scene?

9 A Yes.

10 Q And when you say the van, you're talking about that
11 white van right there?

12 A That is correct.

13 MR. OZMENT: Your Honor, permission to publish
14 this photograph to the jury?

15 THE COURT: You just want to pass it through?

16 MR. OZMENT: Yes, Your Honor.

17 THE COURT: As the exhibit is being passed
18 through the jury box, ladies and gentlemen, please make
19 sure that you do continue to pay attention to the
20 testimony.

21 BY MR. OZMENT:

22 Q When you say you examined him, what did you do?

23 A We first looked at his backside where he was sitting
24 to see if there's any injuries or anything that would kind
25 of give us an idea of what happened. And then when we

1 finished that, we laid him flat and examined him for all
2 the injuries that he may have.

3 Q All right. What injuries did you -- well, I guess on
4 your initial overview, did you see anything?

5 A No, not initially, but when we laid him out flat, we
6 did observe some injury.

7 Q When you say laid out flat, how did you lay him?

8 A On his back.

9 Q Okay. And then what did you observe?

10 A A small hole in his shirt beneath the breast in his
11 upper torso. And when we removed the shirt, saw a small
12 wound with flesh protruding from it.

13 Q All right. And when you say small give me an idea?

14 A Probably no bigger than a dime.

15 Q Okay. Did you see any sort of exit wound anything
16 like that?

17 A No.

18 Q Okay. And at this point did he -- was he breathing
19 or had a pulse or anything when you were looking at him?

20 A No.

21 Q All right. Did he appear to be deceased to your
22 knowledge?

23 A Yeah.

24 Q How long did you examine Mr. Springs about at that
25 point?

1 A Roughly about 20 minutes I would imagine.

2 Q Okay. After you examined Mr. Springs, what did you
3 do next?

4 A I collected the evidence that was outside the
5 residence and that we already marked. And then we went to
6 -- Deputy Gifford and I went to the burn pile to look for
7 the shell casing.

8 Q All right. When you say you collected evidence that
9 was outside the residence, what evidence were you -- and
10 you say you already marked it. I guess, explain to me
11 what you found and what you marked?

12 A A silver lock-back hinge knife, and a red and black
13 screwdriver and a pair of -- I guess their covers for the
14 scope for a riffle.

15 Q Okay. And when you say you marked them, how did you
16 mark these things?

17 A With the little yellow tint markers that we could
18 identify them in the photographs.

19 Q All right. And then did you take photographs of
20 those markers so you could of -- so in the photographs, I
21 would see a layout where everything is?

22 A Correct.

23 MR. OZMENT: Your Honor, may I approach?

24 THE COURT: Yes, sir.

25

1 BY MR. OZMENT:

2 Q Okay. So I'm showing you State's Exhibit 5 that is a
3 photograph of a screwdriver it appears. Is this yellow
4 thing the tint marker you were talking about?

5 A Yes.

6 Q All right. And State's Exhibit 6 I see another tint
7 marker there?

8 A Correct.

9 Q And so then in say State's Exhibit 4 I see the tint
10 markers on the ground. Do those mark where those items
11 were?

12 A Yes.

13 Q All right. Now, obviously it's in the pictures or
14 two of those tint markers screwdriver and silver knife; is
15 that correct?

16 A Right.

17 Q Were those collected at the scene that night?

18 A Correct.

19 Q And what did you do with those?

20 A I placed them in evidence bags and transported them
21 to the evidence room when the scene was completely done.

22 Q All right. And what is the evidence room do?

23 A It's securely holds all of our evidence for the case
24 behind locked doors, so that there's a chain of custody.

25 Q All right. And then on the knife and the

1 screwdriver, did you eventually do any further
2 investigation of those two items?

3 A Correct. I swabbed them for possible touch DNA.

4 Q What is -- what do you mean when you say swab them
5 for possible touch DNA?

6 A I used a cotton swab and you put water on it and you
7 swab them for -- to get DNA for somebody who possibly
8 touched that particular item. And then you send it for
9 analysis.

10 Q All right. And you did that to the screwdriver and
11 the knife?

12 A Correct.

13 MR. OZMENT: Your Honor, may I approach?

14 THE COURT: Yes, sir.

15 BY MR. OZMENT:

16 Q All right. Deputy Johnson, I'm going to hand you
17 what's been marked as State's Exhibit 14 and 15. Those
18 bags are sealed but would you mind unsealing them looking
19 in it and telling me if you recognize those items?

20 A Number 14, yes, this is a screwdriver.

21 Q Is that the screwdriver you found at the scene that
22 night?

23 A That's correct.

24 MR. OZMENT: Your Honor, at this time the State
25 would move exhibit 14 into evidence.

1 THE COURT: Any objection?

2 MR. GROVE: No, Your Honor. Thank you.

3 THE COURT: Fourteen is in.

4 (WHEREUPON, State's Exhibit No. 14 was admitted
5 into evidence.)

6 A Number 15 is the lock-back knife.

7 Q Is that lock-back knife that you found at the scene
8 that night?

9 A That's correct.

10 MR. OZMENT: Your Honor, at this time the State
11 would move exhibit 15 into evidence.

12 MR. GROVE: No objection, Judge. Thank you.

13 THE COURT: All right, that's in too.

14 (WHEREUPON, State's Exhibit No. 15 was admitted
15 into evidence.)

16 BY MR. OZMENT:

17 Q So those are the two items you swabbed for touch DNA?

18 A That's correct.

19 Q And to your knowledge, they got sent off for analysis
20 the swabs did?

21 A That I do not know. Well, I was informed they had
22 not yet.

23 Q All right. But you swabbed -- what did you do with
24 the swabs after you swabbed them?

25 A I placed them in the evidence room with the rest of

1 the evidence.

2 Q All right. Going back to where we were, you said you
3 then went and searched a burn pile; is that correct?

4 A That's correct.

5 Q Describe to me what this burn pile was?

6 A It was an area off in the side of the yard where look
7 like they had several fires like maybe bond fires or yard
8 fires, so that was their burn pile.

9 Q Okay. What were you looking for in the burn pile?

10 A We were looking for the shell casing from the riffle.

11 Q How long did you search the burn pile?

12 A I would say probably about 15 minutes or so with
13 flashlights, it was rather dark.

14 Q How many people were searching with you?

15 A Two others.

16 Q Okay. And, I guess, how big was this burn pile?

17 A Probably about roughly 10 feet around.

18 Q Okay. And in the 15 minutes the three of you
19 searched through this burn pile. Were you able to find
20 the shell casing?

21 A No.

22 Q Okay. After you searched the burn pile, what did you
23 do next?

24 A I entered the residence through the porch to try to
25 locate the riffle.

1 Q All right. Why did you -- how did you know to look
2 at the residence with a riffle?

3 A The deputy on scene had stated that witnesses had
4 told him the riffle was in the house.

5 Q Okay. Did you find the riffle where you expected to
6 find it?

7 A Yes.

8 Q All right. Describe what -- do you recall what type
9 of riffle it was or anything like that?

10 A It was a 30 ought 6 a Remmington model.

11 MR. OZMENT: Your Honor, may I approach?

12 THE COURT: Yes, sir.

13 All right. Is there somebody who can confirm
14 that it's unloaded?

15 MR. OZMENT: I think the breach...

16 THE COURT: All right. Ladies and gentlemen,
17 the firearm is going to be handled. It will be confirmed
18 to you that it's not loaded and not capable of being
19 fired. And at all times, it will be pointed down at the
20 floor.

21 MR. OZMENT: It's zipped tied.

22 THE COURT: All right. Hold it either straight
23 up in the air or down at the floor even if it's in the
24 box. The witness can step down if she's in a better
25 position to take a look at it that way.

1 MR. OZMENT: I'll get the court reporter to mark
2 it.

3 BY MR. OZMENT:

4 Q And I'll hold this for you, Deputy Johnson. Do you
5 recognize that?

6 A Yes.

7 Q What is that?

8 A That's the Remington 30 ought 6 riffle.

9 MR. OZMENT: Your Honor, at this point we would
10 move State's Exhibit 16 into evidence.

11 MR. GROVE: No objection, Judge.

12 THE COURT: It's in. You can leave it propped
13 up.

14 (WHEREUPON, State's Exhibit No. 16 was admitted
15 into evidence.)

16 BY MR. OZMENT:

17 Q Okay. After you recovered the gun, what did you do
18 next?

19 A I notice several other firearms in the residence and
20 I had been advised by ---

21 Q Let me interrupt you. And, I guess, after you dealt
22 with other firearms, what did you do after you dealt with
23 the firearms?

24 A I collected all the evidence and placed them in my
25 vehicle for transport.

1 Q Okay. At any point did you take any measurements of
2 the scene or anything like that?

3 A Yes.

4 Q What sort of measurements did you take?

5 A We took measurements from the porch where the suspect
6 had allegedly been sitting to the van, measurements from
7 that porch to from where the decedent was. And for the --
8 where those lock-back knife and the screwdriver wherein
9 reference to where everybody was.

10 Q Okay. Did you use those measurements to make a
11 diagram?

12 A Yes.

13 Q All right.

14 MR. OZMENT: Your Honor, may I approach?

15 THE COURT: Yes.

16 BY MR. OZMENT:

17 Q Deputy Johnson, I'm going to show you what's been
18 marked as State's Exhibit 13. Do you recognize that?

19 A Yes.

20 Q What is this?

21 A That is the rendering or drawing of the measurements
22 in the crime scene.

23 Q And is it the one you created?

24 A Correct.

25 Q All right.

1 MR. OZMENT: Your Honor, may I have the witness
2 excuse me -- first, Your Honor, may I move State's Exhibit
3 13 into evidence.

4 MR. GROVE: Just one moment, Your Honor.

5 (WHEREUPON, a pause in the proceedings.)

6 MR. OZMENT: No objection.

7 THE COURT: Okay, thirteen is in.

8 (WHEREUPON, State's Exhibit No. 13 was admitted
9 into evidence.)

10 MR. OZMENT: Your Honor, may I have the witness
11 step down and also permission to publish 13 to the jury.

12 THE COURT: All right, just make sure you keep
13 your voice way up for the court reporter and the jury.

14 BY MR. OZMENT:

15 Q Okay. All right. Corporal Johnson, maybe easier to
16 give you the pointer rather than me. Looking at State's
17 Exhibit 13, I guess, first some things are already labeled
18 on here but where -- tell me where the house was, road was
19 and cars were what we're looking at here?

20 A Right this Sharon Road and this is the residence.
21 This is like a small office off of the residence and small
22 porch and that's a small porch as well. And that X is a
23 -- that's a chain link fence that's around the front yard.
24 These are vehicles that were in the driveway area.

25 Q Which one of those vehicles is the white van?

- 1 A This vehicle right here.
- 2 Q All right. And I see an arrow on that what does that
3 arrow indicate?
- 4 A That indicates the front of the van is pointing
5 towards the house.
- 6 Q All right. Now, I see those some measurements on
7 there. I guess, how far is the van from the house?
- 8 A From the porch?
- 9 Q I guess, tell me what you measure it from?
- 10 A We measure it from this step right here at the porch.
- 11 Q So the step on the porch?
- 12 A Uh-huh.
- 13 Q And how far was it from that step to the van?
- 14 A 14 feet ten inches to the front bumper.
- 15 Q To front bumper?
- 16 A Uh-huh.
- 17 Q And then I see another right here looks like 17
18 something. What is this measurement to?
- 19 A That's the measurement to the door where the decedent
20 was.
- 21 Q All right. So would the decedent be on this drawing?
- 22 A He'll be right here.
- 23 Q All right. So, I guess, this angle that is the door?
- 24 A Correct.
- 25 Q He be inside it?

- 1 A Correct.
- 2 Q And so is that -- make sure I'm reading it right.
- 3 That's 17 foot even from the porch to the door.
- 4 A Correct.
- 5 Q Now, I see some numbers here. Can you tell me what
- 6 those numbers are?
- 7 A Those are the tint markers marked items one, two and
- 8 three. Those for the scope covers. Number two was the
- 9 lock-back knife and number one was the screwdriver.
- 10 Q All right. What's this other vehicle over here?
- 11 A That was just a vehicle that was in the yard.
- 12 Q Okay. You didn't have anything particular to
- 13 investigate involving in that vehicle?
- 14 A Correct.
- 15 Q Okay. And all these measurements are accurate use of
- 16 tape measure, ruler or something?
- 17 A A tape measurement.
- 18 Q Okay. All right. Thank you. You can retake the
- 19 witness stand. Did you do anything else at the scene that
- 20 night collect evidence for this case or anything?
- 21 A Not that I recall.
- 22 Q Okay. We talked about the white van on the drawing,
- 23 did you do anything to investigate that white van?
- 24 A After we had towed it to our impound lot, yes.
- 25 Q Okay. Explain to me when you say towed it to the

1 impound lot? What's the impound lot?

2 A It's a lot at the sheriff's department that's a
3 fenced in area. It's kept locked where we can tow
4 vehicles for evidence for safe keeping.

5 Q Okay. Is that a secure area so people can't tamper
6 with the vehicles?

7 A Correct. It's in a locked-in fence.

8 Q Okay. What did you do to investigate the van?

9 A We went and photographed it at the impound lot, just
10 kind of looked at all the tools and stuff that were in the
11 van. And there was a cell phone left in the van as well.

12 Q Okay. Do you recall if -- I don't know if you got it
13 or not, but do you recall if you had a search warrant when
14 you went into the van?

15 A I do not recall.

16 MR. OZMENT: Beg the Court's indulgence.

17 (WHEREUPON, a pause in the proceedings.)

18 MR. OZMENT: May I approach, Your Honor?

19 THE COURT: Yes, sir.

20 MR. OZMENT: I'm going to have this marked for
21 identification purposes.

22 (WHEREUPON, State's Exhibit No. 17 was marked
23 for identification only.)

24 BY MR. OZMENT:

25 Q Do you recognize what that document is?

1 A It is a search warrant.

2 Q And looking on the -- I guess, first can you tell
3 what the search warrant states the property to be searched
4 is?

5 A It is property located at our impound yard.

6 Q All right. And turn to the last page of what I just
7 handed you. Do you see your signature anywhere on there?

8 A Correct.

9 Q And what is that last page?

10 A It is the property that was taken from the van.

11 Q All right. And would it be pursuant to that search
12 warrant?

13 A Correct. We were looking for phones and paperwork.

14 Q Okay.

15 MR. OZMENT: Your Honor, I'm not going to move
16 that into evidence at this time just for identification.

17 THE COURT: Seventeen ID.

18 BY MR. OZMENT:

19 Q Did you go into the van and look around?

20 A Correct.

21 Q All right. And looking in the van, did you
22 eventually find any screwdrivers?

23 A Correct. We found a set of screwdrivers in a case.

24 Q Okay. Did any of those screwdrivers match the
25 screwdriver that's in evidence?

1 A No, they did not.

2 MR. OZMENT: May I approach, Your Honor?

3 THE COURT: Yes, sir.

4 BY MR. OZMENT:

5 Q State's Exhibit 14 this is the screwdriver you found
6 that night, right?

7 A Correct.

8 Q Okay. So none of them were this type of screwdriver
9 as in make, model, color that kind of stuff that you found
10 in the van?

11 A Correct.

12 Q Did the set appear to be missing any screwdrivers out
13 of the set?

14 A No.

15 Q Did you take photographs of that set of screwdrivers?

16 A I do not recall.

17 MR. OZMENT: Your Honor, may I approach?

18 THE COURT: Yes.

19 BY MR. OZMENT:

20 Q Deputy Johnson, I'm going to hand you what's been
21 marked as State's Exhibits nine, ten, 11, and 12. Tell me
22 if you recognize what's in those photographs?

23 A I do.

24 Q What is that?

25 A These are photographs of the interior of the van.

1 Q Okay. Was that how the van looked that day?

2 A That's correct.

3 Q Do you remember if you took those or if you were
4 present when those were taken?

5 A I did take them.

6 Q Okay.

7 MR. OZMENT: Your Honor, we would at this time
8 move State's Exhibits 9 through 12 into evidence.

9 MR. GROVE: I only ask that I be able to make
10 notes to which is which.

11 THE COURT: Okay.

12 (WHEREUPON, a pause in the proceedings.)

13 THE COURT: Any objection to nine through 12?

14 MR. GROVE: No, Your Honor. Thank you.

15 THE COURT: Those are in.

16 (WHEREUPON, State's Exhibits Nos. 9-12 were
17 admitted into evidence.)

18 BY MR. OZMENT:

19 Q There's obviously a set of screwdrivers represented
20 in some of these photographs, which is the same set. Were
21 these the screwdrivers you were talking about you found in
22 the van?

23 A Correct.

24 Q And were there any other sets of screwdrivers in the
25 van?

1 A No.

2 Q Okay. So the scene that night taking these pictures,
3 going through the van and then you also recovered the cell
4 phone from the van; is that correct?

5 A Correct.

6 Q Okay. And then DNA swabs from the knife and the
7 screwdriver. Did you have anything else in this case that
8 you -- any other duties you performed?

9 A I did not.

10 MR. OZMENT: No further questions at this time,
11 Your Honor.

12 THE COURT: Mr. Grove.

13 MR. GROVE: Thank you, Judge.

14 CROSS-EXAMINATION

15 BY MR. GROVE:

16 Q Good morning, Corporal, how are you?

17 A I'm well. Thank you.

18 Q You took all these photos the night of and then the
19 next day; is that right? Was it the following day that
20 you went to the impound lot?

21 A It was on September 25th so, yes.

22 Q And you testified earlier that while you were on
23 scene you measured things from different angles and we saw
24 a representation of that; is that right?

25 A Correct.

1 Q And you draw that representation?

2 A Correct.

3 MR. GROVE: May I approach, Your Honor?

4 THE COURT: Yes, sir.

5 BY MR. GROVE:

6 Q Okay. I'm just gone set these aside for you. I'm
7 going to ask you about these pictures specifically, so I
8 want you to be able to refer to them easily. Is that all
9 right?

10 A Yes.

11 Q If you would take a look for me at what is marked as
12 State's 4 I believe that is a close up of Mr. Springs
13 laying in the apex of a van and there are a couple of --
14 did you call them tint markers?

15 A Correct.

16 Q I guess cause they're shape like little tents?

17 A Yeah.

18 Q What are those marker numbers?

19 A One and two.

20 Q And what do those marker numbers denote?

21 A Number one is the screwdriver where it was lying on
22 the scene and number was the knife.

23 Q And feel free to refer back to your sketch if you
24 need to. The screwdriver is number one; is that correct?

25 A Correct.

1 Q How far away is the screwdriver?

2 A The screwdriver is approximately seven feet four
3 inches from the van.

4 Q And Mr. Springs is touching the van?

5 A Correct.

6 Q So it's also seven feet four inches away from
7 Mr. Springs?

8 A Correct.

9 Q And how far away is the knife?

10 A The knife was -- is right under his leg pretty much.

11 Q Zero feet away is that safe -- less than ---

12 A Less than a foot away from where Mr. Springs is
13 resting.

14 Q Sure. Take a look for me if you would at five and
15 six. Those should be close ups of both of those two
16 things.

17 A Okay.

18 Q Specifically exhibit five what do you see there?

19 A A red and black screwdriver and the tent marker
20 number one and a ruler.

21 Q Why is the ruler there?

22 A It gives a scale to the item, so it doesn't appear
23 bigger than it actually is. It gives it scale in the
24 photographs.

25 Q What's the ground like there?

1 A Appears to be woodchips, mulch.

2 Q How far away was that from the victim?

3 A Seven feet four inches.

4 Q And remind me again, you said it earlier. I just
5 don't remember. How far was the van from -- I guess,
6 we're referring to it as the stoop?

7 A It was 14 feet. The bumper of the van was 14 feet.

8 Q Okay. Do you have any idea as to how long everybody
9 else had been by the time you got?

10 A I do not. I received the call at 9:13 p.m. and I
11 arrived on scene approximately 9:40 p.m.

12 Q Okay. Did you get the impression they had been there
13 for a while?

14 A Correct.

15 Q There were several people there?

16 A Correct.

17 Q Maybe a lot of people there?

18 A Correct.

19 Q They had already secured the scene?

20 A Correct.

21 Q At what point did you bag and tag the knife and the
22 screwdriver?

23 A I believe it was before I went inside.

24 Q And you just locked them in a -- zipped them up and
25 taped them inside of a bag like that?

1 A Correct.

2 Q Maybe that exact bag?

3 A That exact bag, yes. I sealed it, put my initials
4 and date on it.

5 Q Sure. And then was it later that night or the next
6 day you said you swabbed for touch DNA?

7 A It was on September 26th.

8 Q So two days later?

9 A Correct.

10 Q Did you fingerprint either of those things?

11 A I did not.

12 Q Why not?

13 A We just swabbed them for touch DNA. It was requested
14 by the investigator.

15 Q Okay. And you were briefly describing that process
16 you basically wet a Q-tip and whipped it?

17 A Over the surfaces.

18 Q And then you bag that up and seal it?

19 A Right. You put it in a box and seal it up and then
20 turn it into the evidence room.

21 Q And then that later on is used to determine whether
22 or not there was DNA on something?

23 A Correct.

24 Q What parts of anything did you swab? Did you make
25 notes of that?

- 1 A I did.
- 2 Q Can you tell me about what you swabbed?
- 3 A I swabbed the handle of the lock-back knife and the
- 4 handle of the screwdriver.
- 5 Q Anything else?
- 6 A No.
- 7 Q Didn't swab the blade?
- 8 A No.
- 9 Q Didn't swab the shaft of the screwdriver, I guess?
- 10 A Not that I recall.
- 11 Q And then you bagged up these Q-tips and sealed them
- 12 in an envelope, right?
- 13 A Correct.
- 14 Q And then what did you do?
- 15 A I placed them in the evidence room.
- 16 Q And what happened to them then?
- 17 A They remained in the evidence room as far as I know.
- 18 Q Okay. You never did anything else with them?
- 19 A Correct.
- 20 Q When did you start working for Richland County?
- 21 A November of last year.
- 22 Q Okay. You said you searched the burn pile and you
- 23 were looking for a shell casing?
- 24 A Correct.
- 25 Q Why were you looking for a shell casing there?

1 A The responding deputy had advised me after speaking
2 with witnesses and I guess the subject that that's where
3 the shell casing was tossed.

4 Q You all were told that's where it is?

5 A Correct.

6 Q And you went and you looked and couldn't find it; is
7 that right?

8 A Correct.

9 Q But it was dark?

10 A Correct.

11 Q Describe that place it sounded like it was a little
12 bit scattered in there?

13 A Correct.

14 Q Maybe a little overgrown?

15 A Correct.

16 Q And people had been burning things. There's probably
17 old embers in there stuff like that?

18 A Correct.

19 Q Probably some trash?

20 A That's possible.

21 Q Are you surprised that you weren't able to find it?

22 A No.

23 Q Did you stay out all night looking for it?

24 A No.

25 Q And you went and secured the riffle from the inside

1 of the home; correct?

2 A Correct.

3 Q Because you were told that's where it is?

4 A Correct.

5 Q There wasn't any debate as to which one it was or
6 where you would find it, right?

7 A Correct.

8 Q And they told you go in there and it's right in there
9 and that's where it was, right?

10 A Correct.

11 Q You had no trouble at all going to secure that;
12 correct?

13 A Correct.

14 Q On the 25th the day after, did you head down to
15 Charleston?

16 A Correct in the morning.

17 Q Why did you go down to Charleston?

18 A For the autopsy of Mr. Springs to collect any
19 evidence that was retrieved from the autopsy and bring it
20 back to Florence County.

21 Q Okay. Did you retrieve any evidence?

22 A I retrieved his clothing, autopsy photographs and a
23 bullet that was retrieved from Mr. Springs.

24 Q Is that all you retrieved?

25 A They had fingernail clippings, just evidence

1 scrapings and evidence that they collected at the autopsy.

2 Q They even went through the trouble of taking
3 fingernail clippings from one hand and putting those in
4 one bag. And fingernail clippings from another hand and
5 putting them in another bag, didn't they?

6 A Correct.

7 Q What did you do with that?

8 A I brought them all to Florence County and put them in
9 the evidence room.

10 Q And then what happened?

11 A Then I do not know.

12 Q If something were to have happened to them while you
13 were employed, would it have been your job to go pick them
14 up?

15 A Correct.

16 Q So you know if they did something while you were
17 still there?

18 A Correct.

19 Q And you said you started in Richland in maybe
20 November?

21 A Uh-huh.

22 Q Which would have been a couple months later?

23 A Correct.

24 Q You had a busy day on the 25th because after you
25 drove down to Charleston and back, you came back here and

1 that's when you went to the impound lot, right?

2 A Correct.

3 Q And you took some photos that Mr. Ozment showed you
4 to remind you about what the van looked like that next
5 day, right?

6 A Correct.

7 Q And you took some photos of the inside of the van and
8 all the things that are in there?

9 A Correct.

10 Q And you took some photos I guess this is a cargo van
11 right that sound about right, a utility van?

12 A Correct. The back is empty like of seats or anything
13 like that.

14 Q There's a driver seat and a passenger seat and then
15 storage space?

16 A Correct.

17 Q And there's two folding back doors and then there's
18 two folding side doors?

19 A Correct.

20 Q Is it safe to say this thing was full of tools and
21 equipment?

22 A Correct.

23 Q This was a work van?

24 A Right. Consistent with the type of work that
25 Mr. Springs does.

1 Q Right. And there's a lot stuff in there, right?

2 A Correct.

3 MR. GROVE: May I approach, Your Honor?

4 THE COURT: Yes, sir.

5 BY MR. GROVE:

6 Q Okay. Take a look at State's Exhibit 10, 11 and 12.

7 Those are the pictures you took from inside the van,
8 right?

9 A That's correct.

10 Q And again, as we were saying before, it's full of all
11 sorts of things, right?

12 A Correct, tools.

13 Q Tools and equipment and supplies and that sort of
14 stuff?

15 A Correct.

16 Q You specifically took a photo of a bag that has some
17 screwdrivers in it; is that right?

18 A Correct.

19 Q And you were commenting to Mr. Ozment a minute ago
20 that it didn't appear like any screwdrivers were missing;
21 is that right?

22 A Correct.

23 Q How many times have you been through Steve Springs
24 screwdriver bag?

25 A That was the first time.

- 1 Q You know Steve Springs?
- 2 A I do not.
- 3 Q You ever work with him before?
- 4 A No.
- 5 Q You ever met him before?
- 6 A No.
- 7 Q You ever been an A.C. man before?
- 8 A No.
- 9 Q Okay. So if there was a screwdriver missing, you
10 wouldn't have any idea, would you?
- 11 A No.
- 12 Q And it doesn't seem like -- you said it doesn't seem
13 like that was a screwdriver that you found at the scene
14 matches any of those in that bag; is that right?
- 15 A Correct.
- 16 Q All those screwdrivers in that bag match each other?
- 17 A They do not.
- 18 Q A lot of them are just one of a kind screwdriver, so
19 as far as the rest of those in that bag are concerned,
20 right?
- 21 A Correct.
- 22 Q Some of them don't match anything else in there,
23 right?
- 24 A Correct.
- 25 Q I think there's two of them in there that match each

1 other and the rest of them are -- for our purposes unique
2 to the others?

3 A Correct.

4 Q Is that safe to say?

5 A Yeah.

6 Q So there's not a set that we're dealing with, is it?

7 A Correct. All the slots were full on the bag that's
8 why, I guess, I considered them a set.

9 Q Sure. But only two of the five or six match that you
10 can see in there match, correct?

11 A That's correct.

12 Q And again you never seen that bag before, correct?

13 A Correct.

14 Q So you're not sure if one was missing or not?

15 A Correct.

16 Q You also bagged a phone?

17 A I did not take custody of the phone.

18 Q But there was a phone?

19 A Correct.

20 Q Who's phone?

21 A I believe it belong to the decedent.

22 Q Is it fair to say you're guessing?

23 A Yeah, because I was not for sure. I did not take
24 custody of the phone.

25 Q Right.

1 MR. GROVE: Nothing further at this time.

2 THE COURT: Redirect?

3 MR. OZMENT: No redirect, Your Honor.

4 THE COURT: Thank you, ma'am. You may step
5 down. You may leave all the exhibits. You may take all
6 your other information with you.

7 (WHEREUPON, the witness leaves the witness
8 stand.)

9 THE COURT: All right. Any objection to her
10 being released?

11 MR. GROVE: No, sir.

12 MR. OZMENT: No, sir.

13 THE COURT: All right. Ladies and gentlemen,
14 we're going to take a short break at this time. We been
15 in here a little over an hour and a half. When you go to
16 the jury room, keep in mind that you may not discuss your
17 case -- this case at all. Don't discuss anything that
18 you've seen or heard and you can leave your note pad in
19 your seat. You can certainly put it face down. And we'll
20 will probably take about a ten minute break. All right.
21 Thank you.

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

23 THE COURT: Mr. Ozment, what's your plan for the
24 rest of the morning?

25 MR. OZMENT: Your Honor, I have about three more

1 witnesses. I'm going to try to get in two relatively
2 short. One will be relatively long.

3 THE COURT: Okay, let's take about ten minutes.

4 (WHEREUPON, a break was taken.)

5 THE COURT: The State ready, Mr. Ozment?

6 MR. OZMENT: Yes, sir.

7 THE COURT: Mr. Grove.

8 MR. GROVE: Yes, sir.

9 THE COURT: All right, you can bring in the
10 jury.

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

12 THE COURT: All right. We ready to continue,
13 Mr. Ozment? You can call your next witness.

14 MR. OZMENT: Your Honor, the State would call
15 Eric Barnes to the stand.

16 THE CLERK: If you will, sir, place your left
17 hand on the Bible and raise your right hand. Do you swear
18 to tell the truth, the whole truth, and nothing but the
19 truth so help you God?

20 THE WITNESS: I do.

21 THE CLERK: Please be seated and state your name
22 for the record.

23 THE WITNESS: Corporal Eric Wayne Barnes
24 Florence County Sheriff's Office forensic division.

25 WHEREUPON,

1 Eric Barnes,
2 after first having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. OZMENT:

5 Q How are you today, Corporal Barnes?

6 A Fine. How are you?

7 Q What do you do for a living?

8 A I'm a forensic investigator with the Florence County
9 Crime Scene Unit.

10 Q All right. How long have you been in that capacity?

11 A About a year.

12 Q How long have you been in law enforcement in general?

13 A About ten years.

14 Q All right. Do you have occasion to have interaction
15 with Mr. Sunny Scott or Wayne Scott?

16 A I did.

17 Q What did you do with Mr. Scott?

18 A I had a Schmerber order to get a -- to perform two
19 buccal swabs.

20 Q All right. First tell me what is a Schmerber order?

21 A A Schmerber is a order, court ourder to get a DNA
22 sample pretty much like a standard for an individual.

23 Q So gives you permission to get an DNA?

24 A Pretty much.

25 Q Okay. And then you said you took two buccal swabs.

1 What is a buccal swab?

2 A You taking a swab and you go inside the mouth on both
3 sides and collects DNA from the individual.

4 Q Okay. And is that what you did with Mr. Scott?

5 A That is correct.

6 Q All right. When did you do that?

7 A On September the 20th 2013 at 12:50 p.m.

8 Q All right. And after you took these two buccal
9 swabs, what did you do with the swabs?

10 A I put them in an envelope and then sent them --
11 package them to go to SLED.

12 Q Okay. Did you take them to SLED personally?

13 A No, evidence custodian Larry Quick did.

14 Q Okay. You didn't go to the scene that night, you
15 didn't do anything like that?

16 A Not there, no.

17 MR. OZMENT: No further questions, Your Honor.

18 THE COURT: Mr. Grove.

19 MR. GROVE: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. GROVE:

22 Q Investigator Barnes, why would you take a Buccal swab
23 of somebody?

24 A To get a standard to compare to.

25 Q Did you take a buccal swab of anybody else?

1 A No, I didn't.

2 Q Did you take a buccal swab of a fellow name Steve
3 Springs?

4 A No, I didn't.

5 Q You weren't at the scene that night?

6 A No, I wasn't.

7 Q And you didn't take the buccal swabs to SLED
8 yourself?

9 A No, I didn't. I logged them into the evidence room?

10 Q And tell me again when you said you took those buccal
11 swabs?

12 A On September 20th 2013 at 12:50 p.m.

13 Q September 20th 2013, so a couple weeks ago, a month
14 ago?

15 A Correct.

16 Q Okay.

17 MR. GROVE: No further questions.

18 THE COURT: Redirect?

19 MR. OZMENT: None, Your Honor.

20 THE COURT: Okay.

21 MR. OZMENT: We ask that Corporal Barnes be
22 released from his subpoena.

23 THE COURT: All right, sir. You can leave if
24 you like or stay.

25 (WHEREUPON, the witness leaves the witness

1 stand.)

2 THE COURT: Next witness.

3 MR. OZMENT: Your Honor, the State would call
4 Larry Quick to the stand.

5 THE CLERK: If you will, sir, place your left
6 hand on the Bible and raise your right hand. Do you swear
7 to tell the truth, the whole truth, and nothing but the
8 truth so help you God?

9 THE WITNESS: I do.

10 THE CLERK: Please be seated and state your full
11 name for the record.

12 THE WITNESS: Larry Howard Quick.

13 WHEREUPON,

14 Larry H. Quick,
15 after first having been duly sworn, testified as follows:

16 BY MR. OZMENT:

17 Q How are you today?

18 A I'm wonderful.

19 Q What do you do for a living?

20 A I'm the evidence tech at Florence County Sheriff's
21 Office.

22 Q How long have you been doing that?

23 A Working on my fifth year now.

24 Q And what does an evidence tech do?

25 A What we do first thing in the morning when we go in

1 is pick up the evidence out of the squad room and out of
2 narcotics, bring it to the evidence room, log it in and
3 kind of keep custody of it.

4 Q All right. When you say try to keep custody of it,
5 how do we keep evidence down at the Sheriff's Office?

6 A What we do we have a special room that -- where the
7 evidence is logged in is placed up on the shelves by
8 certain location. And when it's called for to go to SLED
9 or come to court, we're the ones that bring it.

10 Q Okay. Is that room secured?

11 A Yes, sir.

12 Q Nobody can get in there without going through you?

13 A That's true.

14 Q And if I'm not mistaken, you're a black belt; is that
15 right?

16 A Yes, sir.

17 Q In case Wayne Sunny Scott, did you take some evidence
18 to SLED in this case?

19 A Yes, sir, I did.

20 Q Okay. Did you take some buccal swabs to SLED?

21 A Yes, sir, I did.

22 Q Did you also take some swabs that have been taken off
23 evidence by someone other than yourself?

24 A Yes, sir.

25 Q Okay. When did you do that if you can recall?

1 A I have to look at my dates.

2 Q Of course.

3 A The buccal swabs were carried to SLED on 9-23-2013. I
4 check them in at ten o'clock in the morning.

5 Q All right. And what about the swabs from the
6 evidence that had been processed?

7 A The two swabs possible DNA touch from the black and
8 red screwdriver were also carried on 9-23-2013 at ten
9 o'clock.

10 Q All right. And you see some swabs off of a knife?

11 A Yes, sir.

12 Q When were those taken?

13 A Also the same time 9-23-2013 at ten o'clock.

14 Q All right. And when you say you logged them into
15 SLED what does that mean?

16 A What we do we log them. They have like evidence
17 custodians there and we take it to them and log it in.
18 I'm not sure what they're title is, but they do basically
19 like the same thing we do. They sent them to the proper
20 offices or where it's suppose to go.

21 Q To be examined?

22 A Yes, sir.

23 Q Did you do anything else with these buccal swabs or
24 the swabs off the knife, off the screwdriver?

25 A No, sir. They are sealed in a package when they come

1 to me and from there they are taken to SLED.

2 Q All right. And you never tampered with that seal in
3 any way?

4 A No, sir.

5 Q Okay.

6 MR. OZMENT: No further questions, Your Honor.

7 THE COURT: All right.

8 CROSS-EXAMINATION

9 BY MR. GROVE:

10 Q When did the buccal swabs get checked in?

11 A On 9-23-2013 at ten o'clock.

12 Q And then they just went straight to SLED?

13 A I mean, that's when I took them to SLED, yes, sir.

14 Q When did they arrive, do your records show that?

15 A They were turned in to me on 9-26-2012.

16 Q So they sat there almost a year?

17 A Yes, sir.

18 Q Three days short of a year actually?

19 A Yes, sir.

20 Q Now, the swabs that sat there for almost a year, are
21 you talking about the buccal swabs or you talking about

22 ---

23 A These -- I'm sorry. These are the swabs from the
24 knife and the screwdriver. The swabs from the buccal
25 swabs -- hold on just a one minute. They were turned in

1 to me on 9-20-2013, which I logged them in at 1419.

2 Q So they came in the afternoon of the 20th?

3 A Yes, sir.

4 Q And then they went out the afternoon of the 23rd to
5 SLED?

6 A Yes, sir.

7 Q What happened to them then?

8 A They were turned over to SLED.

9 Q Your involvement in it is it safe to say?

10 A Yes, sir.

11 Q You didn't have any involvement, Mr. Quick, with
12 September of last year as far as processing things from
13 the scene of a crime?

14 A Just only when it was turn in to me.

15 Q You're the safe keeper of all this stuff?

16 A Yes, sir.

17 Q So you don't -- you didn't do any investigating. You
18 protected the things that were secured?

19 A Yes, sir.

20 Q But you didn't do investigating of your own?

21 A That is correct.

22 MR. GROVE: No further questions.

23 THE COURT: Redirect?

24 MR. OZMENT: Nothing further for this witness,
25 Your Honor.

1 THE COURT: Mr. Quick, you can step down.

2 (WHEREUPON, the witness leaves the witness
3 stand.)

4 MR. OZMENT: I ask that Mr. Quick be relieved of
5 his subpoena?

6 MR. GROVE: No objection, Judge.

7 THE COURT: All right. You can leave if you
8 like, Mr. Quick, or you can stay.

9 (WHEREUPON, the witness leaves the witness
10 stand.)

11 THE COURT: Okay, next witness.

12 MR. OZMENT: Your Honor, the State would call
13 Investigator Hester to the stand.

14 THE CLERK: Do you swear to tell the truth, the
15 whole truth, and nothing but the truth so help you God?

16 THE WITNESS: I do.

17 THE CLERK: Please be seated and state your name
18 for the record.

19 THE WITNESS: Investigator William Hester.

20 WHEREUPON,

21 William Hester,

22 after first having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. OZMENT:

25 Q How are you today, Investigator Hester?

1 A I'm good.

2 Q What do you do for a living?

3 A I am currently employed with Florence County
4 Sheriff's Office as a criminal investigator.

5 Q How long have you been in law enforcement?

6 A In law enforcement, a little over 14 years.

7 Q And how many of those years have you been a criminal
8 investigator?

9 A Approximately eight.

10 Q All right. Did you have occasion back on
11 September 24th of 2012 to respond to an incident on Sharon
12 Road?

13 A I did.

14 Q What was the nature of that call?

15 A I was called by central dispatch initially and it was
16 a deceased person on scene on Sharon Road.

17 Q Why did they call you?

18 A I was the on-call investigator at that time.

19 Q So if you're on-call and it comes up, you would have
20 been the one to handle it?

21 A Yes, sir.

22 Q Okay. And what county is that location in?

23 A Sharon Road is located in Florence County.

24 Q All right. When you first got on the scene, what did
25 you observe?

1 A I observed the crime scene that was secured by yellow
2 tape. It was secured from the front of the driveway to a,
3 I believe, a pole along the edge of the border of the
4 mobile home lot and it went all the way to the edge of the
5 mobile home, so it secured a full box inside of the crime
6 scene. I then observed a white van that was parked
7 directly in front of what we know is an office for the
8 defendant's wife. To the left of the van if I was
9 standing behind it, I observed a white male crouched down
10 in a seated position in between the apex of the door of
11 the van and the van.

12 Q All right. Have -- he was still crouched kind of in
13 the -- leaned up against the door?

14 A That's correct.

15 MR. OZMENT: May I approach, Your Honor?

16 THE COURT: Yes, sir.

17 BY MR. OZMENT:

18 Q Had they put up the tent markers yet when you arrived
19 on the scene?

20 A I arrived before crime scene did.

21 Q So in State's Exhibit 2 is that reflect how it looked
22 when you got there?

23 A That is correct.

24 Q Okay. Did you examine the deceased person?

25 A Not at that time. The first thing that I did was

1 before I entered I spoke with EMS or spoke with the deputy
2 first, but EMS was standing there with them. I asked EMS
3 if they had run a strip on the victim and how they do it
4 due to his position on how did they run the strip on him.

5 Q Okay. And so EMS was already on scene when you got
6 there?

7 A Yes, sir.

8 Q Did they indicate he was deceased to you?

9 A Yes, sir, they stated that they looked at the back of
10 a shirt and place the pads on the back of his -- on his
11 back to run the strip and they did show that he was
12 deceased.

13 Q Okay. After speaking to EMS, what did you do next?

14 A I spoke with Deputy Gifford who was standing outside
15 the crime scene tape. I signed the crime scene log and he
16 gave me a brief run down of what he was told initially by
17 the defendant.

18 Q All right. Could you tell how long he had been on
19 scene or did he let you know?

20 A He had not been on scene very long. I was already
21 out. Dispatch called me. I was on scene probably five
22 minutes after he showed up and EMS showed up and
23 everybody.

24 Q Okay. And he had already spoken to the defendant at
25 that point?

1 A He did.

2 Q Okay. What did you do after you briefly spoke to
3 Deputy Gifford?

4 A We both walked back in the crime scene. He pointed
5 out items that he had seen when he initially walked in.
6 And we both walked up and spoke with the defendant.

7 Q Okay. What did you first say to the defendant?

8 A The first thing I asked was I looked at Deputy
9 Gifford and Deputy Gifford had already told me he read his
10 Miranda warnings. And when he told me that, I looked at
11 the defendant and I said, did he read you your Miranda
12 warnings? He said he did. I said and did you understand
13 everything and do you want to talk with me? He said,
14 yeah, I understood and, yeah, I'll talk to with you.

15 Q Okay. At that point, did the defendant give you
16 essentially a statement?

17 A Yes, sir. He told me that he had had some verbal
18 altercations with the deceased earlier in the day said
19 that they were out hunting when ---

20 Q Let me interrupt you. When you say they, you mean
21 who?

22 A The defendant and a coworker of his.

23 Q Not Steve Springs?

24 A Not Steve Springs, no. It was a coworker Michael
25 Bruce. Said after they got down and got done hunting,

1 they got into the vehicle and began driving back towards
2 Florence. I believe it was out, kind of far out about 15
3 to 20 minute drive. He stated that he started getting
4 phone calls from Mr. Springs talking about some issues
5 with his personal life, family life and continued to, you
6 know, according to the defendant cussing, screaming at the
7 defendant. And the defendant told me that he had just
8 hung up the phone on multiple occasions every time that he
9 would call back or just not answer the phone.

10 Q Okay. And this part of the defendant's story, did
11 you eventually get to look at Mr. Springs phone or the
12 defendant's phone?

13 A I looked at both.

14 Q Okay. Did it appear that there were phone calls
15 between the two in this time period?

16 A There was.

17 Q Okay. Obviously, you couldn't tell what those phone
18 calls were about looking at the phones?

19 A Correct.

20 Q Going back to what the defendant told you said there
21 were these phone calls, what did he tell you next?

22 A He told me that after the arguing back and forth he
23 arrived at home. He realized that he did not have his
24 keys on him because his wife had taken her children to
25 Skate Land, but she was on the way back. So he just

1 decided to sit on front porch and drink a beer and wait
2 for her to arrive at home.

3 Q All right. Did he tell you whether or not the lights
4 were on at the house?

5 A Yes, sir. When I arrived the lights were on, of
6 course. But I asked him was the lights on could you see
7 everything. He told me that she had turned all the lights
8 off. There were no lights on in the driveway and it was
9 extremely dark in the driveway when all the lights were
10 turned off.

11 Q Okay. So when he was sitting waiting for her to come
12 home, did he tell you where he was sitting?

13 A He was sitting in a position that I was speaking with
14 him, which is on the front of a small office that was
15 built on to the mobile home, the end of the mobile home.
16 There's a -- I would say if I had to estimate it was a
17 eight by eight small porch that was maybe a foot tall off
18 the ground.

19 Q All right.

20 MR. OZMENT: May I approach, Your Honor?

21 THE COURT: Yes, sir.

22 BY MR. OZMENT:

23 Q Okay. Investigator Hester, I'm going to show you
24 State's Exhibit 3 is that show the small porch you're
25 talking about?

1 A Yes, it does.

2 Q And so in this photograph I see fitting Halloween I
3 see a jack-o'-lantern, a plastic jack-o'-lantern?

4 A Correct.

5 Q Is the stuff you're talking about the one that's
6 right next to that plastic jack-o'-lantern?

7 A Right next to it, yes.

8 MR. OZMENT: Your Honor, I ask to publish
9 State's Exhibit 3 to the jury.

10 THE COURT: Okay.

11 BY MR. OZMENT:

12 Q And you said you were still standing on the same step
13 when you were talking to him?

14 A No, he was still seated.

15 Q Oh, excuse me -- seated I'm sorry.

16 A Yes, sir.

17 Q And he told you that was the same place he was seated
18 when this altercation took place?

19 A Yes, sir.

20 Q Okay. So he was seated on the step lights were out.
21 What happened next did he tell you?

22 A He stated that he saw a white van coming down Sharon
23 Road recognized it to be Steve's Van. And he stated that
24 Steve pulled in directly into the driveway. The driveway
25 actually leads to the small stoop sits outside. He said

1 he pulled up and turned the headlights off, shut the van
2 off and opened up the door. He said at that time -- he
3 said Steve, you know, you just need to leave. He stated
4 that Steve stepped out from around the door where the door
5 would be open just to the edge of the open door. He said
6 Steve if you take one more step, you know, I'm going to
7 shoot you. And at that time he stated that I saw him take
8 a step, so I fired the gun.

9 Q Okay. And let's go through that says he pulled up.
10 Did he say whether or not he turned the lights of the van
11 or left the van cranked? Did he tell you that?

12 A No, he stated that he shut the van off and turned the
13 lights off.

14 Q Okay. And then he said he opened the door?

15 A Correct.

16 Q And did Mr. Springs get out of the van or where was
17 he standing when they initially exchanged words?

18 A He was standing initially in the apex of the door,
19 which would be behind a window looking through the window
20 at the defendant.

21 Q Okay. Did Mr. Scott say he saw anything in
22 Mr. Springs' hands?

23 A Yes, sir, he said he saw a screwdriver in his left
24 hand.

25 Q All right. Did he use the word screwdriver?

1 A Yes, sir, he did.

2 Q Okay. So did he say where he was holding the
3 screwdriver or how he was holding the screwdriver?

4 A He stated that he was holding it down by his side.

5 Q Okay. And so now he's standing holding a screwdriver
6 at what point did he give him the warning not to come any
7 closer?

8 A As he stepped outside the apex of the door.

9 Q Okay. And then what did he say happened next?

10 A He said there was some argument going back and forth.
11 He did not give me exact details of what they were saying
12 back and forth. He said he was saying for him to leave
13 and don't come any closer or I'm going to shoot you. He
14 stated that when he saw them take a step, that's when he
15 had the riffle laying in his lap, not on his shoulder but
16 in his lap pointed in the direction of Steve and he said
17 pulled the trigger.

18 Q So holding it down John Wayne style?

19 A Correct.

20 Q Did he say what happened after he pulled the trigger?

21 A He stated that Mr. Springs fell to the ground, kind
22 of went down into a kneeling position and behind the door,
23 kind of took a step to the right just kind of kneel down
24 or crouched down. He stated that after that he heard
25 Steve ask or say help me. He said it scared him and he

1 got up and went around the backside of the mobile home.

2 Q All right. Did he tell you how much Mr. Springs had
3 advanced on him when he pulled the trigger?

4 A He told me one step.

5 Q Okay. And based on where the van was if he'd taken
6 one step from the van and I realize we can't be at the
7 crime scene with the van there. How close would that have
8 been to the defendant?

9 A I believe right at 17. Probably been maybe at the
10 corner of that table.

11 Q Okay. But he didn't -- I mean, he didn't say he got
12 all they way to him before he pulled the trigger he said
13 one step?

14 A It was one step.

15 Q Okay. And you said that the defendant told you that
16 Mr. Springs actually talk to him right after?

17 A He stated to me that he heard Mr. Springs say help
18 me.

19 Q Okay. The defendant say he helped him in any way?

20 A No, he said he got scared and left.

21 Q All right. Did he tell you what he did with the gun?

22 A He told me he put the gun back inside the residence
23 after ejecting the shell casing that was in the gun.

24 Q Did he tell you what happened with the shell casing?

25 A He stated when he went to Carl's house, he dropped it

1 in the burn pile that was behind his residence.

2 Q Okay. And we've already heard this kind of plowing
3 the same field, but did you all search that burn pile?

4 A Yes, crime scene did search -- crime scene and
5 deputies did search.

6 Q Okay. Did you ever -- was the shell casing ever
7 recovered?

8 A No, sir.

9 Q Okay. After he threw the shell casing in the burn
10 pile, did he tell you what happened next?

11 A He stated that he went to Carl's house, Carl Munn's
12 house and sat down and dranked a few beers and called his
13 wife.

14 Q Okay. Do you know how far away Carl's house is?

15 A I say about 300 yards roughly.

16 Q Okay. So you are familiar with where Carl's house
17 actually is?

18 A Yes, sir.

19 Q 300 yards like where the crow flies or by the road?

20 A As the crow flies. It's a -- the mobile homes are
21 really spaced out, but there's one mobile home in between
22 him and Carl's, but there's a path that leads straight to.

23 Q Okay. Did he indicate how long he stayed at Carl's
24 house?

25 A I don't believe it was very long. He stated that he

1 called Gloria and -- being his wife and she stated that
2 she was on Freedom Boulevard I believe at the time. And
3 if she was on Freedom Boulevard, his road is directly off
4 of Freedom, so it would be less than five to ten minutes.
5 Q Okay. Did Mr. Scott tell you he called 9-1-1 at one
6 point?
7 A No, he did not.
8 Q Okay. Are you aware of who called 9-1-1?
9 A Yes.
10 Q Who did?
11 A Gloria Scott.
12 Q Okay. That's his wife?
13 A Correct.
14 Q Did he -- was that essentially his whole statement he
15 told you that night?
16 A That was his statement, yes, sir.
17 Q Okay. After you spoke to Mr. Scott, what was the
18 next step in your investigation?
19 A At that time, we had bagged his hands when he was
20 handcuffs due to -- we wanted to get a gunshot residue
21 test off of him. We removed him from the crime scene. We
22 walked him directly to the corner of the mobile home
23 underneath the crime scene tape and to the backseat of a
24 deputies car. So crime scene could photograph without him
25 in the photographs and photograph the landscape and to be

1 able to do the gunshot residue test on him.

2 Q Okay. But he already admitted he's the who shot the
3 gun?

4 A That's correct, but standard protocol is that we do a
5 gunshot residue test on anybody.

6 Q Okay. And after you removed him, had the gunshot
7 residue test performed, what did you do next?

8 A I went and roughly about that time crime scene units
9 were showing up. We walked through the scene together
10 looking for items, looking for any type of evidence that
11 they needed to collect, they needed to photograph. And if
12 there was anything out of place that should be there or
13 shouldn't be there. When we walk through the crime scene,
14 we started at the rear of the van, walked up to the left
15 of the van where Mr. Springs was and started looking
16 around in the area of where his body was. Initially, I
17 saw a red or black screwdriver with red on it. It was
18 five, six or seven feet away from where the victim was,
19 but it was up against -- it was about a foot away from
20 where a chain linked fence was. At that time, we found a
21 open blade -- open-blade lock knife that was where his
22 hand was dropped. It was about a foot away from where his
23 hand was.

24 Q Okay. Did you move those items at all at that point?

25 A No, sir.

1 Q Okay. Are those the ones that are now in evidence
2 that we heard scene collected?

3 A That's correct.

4 Q And after you did that sweep of that part of the
5 scene, what did you do next?

6 A After that, I spoke with many witnesses that were
7 standing around the outside of the crime scene. I
8 initially spoke with Gloria who called 9-1-1. She was my
9 first person that I spoke with.

10 Q And don't tell me what she said, but did she provide
11 you some information that was useful in your
12 investigation?

13 A Yes, sir, she did.

14 Q Okay. And after you spoke to her and you said that
15 she's the who called 9-1-1?

16 A That's correct.

17 Q After you spoke to her, who were the other witnesses
18 you spoke to there at the scene?

19 A I spoke with Crystal Hanna. I then spoke with ---

20 Q And tell me, I guess, if you don't mind, who is
21 Mrs. Hanna? What is their relationship?

22 A That's the defendant's stepdaughter.

23 Q Okay.

24 A Then I spoke with Carl Munn who is the person that
25 the defendant first or the house he went to. Then I spoke

1 with George Watson, who is the neighbor that lives
2 directly behind.

3 Q Did you speak with Mr. Watson there at the scene?

4 A I spoke with him at the scene briefly and then I
5 spoke with him again, him again away from the scene.

6 Q Was that at his request or your request?

7 A That was at his request.

8 Q Okay. Do you mind telling him where you end up
9 speaking to him?

10 A At the Waffle House parking lot on Pamplico Highway.

11 Q And when did you have that conversation?

12 A It was 45 minutes -- it's hard to say. It was about
13 45 minutes to an hour.

14 Q That night though?

15 A That night, yes, sir.

16 Q Okay. And when you spoke to Mr. Watson at the scene,
17 did he appear scared to you?

18 MR. GROVE: Objection, Your Honor, speculation.

19 THE COURT: Well, it's leading too so... You
20 can rephrase it, but your speculation objection is
21 overruled.

22 BY MR. OZMENT:

23 Q What was Mr. Watson's demeanor that evening when you
24 spoke to him originally at the scene?

25 A I never met Mr. Watson, so it was hard to tell his

1 demeanor. His voice was very shaky when he was speaking
2 with me.

3 Q All right. Was he willing to speak to you at the
4 scene?

5 A He was very hesitant to speak to me at the scene.

6 Q Okay. So you said Crystal Hanna, George Watson, Carl
7 Munn, Mr. Scott's wife. Who else did you speak to that
8 evening?

9 A You said Crystal Hanna, George Watson, Carl Munn,
10 Gloria Scott and that I believe that's it.

11 Q Okay. After you spoke to these individuals in your
12 ensuing investigation, did you come across more witnesses
13 that you decided you needed to talk to?

14 A I did.

15 Q Who were those individuals?

16 A Michael Bruce and Larry Bruce.

17 Q Let's start with Michael Bruce -- well, let's start
18 with Larry Bruce. What is Larry Bruce's relationship to
19 Mr. Scott?

20 A He was his former boss.

21 Q Okay.

22 A And Michael Bruce was Larry Bruce's son and they were
23 co-workers.

24 Q So Michael Bruce worked for his dad with Mr. Scott?

25 A That's correct.

1 Q Okay. Had Mr. Scott told you the name Michael Bruce
2 already at any point when you were talking to him?

3 A He did. He said that's who he was hunting with.

4 Q Okay. Did Mr. Bruce and Mr. Bruce were they able to
5 give any you any useful information for the case?

6 A They were.

7 Q Okay.

8 MR. OZMENT: Okay. Beg the Court's indulgence a
9 minute.

10 (WHEREUPON, a pause in the proceedings.)

11 BY MR. OZMENT:

12 Q After you interviewed all these witnesses, been to
13 the scene, obviously gone through the crime scene and gone
14 through the scene, did you do any further investigation in
15 this case?

16 A Yes, sir, directly after they were done with the
17 gunshot residue test, we transported after I was done at
18 the scene and spoke with other witnesses, we transported
19 the defendant to our jail. My office is inside of the
20 jail. At that time, I had them take him to the booking
21 area so I could go through the defendant's phone.

22 Q Okay. And that was what we referred to earlier that
23 you had gone through his phone?

24 A That's correct.

25 Q Okay. At what point did you decide to -- well, I

1 guess first excuse me -- did you get a warrant for the
2 case we're here on today?

3 A Yes, I did.

4 Q What warrants did you get?

5 A I got a murder warrant and use of a weapon during a
6 violent crime.

7 Q Okay. And I guess explain to me the significance
8 what is the warrant? What purpose do they have in our
9 system?

10 A You have to have a probable cause in front of a
11 magistrate. You give the magistrate all the facts of the
12 case that you have up to that point. She determines if
13 there's enough probable cause to issue an arrest warrant.

14 Q And that's then how you could arrest someone?

15 A That's correct.

16 Q Okay. And you did that in this case?

17 A Yes, sir.

18 Q And we talked a lot about Wayne Scott or Sunny Scott.
19 Do you see him sitting in the courtroom?

20 A I do.

21 Q Where is he?

22 A Sitting at the defendant's table with Mr. Grove.

23 MR. OZMENT: No further questions at this time.

24 THE COURT: Mr. Grove.

25 MR. GROVE: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. GROVE:

Q Good morning, Investigator?

A Good morning.

Q How many people were on scene when you got there?

A There were several.

Q I want to specific. How many law enforcement people were on scene when you got there?

A When I arrived, there was two deputies, a supervisor and another investigator and myself when I arrived.

Q So a handful?

A Yes, sir.

Q And EMS was on scene?

A That's correct.

Q They had already pronounced Mr. Springs to be dead?

A Yes, sir.

Q You testified you spoke with a lot of witnesses that night or at least several?

A Several.

Q Earlier you testified that you spoke with Gloria, Crystal, Carl, George and Sunny at the scene; is that right?

A That's correct.

Q Five people that night?

A Five people.

1 Q And you recorded the statement of Gloria's, didn't
2 you?

3 A Yes, sir, I did.

4 Q You recorded the statement of Carl's, didn't you?

5 A Yes, sir.

6 Q You record the statement of Crystal's, didn't you?

7 A Yes, sir.

8 Q You recorded two statements of George, I think,
9 right?

10 A Two statements, yes, sir.

11 Q How many did you record of Sunny?

12 A At that time, I did not record anything.

13 Q But you could have?

14 A Yes, sir.

15 Q Because at the scene you recorded four other
16 statements, right?

17 A Right.

18 Q And you got word for word exactly what they said
19 because it's documented permanently, right?

20 A That's correct.

21 Q But you choose not to do that for Sunny?

22 A Since, I knew he was going to be going to Effingham.
23 We have a closed room with a video and audio. And since
24 he was upfront with speaking with me at the scene, I was
25 hoping to get him to speak with me on audio and video.

1 Q You choose not to record him at the scene?

2 A Correct.

3 Q You said that you went over -- you looked through his
4 phone and I believe you also looked through Mr. Springs
5 phone; is that correct?

6 A I believe it was the next day I looked through
7 Mr. Springs' phone.

8 Q But at some point during this investigation, you
9 looked at both of their phones?

10 A That's correct.

11 Q Did it accurately reflect that there were phone calls
12 from Mr. Springs to Sunny?

13 A There was.

14 Q Several?

15 A Several.

16 Q Around the same time frame that he said that they
17 had occurred?

18 A Yes, sir.

19 Q I'm not going to hold you to an exact number, but you
20 said there were several phone calls? More than one?

21 A More than one more, yes, sir.

22 Q More than two?

23 A Yes, sir, I believe there was -- I think there four.

24 Q Of varying lengths?

25 A They were very short lengths if I remember correctly.

1 Q And these phone calls were the ones that Sunny say
2 that's when Steve is calling him, threatening him?

3 A That's correct.

4 Q Right, cussing at him?

5 A Correct.

6 Q Giving what for, for a lack of a better term?

7 A Yes, sir.

8 Q When Steve arrives on scene, he pulls up, turns his
9 van off and he gets out and he keeps going. He keeps with
10 the threats? He keeps with the cussing?

11 A He never told me -- the defendant never told me
12 exactly what Steve was saying. He never relinquished that
13 information to me, so I don't know exactly what
14 conversation was taking place. I know there was an
15 argument because of one the witnesses I spoke with and I
16 know what the defendant said because he told me what he
17 said.

18 Q Right. And again, you didn't record any of this?

19 A No.

20 Q Did you measure how far it is from Carl's to Sunny's
21 place?

22 A No, sir, that's just estimation of being on scene
23 during the day and at night and seeing where his house is.

24 Q Two doors down?

25 A If you want to call it two doors down, it's extremely

- 1 big lots.
- 2 Q Well, there's one door?
- 3 A Right.
- 4 Q And then there's Carl's door?
- 5 A Right.
- 6 Q You obviously made a report?
- 7 A Yes, sir.
- 8 Q When did you make that report?
- 9 A The report that I filed was on 9-27-2012, which was a
10 few days after the incident.
- 11 Q Maybe three doors after does that sound right?
- 12 A Yes, sir.
- 13 Q And that's three days later is when you sit down and
14 try to go through all this stuff and write it down, right?
- 15 A That's correct.
- 16 Q Or you go through the notes that you may have made
17 and what you remember, right?
- 18 A Yes, sir.
- 19 Q You had done a fair amount and spoken with five
20 witnesses, right?
- 21 A That's correct.
- 22 Q You processed the scene and walked through the scene
23 with crime scene, right?
- 24 A Yes, sir.
- 25 Q You went the next day to the impound lot, right?

1 A That's correct.

2 Q You and Corporal Johnson and Investigator McFadden
3 you all went through the van and took pictures, right?

4 A That's correct.

5 Q And then another day passed and I'm not sure what
6 happened that day, but then the following day you wrote
7 your report?

8 A That's correct.

9 Q Does that sound right. And earlier in your
10 testimony, you said that Sunny told you that Steve was
11 coming at him with a screwdriver?

12 A He was holding a screwdriver, yes, sir.

13 Q Right. That that was part of the reason that Sunny
14 felt threatened was that he had a screwdriver?

15 A That's correct.

16 Q He didn't say something he said a screwdriver?

17 A He said a screwdriver.

18 Q And you saw a screwdriver on scene?

19 A I did.

20 Q In fact in your report, it says you saw a screwdriver
21 before you talk to my guy, right?

22 A As I walked up to the defendant, where he was, I
23 guess, looking on the ground as I was walking up to him I
24 did see a screwdriver, yes, sir.

25 Q Sunny Scott is sitting on a stoop when you get there;

1 correct?

2 A That's correct.

3 Q There's a van parked in the driveway?

4 A Yep.

5 Q Mr. Springs is laid in the apex of the door; correct?

6 A Correct.

7 Q There's a knife laying under Mr. Springs; correct?

8 A Correct.

9 Q There's a screwdriver close to Mr. Springs; correct?

10 A That's correct.

11 Q None of that stuff is marked yet; correct?

12 A No, it's not marked.

13 Q And you walk between the screwdriver and the van?

14 A There was a good distance between the two.

15 Q Sure, I'm not saying you tiptoed, but you walked that
16 way?

17 A Correct.

18 Q You came on the left side of the van, the driver side
19 of the van; correct?

20 A I believe I did, yes, sir.

21 Q Which is how you were able to see the screwdriver
22 here, the knife here, Mr. Springs here, the open door here
23 and the stoop here?

24 A Correct.

25 Q So you saw all this stuff before you knew what

1 Sunny's name was, before you spoke with him, before you
2 confirmed that he had been Mirandized; correct?

3 A Yes, sir.

4 Q Okay. You are the lead investigator on this case; is
5 that correct?

6 A Yes, sir.

7 Q So it's your choose as to what happens and what
8 doesn't happen; is that correct?

9 A In what way?

10 Q You make the decisions as to which way the
11 investigation goes; is that correct?

12 A Yes, sir.

13 Q Deputy Gifford didn't make any calls as to what the
14 investigation was going to do, did he?

15 A No.

16 Q Corporal Johnson didn't make any calls, did she?

17 A No.

18 Q They did as you instructed?

19 A Correct.

20 Q You're in charge; correct?

21 A Yes, sir.

22 Q You spoke or you heard testimony from a couple of
23 other people because you been sitting right there the
24 whole time, right?

25 A That's correct.

1 Q And they talked about buccal swabs and touch DNA
2 samples; correct?

3 A Correct.

4 Q And preserving that evidence and bagging it up and
5 taking it to the evidence courtroom; correct?

6 A Correct.

7 Q Mr. Quick just testified a minute ago I believe he is
8 the gentleman in charge of the evidence room; correct?

9 A That's correct.

10 Q And he says that on 9-26 of 2012, that being 13
11 months ago give or take, he received for a lack of a
12 better term base swabs. He received swabs of things that
13 were found at the scene; correct?

14 A That's correct.

15 Q He received a swab of a screwdriver?

16 A That's correct.

17 Q And he also received a swab of a knife?

18 A Correct.

19 Q He didn't receive those items themselves just a Q-tip
20 with a smear?

21 MR. OZMENT: Your Honor, I object to him asking
22 about Mr. Quick's testimony the jury heard that.

23 THE COURT: Overruled.

24 BY MR. GROVE:

25 Q He received swabs of evidence; correct?

1 A Yes, sir.

2 Q Swabs that you all had collected through your
3 investigation; correct?

4 A I did not collect any of that. The lieutenant over
5 crime scene who was there with me at the time he made that
6 decision to what -- he makes a decision of what happens on
7 the crime scene.

8 Q Sure. And you're aware that there was a buccal swab
9 that was sent to the evidence room in September of this
10 year; correct?

11 A I was made aware of that, yes, sir.

12 Q And those items were sent to SLED about a month ago;
13 is that correct?

14 A If that's what the paperwork shows. I have not seen
15 any paperwork.

16 Q September 23rd would you believe me if I told you
17 that?

18 A Yes, sir.

19 Q Why would the swabs of the knife and the screwdriver
20 sit in the SLED evidence room for a year?

21 A I can't answer that. I have control over that. The
22 lieutenant over crime scene has the control over all the
23 evidence and what evidence is allowed to be sent to SLED.

24 Q Allowed to be sent to SLED. This is your
25 investigation, isn't it?

1 A Yes, sir, but SLED only allows so many items and
2 there were other items that were sent to SLED initially.

3 Q Who made the decision to send those swabs to SLED in
4 September?

5 A Of this year?

6 Q Yes.

7 A I do not know.

8 Q Not you?

9 A Not me, no, sir.

10 Q But you're in charge of this investigation?

11 A I'm in charge of speaking to witnesses and coming up
12 with enough probable cause to either make an arrest or not
13 make an arrest.

14 Q Who's in charge of follow up?

15 A Follow-up investigations for persons?

16 Q For anything?

17 A I am.

18 Q On the afternoon of September 25th of last year, you
19 testified just a moment ago that you and Corporal Johnson
20 and Investigator McFadden all went to the impound lot to
21 take pictures?

22 A Is that the next day after the ---

23 Q It was?

24 A Yes.

25 Q And, I guess, it was daylight then?

1 A It was.

2 Q And the purpose of going there was to find out what
3 was inside of the van; correct?

4 A Correct. We knew that the cell phone was in the van,
5 that's what we were going after, but our protocol is that
6 any time that we tow a vehicle into our impound we obtain
7 a search warrant prior to entering that vehicle a second
8 time.

9 Q But you got a search warrant and you took a bunch of
10 pictures; correct?

11 A Yes, sir, I did.

12 MR. GROVE: May I approach the witness, Your
13 Honor?

14 THE COURT: Yes, sir.

15 BY MR. GROVE:

16 Q I'm going to show you a photo. Don't tell me what it
17 is? Just tell me if you recognize it?

18 A It looks like it's in between the ---

19 Q Just tell me whether or not you recognize it?

20 A I do recognize it.

21 Q All right. Can you describe the photo for me?

22 A It's a set of cup holders looks like a power charge,
23 a power inverter in between the two seats in front of the
24 van.

25 Q Does that look like it's an accurate representation

1 of the inside of the van the day that you went to the
2 impound lot?

3 A Yes, sir.

4 Q You know who took that picture?

5 A Corporal Johnson was the only with the camera, so she
6 must have been the one who took the pictures.

7 Q She was there with you?

8 A Yes, she was.

9 Q The three of you Corporal Johnson, Investigator
10 McFadden and you were probably going through the van each
11 of you deciding what to take pictures of, right?

12 A Now, I allowed Corporal Johnson to do her initial
13 photos first prior to us entering the van.

14 Q But you did enter the van?

15 A After she was done with the photos, yes, sir.

16 Q And that's an accurate representation?

17 A Yes, sir.

18 MR. GROVE: Your Honor, at this time I move to
19 enter this as defense one?

20 THE COURT: Any objection?

21 MR. OZMENT: No objection, Your Honor. I just
22 like to see it. I haven't seen it.

23 THE COURT: Okay.

24 MR. OZMENT: No objection, Your Honor.

25 THE COURT: Number one is in.

1 (WHEREUPON, Defendant's Exhibit No. 1 was
2 admitted into evidence.)

3 BY MR. GROVE:

4 Q Again, I cut you off earlier and I apologize about
5 that. Describe that photo for me?

6 A It's a -- looks like the front seat of the van where
7 the cup holders are. There's a power inverter, looks like
8 it's nailed or mounted somehow to the cup holders.
9 There's another cup above that. There's some type of
10 holder or case. It looks like it's bolted to the cup
11 holder.

12 Q With a button clasped on it?

13 A Yes, sir.

14 Q That flips up and down?

15 A Yes, sir.

16 Q Looks like a knife holder?

17 A Be an awfully large knife, yes, sir.

18 Q That you would -- it looks like one that would go on
19 your belt?

20 A Again, that -- in looking at the power inverter and
21 knowing how large a power inverter, that be a very large
22 knife.

23 MR. GROVE: Approach the witness, Your Honor?

24 THE COURT: Yes, sir.

25

1 BY MR. GROVE:

2 Q And that mounted -- that case I'm going to call it a
3 case for the simplicity sake. It's mounted right next to
4 a cup holder?

5 A Yes, sir.

6 Q And it looks like there was a scale there obviously,
7 but it appears like it would fit a very comfortably inside
8 that cup holder, doesn't it?

9 A It does.

10 Q So it is smaller than a cup holder?

11 A Smaller than cup holder.

12 Q Probably shorter than a cup holder?

13 A Yes, sir.

14 Q Then that particular cup holder at least?

15 A At least.

16 MR. GROVE: Permission to publish that to the
17 jury?

18 THE COURT: All right.

19 BY MR. GROVE:

20 Q When Sunny told you that Steve pulled into the
21 driveway, did he give you an idea or did you ask how long
22 a conversation they had?

23 A I want to say it was brief and I concluded from a
24 witness that it was very brief.

25 Q They did not stand there and chew the fat for a

1 while; correct?

2 A No, sir, they did not.

3 MR. GROVE: Beg the Court's indulgence.

4 (WHEREUPON, a pause in the proceedings.)

5 BY MR. GROVE:

6 Q The witnesses you spoke with, you spoke with Gloria
7 who is Sunny's wife?

8 A Correct.

9 Q You spoke with Crystal who's Sunny's stepdaughter;
10 correct?

11 A Correct.

12 Q Spoke with Carl who lives two doors down?

13 A Correct.

14 Q And you spoke with a fellow name George Watson who
15 lives, I guess, one door down?

16 A Correct.

17 Q And in addition to Sunny, that's the extent of the
18 witness statements that you received that evening?

19 A That's correct.

20 Q I apologize two from George Watson that evening?

21 A Correct.

22 Q And you did speak with Michael Bruce and Larry Bruce?

23 A Later I did, yes, sir.

24 Q I'm not going to hold you to a time frame here. You
25 remember how much later?

1 A I believe it was the next day.

2 Q Not that night?

3 A Not that night. It was the next morning at the
4 Sheriff's Office.

5 Q And Sunny had identified Michael as somebody that
6 would have been a witness for you to speak with; correct?

7 A That's correct.

8 MR. GROVE: I don't have anything further at
9 this time, Your Honor. Thank you.

10 THE COURT: Redirect?

11 MR. OZMENT: Briefly, Your Honor. May I
12 approach, Your Honor.

13 THE COURT: Yes, sir.

14 REDIRECT EXAMINATION

15 BY MR. OZMENT:

16 Q Investigator Hester, Mr. Grove asked you about
17 whether or not you recorded the statement that Mr. Scott
18 gave you. Why didn't you record that statement.

19 A While I was speaking with him as forthcoming as he
20 was on scene, I knew we were going to be -- I wanted to
21 get him on ---

22 MR. GROVE: Objection, Your Honor, may we
23 approach?

24 THE COURT: Yes, sir.

25

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

4 THE COURT: All right. Ladies and gentlemen, if
5 you would please step to your jury room. Of course, you
6 may not discuss the case in any way at all. Thank you.

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

8 THE COURT: You go ahead and ask the questions
9 get it all on the record.

10 REDIRECT EXAMINATION IN-CAMERA

11 BY MR. OZMENT:

12 Q Investigator Hester, why didn't you record the
13 statement at the scene?

14 A Well, because as forth coming as he was on scene, I
15 wanted to get a video statement of everything that took
16 place at the jail. I just didn't want it on audio.
17 Since, he was the prime suspect in the case I wanted it on
18 video and audio.

19 Q Okay. And does that capability exist at the jail?

20 A It does.

21 Q Okay. Did you transport -- was he transported to the
22 jail?

23 A He was transported and I did attempt to get a video
24 statement from him, but at that time he ask for an
25 attorney and I took him back into the booking area.

1 MR. OZMENT: Your Honor, that would be all we
2 would elicit.

3 THE COURT: Any questions before we hear your
4 objection?

5 RECROSS-EXAMINATION IN-CAMERA

6 BY MR. GROVE:

7 Q Did you re-Mirandize him when you took him to the
8 detention center and sat him in a room?

9 A No, I did not because I asked him if he was willing
10 to give me a statement and he said, no, I like to talk to
11 an attorney. So at that time, there was no reason to read
12 him his Miranda warning.

13 Q Where were you when he told you he didn't want to
14 give you a statement?

15 A We had just entered the room right outside of
16 investigations that set up for audio and video.

17 Q Okay. Did you get any of that recording?

18 A No, sir, I did not because I wanted to make sure it
19 was okay with him to speak with me.

20 Q Did you fill out a Miranda form acknowledging at that
21 point he wanted to invoke his right to remain silent?

22 A No, sir.

23 Q Did you fill out a Miranda form at that point
24 identifying that he wanted to speak with an attorney and
25 not make a statement?

1 A I don't believe I did.

2 MR. GROVE: I don't have anything further for
3 him at this time, but I do have an objection.

4 THE COURT: Okay. Any other questions of the
5 witness?

6 MR. OZMENT: No, Your Honor.

7 THE COURT: All right. Your objection?

8 MR. GROVE: My objection is simple, Your Honor.
9 I was very specific with my question on cross and
10 investigator bothered to record four other statements and
11 could have recorded my client's statement at the scene and
12 did not. My client's invoking of his right to remain
13 silent later and asking to speak with an attorney, I don't
14 see how that is relevant to Investigator Hester's choice
15 not to record my client at the scene. He certainly could
16 have recorded him audio. He could have recorded him on
17 video. I believe they were iPhone recordings at the scene
18 of audio. He certainly could have made a video recording
19 with the same iPhone.

20 THE COURT: Well, that's one of the things I had
21 a question about not that it makes any difference what I
22 think, but how were the statements recorded at the scene
23 by what method?

24 INVESTIGATOR HESTER: By a recorder on iPhone.

25 THE COURT: Just regular cell phone or the

1 iPhone cell phone?

2 INVESTIGATOR HESTER: Yes, sir.

3 THE COURT: Okay.

4 MR. GROVE: And again, Your Honor, that is
5 exactly my point. The fact that there is a more formal
6 recording device for audio and video at the detention
7 center at this point, I don't think it's relevant. The
8 opportunity existed at the time at the scene to make a
9 sufficient video and audio recording or simply an audio
10 recording. And then make a subsequent recording later he
11 choose not to do that. That was the substance of our
12 question whether or not my client invoked his right to
13 remain silent at a later time. I don't think is relevant.

14 THE COURT: All right.

15 MR. OZMENT: Your Honor, my argument is that
16 Mr. Grove opened the door. He didn't just ask one
17 question on cross. He asked two. He said you recorded
18 this person, this person and this person, but you didn't
19 record Mr. Scott; is that correct. He said, yes, and he
20 gave his reason for we have better recording equipment at
21 the Sheriff's Office. He was being very cooperative. He
22 said he wanted to talk to me, so he was planning on doing
23 that. Mr. Grove then followed up with, yes, but you
24 didn't record a statement; isn't that correct? And so to
25 me he is implying to the investigator didn't do his job,

1 did a half job by not recording when the investigator did
2 have a reason. And the fact is his client didn't invoke
3 his right. I think that opened the door to say that his
4 client then once he was in front of a recorder decided not
5 to give a statement.

6 THE COURT: All right, Mr. Grove.

7 MR. GROVE: Your Honor, without looking at the
8 transcript, I'm going to go off Mr. Ozment here.
9 Obviously, I wasn't making notes in as far as the
10 responses are concerned, but it sounds as though
11 Investigator Hester has already established a reason to a
12 question that I didn't ask him at that point. And again,
13 I was very specific with it. Did you record him at the
14 scene. No. He had the capability of recording everyone
15 else at the scene. He had the capability of recording my
16 client at the scene, that's my question. He gave his
17 answer I don't think that opens the door. And to whether
18 or not, my client the next day, the next week, later on
19 that night, a year later declined to make a statement. If
20 his rationale is he had the ability to record audio and
21 video at the detention center, that argument fails. He
22 had the ability to record audio and video at the scene.

23 THE COURT: All right. Anything else?

24 MR. OZMENT: Not on this issue, Your Honor.

25 THE COURT: All right. It was -- I don't have

1 the specific comments made or the exchanges between
2 Mr. Grove and Mr. Hester, but, of course, it was clear
3 that Mr. Grove went into whether very heavily with the
4 witness as to whether he recorded the statement of the
5 defendant at the scene. There was some comment by the
6 witness that he knew they had that type of equipment at
7 the jail. Then he intended to do it there. At that
8 point, it was up in the air. I don't recall the exact
9 question that Mr. Grove asked in follow up, but even
10 though he's come close to opening the door, I don't think
11 he has.

12 In many instances cases are defended and part of
13 the strategy is put the investigator on trial. And I
14 agree with Mr. Ozment that the State has the right to
15 rehabilitate a witness in certain circumstances. The law
16 is rather clear on commenting about post-arrest silence.
17 The Miranda warnings that Mr. Gifford gave at least the
18 ones he recited today to me only went kind of half way. I
19 don't know if he just didn't read the whole card today.
20 But he said you have the right to remain silent. Anything
21 that you say can be used against you in court. You have
22 the right to have an attorney present with you or to
23 consult with an attorney. If you cannot afford one, one
24 will be appointed to represent you at no charge. It
25 didn't go on to say when you have the right to stop

1 answering questions at any time during the questioning. I
2 don't know why Deputy Gifford didn't say that. I don't
3 know if it's not on his card or whether he just stopped
4 today in the trial half way through. I thought yesterday
5 during the proffer he went the whole the way. But in any
6 event, I think even though it's a close question I'm going
7 to sustain the objection. I think it would be an improper
8 comment on post-arrest silence. Mr. Grove is forewarned if
9 he proceeds much further with it that the door may be in
10 my judgment popped open.

11 MR. GROVE: Thank you, Judge.

12 MR. OZMENT: Before we ask -- can I ask if there
13 were any other statements or any recorded statements of
14 the defendant.

15 THE COURT: No, because that would necessarily
16 prompt a response that he said no, that he's not going to
17 talk any more.

18 Mr. Grove, do you object to that question? You
19 asked him.

20 MR. GROVE: I do, Your Honor, that's basically
21 my question, that's the substance of my previous objection
22 is not I didn't open the door as to whether there were any
23 subsequent statements. I asked a question did he record
24 this statement and he said no. He had the opportunity to
25 record it and he didn't.

1 THE COURT: All right. Then that will end the
2 inquiry about statements. Of course, you can repeat that
3 he didn't audio or tape the statement at the scene, but
4 you can't ask him if he gave any other statements. That
5 would imply that he exercised his right to remain silent
6 and that cannot be commented on. Is that what you were
7 asking?

8 MR. OZMENT: Yes, Your Honor. I was just trying
9 to see if I can clear up that there aren't subsequent
10 statements somewhere recorded since we kind of leaving
11 that out there.

12 THE COURT: Can you all hear me, okay?

13 MR. OZMENT: Yes, Your Honor.

14 MR. GROVE: Yes, sir.

15 THE COURT: We clear on that so far?

16 MR. GROVE: We are.

17 MR. OZMENT: Yes, Your Honor.

18 THE COURT: You can bring in the jury.

19 THE BAILIFF: They are using the facilities.

20 THE COURT: That door still shut, isn't it?

21 THE BAILIFF: Yes, sir.

22 THE COURT: By the way, Mr. Grove, during any
23 argument or questioning of other witnesses, I'm not going
24 to permit you to leave dangling in the air any perceived
25 failure and that the word failure is contextural on the

1 part of law enforcement to take a recorded statement at
2 the jail. If you do that, then we'll have an issue with
3 that.

4 MR. GROVE: I completely understand, Your Honor.
5 My questions were very focused and intentional, but there
6 was not a recorded statement at the scene. I'm not
7 interested in delving into anything else there.

8 THE COURT: And the reason generally for my
9 ruling, Mr. Ozment, is that the witness is the one who
10 interjected the availability of that technology at the
11 jail. So even though the witness was honestly answering
12 the question, I don't think that was Mr. Grove necessarily
13 opening the door, okay.

14 MR. OZMENT: Yes, Your Honor.

15 THE COURT: They ready?

16 THE BAILIFF: Yes, sir.

17 MR. OZMENT: Did they finish with that picture?

18 THE COURT: It's back up here.

19 MR. OZMENT: That's all I was just wondering.

20 THE COURT: You can bring in the jury.

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

22 THE COURT: Okay, Mr. Ozment, you can continue.

23 MR. OZMENT: Yes, Your Honor.

24 BY MR. OZMENT:

25 Q Don't go any further than to answer this direct

1 question. But why did you not record the statement at the
2 scene?

3 A I did not record the statement at the scene because I
4 was going to record a statement at the scene -- I'm sorry
5 at the jail because he was being so forthcoming.

6 MR. GROVE: Objection, Your Honor.

7 THE COURT: Objection sustained.

8 MR. OZMENT: Your Honor, may I approach?

9 THE COURT: Yes, sir.

10 BY MR. OZMENT:

11 Q The defense asked you to look at this Exhibit
12 Number 1; is that correct?

13 A That's correct.

14 Q This case that he called that you talked about here
15 was anything in it when you were there. What was the
16 general -- how organized was this van?

17 A If I remember correctly, the front it was clean.
18 There wasn't a lot of stuff on the floor. The back it
19 look like all the equipment had a place for it to be
20 secured because it was pretty big equipment in the back.
21 And it look like everything had it's place and it was --
22 you were able to enter the van without stepping on stuff
23 and walking over stuff.

24 Q Okay. But in the cup holders on the floor, was there
25 any items -- miscellaneous items that were kind of here

1 and there?

2 A I don't believe there was.

3 Q Okay.

4 MR. OZMENT: No further questions, Your Honor.

5 THE COURT: All right, any additional questions?

6 MR. GROVE: A very brief recross if you'll
7 allow it, Judge.

8 THE COURT: All right.

9 RECROSS-EXAMINATION

10 BY MR. GROVE:

11 Q Investigator, talking about the inside of the van,
12 you said things in the back were secured and orderly?

13 A If I remember correctly everything look like where it
14 was suppose to be.

15 MR. GROVE: May I approach, Your Honor?

16 THE COURT: Yes, sir.

17 BY MR. GROVE:

18 Q I'm showing you State's Exhibit 10, 11 and 12. Can
19 you take look at those very briefly?

20 A Didn't remember it as I thought I did.

21 Q Does that appear to be the inside of Steve Springs'
22 van?

23 A It does.

24 Q Does that appear to be orderly?

25 A All the containers and everything are bungee cord in,

1 but there is items in the center of the van.

2 Q And there's I believe I'm looking at 11. There's
3 pliers on the ground; correct?

4 A There are.

5 Q And there looks to be what fishing line or some sort
6 of cable on the ground; correct?

7 A Looks like a wire or spool of wire.

8 Q And there's a blue container that looks like it has a
9 place to go in line with other containers; is that
10 correct?

11 A Yeah, that's correct.

12 Q There's a blue container next to the bag of
13 screwdrivers that looks like it might belong in an orderly
14 row with other blue containers that are elsewhere in the
15 van?

16 A Right. I believe this -- it's the side of the van.

17 Q And it's laying on the ground in the van?

18 A Right.

19 Q On top of some wires?

20 A The cables that are hanging up on the side over here.
21 Those the cables right there that are hanging they come
22 all the way down to the ground.

23 MR. GROVE: May I approach?

24 THE COURT: Yes, sir.

25 MR. GROVE: Okay.

1 BY MR. GROVE:

2 Q And this looks like it might be in the back of the
3 van State's 12?

4 A Yeah, that is the back.

5 Q Is that enough to turn shock vac laying there on its
6 side on top of a crate.

7 A It is.

8 Q In an orderly fashion?

9 A On its side in a crate.

10 MR. GROVE: No further questions.

11 THE COURT: Anything else, Mr. Ozment?

12 MR. OZMENT: No, Your Honor.

13 THE COURT: All right. You can step down.

14 Thank you, sir.

15 (WHEREUPON, the witness leaves the witness
16 stand.)

17 THE COURT: Any additional witnesses today?

18 MR. OZMENT: Not at this time, Your Honor.

19 THE COURT: All right. Ladies and gentlemen,
20 we'll break for lunch as I indicated to you yesterday. We
21 have to stop early today for no reasons that are directly
22 related to this cases at all. You're permitted to go on
23 about your business for the rest of today. You may not
24 discuss the case amongst each other or with anyone else in
25 the whole world. You can't undertake to do any research

1 on your own about any of the issues or matters involved in
2 the case.

3 Also, do not read anything about it or listen to
4 anything about it or watch anything about this case at
5 all. If it should be in published form somewhere within
6 your hearing or within your eyesight, just turn off
7 whatever you're listening to or watching or put down
8 whatever you might be reading. If that does happen,
9 please bring it to the attention of one of the bailiffs
10 and the bailiff will bring it to my attention. And we'll
11 take appropriate action. But you are not permitted to
12 read or listen to or watch anything about it. Enjoy your
13 afternoon. If you would be back at about 9:20 tomorrow
14 morning, we're going to start shortly after that with the
15 resumption of the trial.

16 Mr. Jones and Ms. Riley, when you get back
17 tomorrow if you two folks would coordinate a discussion
18 amongst the other 12 jurors as to who might be your
19 foreperson, be one person. The only two who would not be
20 foreperson would be you, Mr. Jones or Ms. Riley. It's not
21 going to be a campaign or an election. It's just the
22 foreperson will be the person who during the trial will
23 speak for the jury, relay any concerns to a bailiff and
24 then to me. Also will be responsible for making sure that
25 the deliberations are conducted thoroughly and in orderly

1 fashion and will make sure that the verdict is unanimous
2 and properly recorded on the verdict form. That's what
3 the foreman's -- a foreperson's general responsibilities
4 are. So if you two folks could coordinate that when you
5 have decided who will be your foreperson, just tap on the
6 door and let the bailiff know, okay. I'll see you
7 tomorrow at about 9:20. Thank you.

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

9 THE COURT: Mr. Ozment, the reason that I
10 sustained his last objection was more along the lines of
11 that question had already been asked and answered. Just
12 to be clear, I don't think that Investigator Hester did
13 anything wrong when he testified. I think his testimony
14 was appropriate and I think he was anticipating the
15 argument that somehow the investigation fell short.

16 Of course, you two gentlemen may want to look to
17 the case of Fletcher vs. Weir (sic). It's a U.S. Supreme
18 Court case, that's when I was -- I think, it's a 1982
19 case. It's 455 U.S. 603. And there's another one called
20 Jenkins vs. Anderson 447 U.S. 231. And also Brown vs.
21 State, that's a South Carolina case 375 S.C. 464 about any
22 hereafter on the issue of post-arrest silence and what may
23 happen if the defendant takes the stand in that regard,
24 just for everybody to be educated case on that.

25 All right. Thank you for the way you tried the

1 case so far, appreciate the orderly way you're putting up
2 the evidence. I guess, we'll get back at about 9:15
3 tomorrow and we'll find out who the foreperson will be.
4 What do you think you want to accomplish tomorrow --
5 making pretty good progress now. You got six witnesses
6 concluded. You may be able to put up most of the rest of
7 your case tomorrow.

8 MR. OZMENT: That's what I anticipate. So far
9 people are moving along. I think examination been
10 poignant, so going to remain like that maybe an outside
11 chance we'll finish tomorrow, but I bet we would trickle
12 into Thursday morning.

13 THE COURT: Does SLED witnesses or what I would
14 call the out-of-town witnesses including the pathologist
15 do they have subpoenas to be here at a certain time?

16 MR. OZMENT: Your Honor, they're going to be
17 here in the morning.

18 THE COURT: Okay, so you are fine with them?

19 MR. OZMENT: They are traveling. They may not
20 all be here at 9:30, but they're all suppose to be here
21 during the morning time.

22 THE COURT: Okay. Usually takes me about 45
23 minutes to get to the parking lot and 20 minutes to get up
24 stairs, so you'll have to account for that. All right.
25 Thank you for today and I'll see you tomorrow morning

1 about 9:15.

2 (WHEREUPON, the proceedings were concluded for
3 the day to be reconvened on October 23, 2013.)

4 THE COURT: Okay. I understand the jury has
5 selected a foreperson, get the juror number, juror number
6 57 Michelle Hayes. She wrote on here alternate, which I
7 assume is the deputy foreman just the first name of first
8 name of Steve. I don't know who that is. The only
9 Stephen on here is Mr. Elgin, but I'll inquire of that
10 when they come out.

11 Is the State ready to proceed?

12 MR. OZMENT: Yes, Your Honor.

13 THE COURT: Is the defendant ready?

14 MR. GROVE: Yes, sir, Your Honor. Thank you.

15 THE COURT: Okay. And you said that you had
16 perhaps eight or nine more witnesses to go in your whole
17 case?

18 MR. OZMENT: Let me -- it looks like about ten.

19 THE COURT: Ten, okay.

20 MR. OZMENT: Obviously, that can change by
21 number up or down.

22 THE COURT: All right. You can bring in the
23 jury. And I don't know if you customarily have the
24 foreperson sit in a certain spot.

25 THE BAILIFF: Yes, sir, we have.

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

2 THE COURT: Ladies and gentlemen, we ready to
3 move forward. Ms. Hayes, you been selected by your fellow
4 jurors as the foreperson. I'll talk to you in more detail
5 at the end of the case, of course, in front of everybody
6 about what your specific responsibilities are. But as I
7 said yesterday, if anybody on the jury has any concerns or
8 questions during the course of the trial, they relay those
9 to you if you are in the jury room. And you just relay
10 any issues to the bailiff and I'll take care of anything
11 that you might have a problem about.

12 Typically, I don't have a problem with the
13 foreperson sitting anywhere, but the bailiffs in some
14 courthouses like you to sit on the end, so they have you
15 available at all times. So you just sit right there.
16 Now, on the note it also said the alternate or the deputy,
17 I assume, foreperson would that be Mr. Elgin? You're Mr.
18 Elgin?

19 JUROR: Yes, sir.

20 THE COURT: Okay. All right. We're ready to go
21 forward. I hope you had a nice afternoon yesterday.

22 Mr. Ozment, you can call your next witness.

23 MR. OZMENT: Thank you, Your Honor. The state
24 would call Catherine Leisy to the stand.

25 THE CLERK: If you will, ma'am, stand right

1 there. Place your left hand on the Bible and raise right
2 hand. Do you swear to tell the truth, the whole truth and
3 nothing but the truth so help you God?

4 THE WITNESS: I do.

5 THE CLERK: Please be seated and state your full
6 name for the record.

7 THE WITNESS: Catherine Leisy.

8 WHEREUPON,

9 Catherine Leisy,
10 after first having been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. OZMENT:

13 Q How are you today?

14 A Doing well, thank you.

15 Q Good. What do you do for a living?

16 A I work for the South Carolina Law Enforcement
17 Division more commonly known as SLED. I'm a forensic
18 scientist assign to the DNA and serology unit.

19 Q All right. And so what do you do on a common daily
20 basis with SLED?

21 A My responsibilities include processing forensic
22 cases, generating reports based on the results and
23 conclusions drawn, testifying to those reports as
24 necessary, also responsible for quality control within the
25 laboratory as well as training of newly hired analyst.

1 Q All right. What kind of training did you have to go
2 through to get your position?

3 A I have a bachelor of science degree in genetic
4 engineering from Cedar Crest College in Allentown,
5 Pennsylvania. I have received in-house training at SLED
6 in all the different types of test and analysis that I'm
7 required to perform. I'm also required to perform
8 continuing education annually, which includes seminars or
9 training sessions on specific and new topics in DNA
10 forensic identification testing.

11 Q Okay. Do you have any sort of certifications for
12 your position?

13 A I am certified by SLED to a DNA analyst and we are
14 accredited by the American Society of Crime Laboratory
15 Directors Laboratory Accreditation Board.

16 Q All right. How long have you been in your position
17 as a forensic scientist at SLED?

18 A I've been with SLED for seven years.

19 MR. OZMENT: Your Honor, at this time the State
20 would ask that Ms. Leisy be certified as an expert in DNA
21 testing and DNA science.

22 THE COURT: All right. Any questions or
23 objections, Mr. Grove?

24 MR. GROVE: Briefly, Your Honor.

25 EXAMINATION

1 BY MR. GROVE:

2 Q Ms. Leisy, how many times have you testified in
3 criminal court?

4 A Approximately 50 occasions.

5 Q Have you ever testified in civil court for any
6 reason?

7 A No, I have not.

8 Q So all of your testimony has been for a criminal
9 case?

10 A That's correct.

11 Q You gotten several degrees and you worked with SLED
12 for a while and you done all this training that you talked
13 about, that you're uniquely qualified for this I suppose,
14 right?

15 A That's for the Court to decide.

16 MR. GROVE: Your Honor, I got no objection.

17 THE COURT: All right. Ladies and gentlemen,
18 the witness is qualified as an expert in the area of DNA
19 testing and DNA science. I want to call your attention to
20 the fact that under our rules typically a witness who
21 testifies cannot render opinions. Those types of
22 witnesses that are commonly called lay witnesses can only
23 testify to things that they saw or heard or smelled or
24 touched things of that nature. There is an exception in
25 our rules of evidence for people who are qualified as

1 experts in a particular field. And if the Court
2 determines that they are qualified by reason of education,
3 training or experience, those witnesses can give opinions.
4 And they can give the reasons for those opinions. That
5 does not mean however that you are bond by the opinion
6 that comes from an expert because it comes from an expert.
7 I will instruct you more thoroughly at the end of the
8 case, but the gist of it right now is that you give an
9 expert's testimony the weight that you believe it
10 deserves.

11 All right. Mr. Ozment, the witness is qualified
12 in those two areas.

13 MR. OZMENT: Thank you, Your Honor.

14 BY MR. OZMENT:

15 Q Ms. Leisy, earlier this month, did you conduct a test
16 on the SLED lab number L1312259 the person -- subject
17 being Wayne Albeon Scott, Jr.?

18 A Yes, I did.

19 Q Okay. And tell me what's your process when you do a
20 DNA test?

21 A When the items of evidence are submitted to a
22 laboratory, first step is to and develop a DNA profile
23 from that item. Once a profile is developed, we can
24 compare it to the DNA profile of a known individual who
25 standard has been submitted for comparison. And we try to

1 determine basically whether or not that individual
2 contributed the DNA that's found on that particular item
3 that day.

4 Q All right. So in this case, let's start with you
5 said a standard for that individual. How did you get that
6 standard?

7 A I received what are referred to as buccal swabs,
8 which are simply sterile cotton swabs that look just like
9 a Q-tip, that's rubbed against the inside of an
10 individuals cheek to collect their cells. I can then
11 develop a DNA profile from those cells to use as that
12 persons known standard and try to determine whether or not
13 they could have contributed DNA to an item of evidence.

14 Q How did you receive those swabs in this case?

15 A These swabs came to me in a heat-sealed plastic
16 pouch. When a submitting agency brings the items in, they
17 are logged into our computer system and signed a unique
18 case and item number. They are then placed within the
19 heat-sealed pouch. The seal receives the initials of the
20 individuals submitting the evidence as well as the date
21 that it's being submitted. So that when the pouch comes
22 to me as long as that pouch is still in tact, I know that
23 the evidence hasn't been tampered with in any way. And I
24 received the heat-sealed pouch from our evidence control
25 department.

1 Q Does it appear to have been tampered with in any way?

2 A It did not.

3 Q So you had your standard off the buccal swabs. What
4 did you have to compare it to?

5 A I received two sets of swabs. The first item found
6 is SLED two, which were swabs from a red and black
7 screwdriver as well as SLED item three swabs from a knife.

8 Q All right. And so you didn't have the actual
9 screwdriver knife, you just had swabs from them?

10 A That's correct.

11 Q Okay. So what did you do once you have these three
12 sets of swabs?

13 A I attempted to develop DNA profiles from the
14 evidentiary swabs that were submitted from the swabs from
15 the red and black screwdriver. There was no DNA profile
16 developed and the from swabs from the silver knife, the
17 partial DNA profile developed is insufficient for liable
18 interpretation.

19 Q So let's start with the screwdriver, you said no
20 profile was developed, what does that mean I guess in
21 layperson's term?

22 A Basically, it just means that there was not enough
23 DNA present on the item or the swabs taken from the item
24 for me to be able to develop any type of profile.

25 Q All right. So in comparing it to Mr. Scott's swabs,

1 what would your conclusion be?

2 A There's no way to compare it as I wasn't able to
3 develop a profile.

4 Q Okay. And then as far as the swabs from the silver
5 knife, I think you said that a little differently.
6 Explain exactly what you got off of that?

7 A I developed what we call a partial profile just means
8 that there was such a limited amount of DNA present, I was
9 only able to determine information from two of the eight
10 locations that I tested. It's not enough information for
11 me to do a formal comparison between the partial and any
12 known individual.

13 Q Okay. And so I guess compared to the screwdriver
14 where you didn't get enough DNA to say anything on this
15 one. You did get a little bit. Would that be a fair way
16 to say it?

17 A It would. It's just a very weak partial profile.
18 There's not enough for me to determine a full profile.

19 Q All right. So what would that tell you when
20 comparing it to Mr. Scott's DNA?

21 A Again, it's not enough information for me to make a
22 formal comparison. I can't determine whether or not he
23 may have been a contributor.

24 Q Okay. And so, I guess, and just to summarize all of
25 it and then I will sit down. When you compared these

1 swabs to these two items, can you give us anything for or
2 against or any sort of information as to whether or not he
3 ever touched these two items or around them?

4 A Based on the information I have, I can't make a
5 determination about who may or may not have touched the
6 items.

7 MR. OZMENT: No further questions at this time,
8 Your Honor.

9 THE COURT: Mr. Grove.

10 MR. GROVE: Briefly, Your Honor. Thank you.

11 CROSS-EXAMINATION

12 BY MR. GROVE:

13 Q You tested three different items; is that correct?

14 A Yes, it is.

15 Q One of them being, I guess, what you would call a
16 known. You knew that there was DNA from a Wayne A. Scott,
17 Jr., on one of the samples?

18 A Correct, that's how it was identified as it was
19 submitted to me.

20 Q And you're comparing the other two unknowns to the
21 known?

22 A That's correct.

23 Q I like to show you something.

24 MR. GROVE: May I approach the witness, Your
25 Honor?

1 THE COURT: Yes, sir.

2 BY MR. GROVE:

3 Q I like to show you something, but don't tell me what
4 it is just yet. But tell me if you recognize it?

5 A Yes, I do.

6 Q Can you describe it for me?

7 A This is a copy of the report that I issued on my
8 findings in this case. It includes all pertinent case
9 numbers, dates as well as item descriptions and my
10 results.

11 Q You said that you developed no DNA profile at all
12 from the screwdriver; correct?

13 A That's correct.

14 Q Where was the screwdriver swabbed?

15 A That I don't know. It was swabbed by the submitting
16 agency and just the swabs were brought into me.

17 Q So is it possible that there was DNA elsewhere on the
18 screwdriver just not in the portions that it was swabbed?

19 A It's possible when you swabbed an object like that
20 that you may miss DNA that's present on a different
21 portion. It all depends on where the DNA is present and
22 where the DNA is swabbed.

23 Q If I swab this podium right here, but I didn't swab
24 it over here and there's no DNA here. But there is DNA
25 here, I can certainly get no profile at all from swabbing

1 over here, right?

2 A That's correct.

3 Q Even though swabbing over here would have developed
4 something?

5 A Correct. It all again depends on where DNA would be
6 present on an item and exactly where that item is swabbed
7 to collect the DNA.

8 Q Certainly. And you did develop a little bit from a
9 silver lock-back knife, right?

10 A That's correct.

11 Q But you say it's insufficient for analysis?

12 A For interpretation and comparison, correct.

13 Q Right. How much is sufficient?

14 A Typically, I like to see data at least half of the
15 DNA types. I'm using this system when I test. I only
16 have partial results at two of the locations that I
17 tested. And with this amount of information, I don't ever
18 make a formal comparison with a partial profile and known.

19 Q Did you get anyone else's DNA to compare against?

20 A I did not. I only received that of Mr. Scott.

21 Q Do you know where the knife was swabbed?

22 A I do not.

23 Q So you're not sure if a more thorough sample could
24 have been developed from another portion of a knife?

25 A The only way to know that would be to swab another

1 portion. Again, I don't know where the swab was taken
2 from.

3 Q So you are in Columbia and not really associated with
4 this case, right?

5 A That's correct.

6 Q The only control you have is testing the items that
7 you are given?

8 A Correct.

9 MR. GROVE: Thank you.

10 THE COURT: Any redirect?

11 MR. OZMENT: No, Your Honor.

12 THE COURT: All right. Ms. Leisy, you can step
13 down. Thank you.

14 (WHEREUPON, the witness leaves the witness
15 stand.)

16 MR. OZMENT: Your Honor, I ask that she be
17 relieved from her subpoena, so she can go back to
18 Columbia?

19 MR. GROVE: No objection, Your Honor.

20 THE COURT: You can leave or stay whichever you
21 like.

22 Next witness.

23 MR. OZMENT: Beg the Court's indulgence. Your
24 Honor, the State would call Hubert Black to the stand.

25 THE CLERK: If you will, sir, place your left

1 hand on the Bible and raise your right hand. Do you swear
2 to tell the truth, the whole truth, and nothing but the
3 truth so help you God?

4 THE WITNESS: Yes, ma'am.

5 THE CLERK: Please be seated in the witness
6 chair and state your name for the record.

7 THE WITNESS: Hubert Walter Black.

8 WHEREUPON,

9 Hubert Walter Black,
10 after first having been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. OZMENT:

13 Q Good morning, Mr. Black. How are you doing today?

14 A Pretty good.

15 Q Good. Where do you live?

16 A [REDACTED] Poor Farm Road, Florence.

17 Q All right. What do you do for a living?

18 A Hardwood floors.

19 Q Okay. Do you know Wayne Sunny Scott?

20 A Yes, sir.

21 Q How long have you known Mr. Scott?

22 A He started to work with my father, I believe about
23 the '80's, early '80's Hubert Black and Sons Paint and
24 Wall and Floors.

25 Q All right. And have you known him ever since that

1 time?

2 A Yes, sir.

3 Q Kept up?

4 A Yes, sir.

5 Q What kind of work do you do?

6 A Hardwood floors.

7 Q Is Mr. Scott ever involved in that?

8 A Yes, sir.

9 Q How does -- what does he do for you?

10 A When I don't have anybody to work with me, I get him

11 to work with me.

12 Q All right. What kind of work?

13 A Sand floors and finish and varnish floors.

14 Q Hardwoods?

15 A Install hardwood floors, yes, sir.

16 Q Back in September of 2012 was Mr. Scott working for

17 you at all during that period?

18 A Yes, sir.

19 Q Where were you all working at that time?

20 A We working in Hartsville at Russel Cox daughter's

21 house.

22 Q Okay. And what were you doing at that house?

23 A Installing floors and finishes.

24 Q Okay. How many days did Mr. Scott work with you at

25 that the locations?

1 A A couple weeks.

2 Q All right. When you were working with him for those
3 couple days, did he ever mention to you the name Steve
4 Springs?

5 A He never mention the name Steve.

6 Q All right. Did he ever mention an incident going on
7 with his stepdaughter?

8 A Yes, sir.

9 Q Tell me what he told you about that?

10 A He been had aggravating him and they been calling and
11 all.

12 Q Let me -- when you say they, who are you referring
13 to?

14 A Sunny and that boy's arguing back forth on the phone.

15 Q Okay. And when was this that they were arguing?

16 A During the weeks that he was working with me.

17 Q Okay. So it was an ongoing type thing you mean?

18 A Yes, sir.

19 Q All right. Was there at any point -- and did you
20 know who he was talking to?

21 A I didn't even know him.

22 Q All right. Right now do you have any idea who Steve
23 Springs is?

24 A No, sir, I have no idea who he is.

25 Q Okay. And did you ever hear Sunny say any threats

1 towards Mr. Springs?

2 A Yes, sir.

3 Q Tell me -- I guess kind of start at the beginning
4 tell me when you first heard that?

5 A Sunny he got in a woman's liquor cabinet one day and
6 we knocked off and I was on the way home. And we smoked a
7 joint.

8 Q Let me interrupt you for a minute. Were you all
9 riding together?

10 A Yes, his daddy and Carl Munn was in the truck too.

11 Q Okay.

12 A And Sunny said he was going to go on a killing spree.

13 Q All right. Did he tell you who he was going to kill?

14 A He said he was going to kill Larry Bruce. He said he
15 was going to kill that boy on the phone and he was going
16 to kill my half brother.

17 Q Okay. Did you take him serious when he said this?

18 A No, sir.

19 Q Why didn't you take him serious?

20 A Because -- Sunny's a good fellow when he's not
21 drinking, but when he's drinking, he -- I never think he
22 would do it not really. I never thought he would do
23 nothing like that.

24 Q All right. And let me -- did you ask him anything
25 about when he said obviously you knew who our half brother

1 was, knew who Mr. Bruce was. The third guy did you ask
2 him why he said he was going to kill him?

3 A Because he was making phone threats and he was
4 putting his grand youngins (sic) through that stuff. He
5 wasn't going to put his grand youngins (sic) through that
6 stuff.

7 Q Okay. Do you remember the exact phrase Mr. Scott
8 used when he was talking about the guy you didn't know?

9 A His exact words.

10 Q Do you remember?

11 A It was profanity.

12 Q Maybe kind of abbreviate the profanity for us, but
13 we'll still know what you're saying?

14 A Sunny said he fool him over to his house and he'd
15 kill him.

16 Q All right. Did you see -- and how -- do you remember
17 what time of the month this was when he told you that?

18 A It was right before hunting season. I sold him a 410
19 shotgun to his grandson and brought some corn to my house
20 and put out on the farm for him to come hunting with me.

21 Q So around the beginning hunting season?

22 A Yes, sir.

23 Q After Mr. Scott told you that in the car on the way
24 home that day, did you see him any more?

25 A I loan him my floor machine. He done a job for Tony

1 Hollis Construction. I loan him my floor machine and when
2 I went around there, he was still talking about it with
3 Bobby Buffkins and his boy.

4 Q All right. And when you say you loaned him your
5 floor machine I guess what ---

6 A Floor sander something you sand floors with.

7 Q Okay. And when you say you went around there why
8 were you going around there?

9 A To pick my equipment up.

10 Q Okay. Do you remember what he was saying at that
11 time?

12 A He was still talking about that boy aggravating him
13 and all on the phone.

14 Q Okay. Did he make any more threats at that point?

15 A Not that at that time he didn't, no, sir.

16 Q Did you talk to Mr. Scott any more about this after
17 that?

18 A No, the next thing I heard that he had shot that boy.

19 Q Okay.

20 MR. OZMENT: No further questions, Your Honor.

21 THE COURT: Mr. Grove.

22 MR. GROVE: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. GROVE:

25 Q Mr. Black, you testified just a minute ago that you

- 1 and Sunny been over in Hartsville; correct?
- 2 A Yes, sir.
- 3 Q And you all had something to drink, right?
- 4 A I didn't have nothing to drink, I don't drink.
- 5 Q You all smoked a joint?
- 6 A Yes, sir.
- 7 Q You did do that?
- 8 A Yes, sir.
- 9 Q And he was working for you at the time?
- 10 A Yes, sir.
- 11 Q And he said this is in September of last year.
- 12 Whereabout in September?
- 13 A It was before hunting season before the 15th.
- 14 Q That's right I forgot that you had said that. And
- 15 you said that Sunny rattled off several names saying he
- 16 was going to kill all these people?
- 17 A I said that he called three names. He didn't call
- 18 that fellow's name. He just said his daughter's
- 19 boyfriend.
- 20 Q Right. But he starts talking about how I'm going to
- 21 kill this person, I'm going kill that person, I'm going to
- 22 kill this person, right?
- 23 A Yes, sir.
- 24 Q And you didn't take that seriously at all, did you?
- 25 A Never have.

1 Q Right. You also said that why you don't know this
2 fellow's name, you do know it's your stepdaughter's
3 boyfriend, right?

4 A Yes, sir.

5 Q That that fellow had been making threats to him?

6 A Yes, sir.

7 Q He been calling him on the phone threatening him?

8 A That's what he said, that's what Sunny Scott said,
9 yes, sir.

10 Q Right. In the same way that Sunny is saying I'm
11 going to do this and I'm going to do that. He's also
12 saying that because this guy is threatening me, that's why I
13 feel that way?

14 A Yes, sir.

15 Q When did you find out that Steve Springs that's the
16 fellow who dating his stepdaughter, when did you find out
17 that he had died?

18 A It was on the news that night.

19 Q So right away?

20 A Yes, sir.

21 Q Did you ever contact law enforcement?

22 A I tried to, yes, sir.

23 Q What do you mean you tried to, when did you call
24 them?

25 A I called them the week after -- the same week after

1 he done it a couple days, I called Mr. Hester's office.

2 Q You speak with Investigator Hester?

3 A No, sir. They said he was on vacation. I left him a
4 message to call me.

5 Q And that was the week after?

6 A That was the same week not the week after, the same
7 week that he done it.

8 Q So just a few days afterwards?

9 A Yes, sir.

10 Q You called and left a message?

11 A Yes, sir.

12 Q Do you remember what you said?

13 A I said that he needed to call me about the murder
14 trial. I sold Mr. Scott a 410 a week before that.

15 Q Did you tell him anything else?

16 A I didn't leave all that on the answering machine, no,
17 sir.

18 Q But you told him you had some information about a
19 murder that you had seen on the news?

20 A Yes, sir.

21 Q And that you wanted to talk with him?

22 A Yes, sir.

23 Q When did you hear from Investigator Hester?

24 A I ain't never heard nothing from him.

25 Q He didn't call you back the next day?

- 1 A No, sir.
- 2 Q Didn't call you back when he got back from vacation?
- 3 A Never heard anything else.
- 4 Q He didn't call you the next month?
- 5 A No, sir.
- 6 Q He didn't call you in October?
- 7 A He never called me. I never had a phone call until
- 8 last Thursday at 4:15 to be at the Solicitor's at 2:30 the
- 9 next day.
- 10 Q He didn't call you in December?
- 11 A No, sir.
- 12 Q Not in January, not right before Easter not in the
- 13 summertime?
- 14 A No, I never heard from him.
- 15 Q Last Thursday is the first time you heard from
- 16 anybody?
- 17 A Yes, sir.
- 18 Q Did you ever call back?
- 19 A No, sir.
- 20 Q When you didn't hear from them by Thanksgiving, you
- 21 didn't think, well, man, maybe they didn't get the message
- 22 maybe I should call back?
- 23 A I figured they get in touch with me when all this
- 24 come out. I figure they get in touch with me.
- 25 Q And when you hadn't heard from them by Christmas, you

1 didn't call them then?

2 A I figure they didn't want to hear nothing about me.

3 Q And when Easter Sunday rolled around, you didn't call
4 back then?

5 A No, sir.

6 Q And when the first day of summer came around?

7 A No, sir.

8 Q And what about the first day of hunting season this
9 year when you thought, oh, man Sunny and I were working
10 together this time last year. You didn't call them then
11 either, did you?

12 A No, sir.

13 Q Okay.

14 MR. GROVE: I don't have any further questions,
15 Your Honor.

16 THE COURT: Redirect?

17 MR. OZMENT: None, Your Honor.

18 THE COURT: All right. You may step down.
19 Thank you, Mr. Black.

20 Any objection to the witness being excused?

21 MR. OZMENT: No, Your Honor.

22 MR. GROVE: No, Your Honor.

23 THE COURT: Mr. Black, you can stay if you like
24 or you can leave.

25 (WHEREUPON, the witness leaves the witness

1 stand.)

2 THE COURT: Next witness.

3 MR. OZMENT: Your Honor, the State would call
4 Michael Bruce to the stand.

5 THE CLERK: If you will, sir, place your left
6 hand on the Bible and raise your right hand. Do you swear
7 to tell the truth, the whole truth, and nothing but the
8 truth so help you God?

9 THE WITNESS: I do.

10 THE CLERK: Please be seated in the witness
11 chair and state your full name for the record.

12 THE WITNESS: Larry Michael Bruce, II.

13 WHEREUPON,

14 Larry Michael Bruce, II,
15 after first having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. OZMENT:

18 Q How are you today, Mr. Bruce?

19 A I'm doing pretty good. How about yourself?

20 Q Good. What do you do for a living?

21 A I'm a heavy equipment operator.

22 Q All right. Where do you live?

23 A Pamplico, South Carolina.

24 Q Okay. What were you doing for a living back in
25 September of last year?

- 1 A I was working for my dad, a painter.
- 2 Q All right. Is that commercial or residential?
- 3 A Both.
- 4 Q Okay. Back do you know Sunny Scott?
- 5 A Yes, sir.
- 6 Q How do you know Mr. Scott.
- 7 A Ever since I was a little boy he use to work for my
- 8 dad.
- 9 Q Okay. Did you work with him when you worked for your
- 10 dad?
- 11 A Yes, sir.
- 12 Q Okay. Going back to September 24th of last year, did
- 13 you work with Mr. Scott that day?
- 14 A Yes, sir.
- 15 Q All right. Tell me where you all were working?
- 16 A I believe it's a little community called Summer Gate
- 17 right there off Ebenezer in Florence.
- 18 Q What were you doing that day?
- 19 A Painting a house.
- 20 Q Okay. Was Mr. Scott with you painting that house?
- 21 A Yes, sir.
- 22 Q The whole time?
- 23 A Yes, sir.
- 24 Q Did you all have anything to drink while you were
- 25 working?

- 1 A No, sir.
- 2 Q After work what did you do?
- 3 A We went hunting.
- 4 Q Who's we?
- 5 A Me and Sunny.
- 6 Q Where did you go hunting?
- 7 A On my property in Pamplico.
- 8 Q Deer hunting?
- 9 A Yes, sir.
- 10 Q How long were you out there hunting?
- 11 A Just a few hours, two hours maybe.
- 12 Q When did you come in from hunting?
- 13 A Right before dark.
- 14 Q Had you and Sunny ever hunted together before?
- 15 A Yes, sir.
- 16 Q Did you usually go to that same place?
- 17 A The same area, yes, sir.
- 18 Q Okay. When did you and Sunny hunt together or just
- 19 separate places on the property?
- 20 A Two separate places on the property.
- 21 Q Okay. What did you find when you came out of the
- 22 woods? When you came out of the woods and you were by
- 23 yourself I assume, what did you see?
- 24 A Sunny was out at the stand wanting me to carry him
- 25 home.

- 1 Q Was he on the phone?
- 2 A Yes, sir.
- 3 Q Do you know who he was talking to on the phone?
- 4 A At that time, I didn't, no, sir.
- 5 Q Had asked -- did you know anything about this phone
- 6 call? Had you any conversation with Sunny or anything
- 7 about calling somebody?
- 8 A No, sir.
- 9 Q Okay. Was your air conditioner working at your house
- 10 that day?
- 11 A Yes, sir.
- 12 Q Do you have any problem with it?
- 13 A I believe it's having a few problems.
- 14 Q Okay. Had you talked to Sunny about problems with
- 15 your air conditioner?
- 16 A One time I did.
- 17 Q That day had you?
- 18 A No, sir, I don't believe I did.
- 19 Q Okay. Do you remember talking to Investigator Hester
- 20 in this case?
- 21 A Yes, sir. I remember talking to an investigator.
- 22 Q All right. Do you remember talking to him about your
- 23 air conditioner that day?
- 24 A I can't recall. It's -- I might have did.
- 25 Q Okay.

1 A I don't remember what we all talked about really.

2 Q Do you remember telling Investigator Hester that your
3 air conditioner had been cutting on and off and Sunny
4 said, well, I got this man that might be able to fix it or
5 whatever?

6 A Yeah, yes, sir.

7 Q Go ahead.

8 A But I had got somebody to fix it a couple days later.

9 Q Okay. But had you talked to Sunny about that?

10 A Yeah, I asked him, but I asked him did he know
11 somebody.

12 Q Okay. Do you remember him telling that -- telling
13 you that he could call a guy that might be able to fix it?

14 A He said he would see when I asked him did he know
15 anybody.

16 Q Okay.

17 A He said he check into it.

18 Q Do you remember having that conversation with Sunny
19 when you came out of the woods that night?

20 A I want to say it was earlier that day. I wasn't
21 talking about the air conditioner soon as we come out of
22 the woods I don't believe. I'm not quite positive, but I
23 don't think it was earlier that day.

24 Q Okay. But it was that day?

25 A I want to say so.

1 Q Okay. When Sunny was on the telephone when you came
2 out of the woods, could you hear what Sunny was saying?

3 A Him and the dude was arguing with each other.

4 Q Okay. When you say arguing, could you tell what they
5 were arguing over?

6 A I didn't know what they were arguing about.

7 Q Okay. Did you hear any cussing?

8 A Yes, sir.

9 Q How long did that first conversation last?

10 A I really can't say. They was arguing about the whole
11 time until I carried him home pretty much.

12 Q Okay. Was it one phone call?

13 A It was couple of them. I can't give you an exact
14 number or nothing.

15 Q And so when you came out of the woods, do you know
16 who called who on that first phone call?

17 A No, sir.

18 Q How long is the ride from where you were to take
19 Sunny home?

20 A Fifteen minutes, 15 minutes something like that.

21 Q And during that ride was the same phone call or how
22 many phone calls were there?

23 A I believe they called each other about twice,
24 something like that wanting to say.

25 Q Do you remember after the first phone call ---

1 A I remember when I hung the phone up on him one time
2 and he called back, but I didn't answer.

3 Q Do you remember on those phone calls on the way home,
4 do you remember who was calling who? Do you remember?

5 A No, sir, not really.

6 Q Okay.

7 A I remember the other man called Sunny back one time
8 after I hung the phone up.

9 Q Did you answer the phone?

10 A No, when he call back, no, I didn't.

11 Q So the time that you said you hung it up?

12 A I told Sunny just quit arguing with him and I grabbed
13 the phone and hung it up.

14 Q Okay. And during all that, did you ever -- were you
15 ever able to kind of ascertain what they were arguing
16 about?

17 A Not really, not really.

18 Q Did you ever hear Sunny threaten the man at all on
19 the phone?

20 A They told each other they gone beat each others butt.

21 Q All right. So did you hear Sunny threaten the man on
22 the phone?

23 A I wouldn't really say threaten. They was talking
24 about whipping each others butt.

25 Q Okay.

- 1 A But that was both of them at the time.
- 2 Q Did you know if Sunny had been drinking at all?
- 3 A We had a couple beers.
- 4 Q On the way home? You got to say yes or no.
- 5 A Yes, sir.
- 6 Q Okay. Do you remember how many Sunny had?
- 7 A No, sir.
- 8 Q You remember what kind of beer it was?
- 9 A Bud Light.
- 10 Q When did the conversations that Sunny and this man
- 11 were having, when did they kind of finally end?
- 12 A What's that now?
- 13 Q When did all the -- you said they were kind of
- 14 fighting kept calling back and forth when did it finally
- 15 end?
- 16 A I dropped Sunny off at his house and I went back
- 17 home.
- 18 Q And were they still arguing when you dropped him off?
- 19 A When I left Sunny, Sunny done hung up the phone. And
- 20 I told Sunny I see him in the morning, you know, for work
- 21 and I went home.
- 22 Q All right. When you dropped Sunny at his house, was
- 23 anybody else there?
- 24 A No, sir.
- 25 Q All right. Do you recall if there were any lights

1 on?

2 A The yard light was on I believe.

3 Q What do you mean?

4 A Like the porch light outside, the porch.

5 Q Do you know if Sunny could get in his house?

6 A No, he couldn't.

7 Q Why is that?

8 A He didn't have his keys with him because I remember
9 him calling his wife telling her he needed the keys.

10 Q Okay. Did Sunny have a gun with him at this point?

11 A Yes, sir, he had his hunting riffle with him.

12 Q Do you know what that hunting riffle looks like?

13 A Yes, sir.

14 MR. OZMENT: May I approach, Your Honor?

15 THE COURT: Yes, sir.

16 BY MR. OZMENT:

17 Q Is this the hunting riffle he had with him?

18 A Yes, sir.

19 Q That would be State's Exhibit 16. Do you know if
20 that gun was loaded?

21 A I wasn't sure. I recon it was loaded.

22 Q Okay. What did you -- obviously, Sunny and this guy
23 was fighting back and forth? What did you tell Sunny
24 anything about it before you left him?

25 A Told Sunny don't worry about it, that man ain't

1 coming over here. I said don't worry about it. I see you
2 in the morning.

3 Q Did you call your dad at all after that or during
4 that time?

5 A I -- my dad lives right down the road from Sunny. I
6 stop by my daddy's house. It was on my way home. I stop
7 by and told my daddy what him and that man been arguing
8 about on the phone and all that.

9 Q All right. What's your dad's name?

10 A Larry Bruce.

11 Q You're a junior that would make sense?

12 A Yes, sir.

13 Q Did you see Sunny any more that night?

14 A No, sir.

15 Q Do you know Steve Springs?

16 A No, sir.

17 Q Ever met him?

18 A No, sir.

19 MR. OZMENT: No further questions at this time,
20 Your Honor.

21 THE COURT: Cross.

22 MR. GROVE: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. GROVE:

25 Q So, Michael, you're leaving Pamplico over the road,

- 1 right?
- 2 A Yes, sir.
- 3 Q Carrying Sunny home?
- 4 A Yes, sir.
- 5 Q And for at least part of this ride home, Sunny's on
- 6 the phone with somebody, right?
- 7 A Yes, sir.
- 8 Q And you could hear Sunny talking?
- 9 A Yes, sir.
- 10 Q And in your statement you said that the speaker was
- 11 up so loud that you could hear the other fellow talking
- 12 too?
- 13 A Yes, sir.
- 14 Q It wasn't on speakerphone, but you were close enough
- 15 to Sunny that you could hear what the guy was saying to
- 16 Sunny?
- 17 A Yeah, I could hear him arguing back and forth.
- 18 Q And that's how you know Sunny was being threatened,
- 19 right?
- 20 A Yes, sir.
- 21 Q And at some point didn't you get threatened?
- 22 A He told me he was gone beat my butt.
- 23 Q Did he say he was gone get rid of you?
- 24 A Something to that extent, yes, sir.
- 25 Q But you didn't take him seriously?

1 A No, sir.

2 Q Because you don't know this guy, right?

3 A Correct.

4 Q Earlier you testified that you not sure how many
5 phone calls there were, but there were several, right?

6 A Yes, sir.

7 Q More than one at least?

8 A Yes, sir.

9 Q And Sunny was ending these conversations by hanging
10 up phone and sometimes you hung up the phone for him,
11 right?

12 A Yes, sir.

13 Q And you said that they called each other several
14 times. You mean that Sunny called him or do you mean that
15 Steve called Sunny?

16 A Really, I don't recall. I know he called Sunny back
17 one time. I don't know who started the phone calls or
18 nothing like that.

19 Q Right. Because down in Pamplico Sunny's already on
20 the phone that by time ---

21 A By the time I come out the deer stand.

22 Q Sure. At some point Sunny's getting threatened and
23 Sunny is mouthing off a little bit and hangs up the phone,
24 right?

25 A Correct.

1 Q The fellow calls back hangs up the phone, right?

2 A Yes, sir.

3 Q And at one point I think you said you took the phone
4 from Sunny and hang it up for him and said enough with
5 this?

6 A Yes, sir.

7 Q Now, for the last couple of minutes of the drive
8 home, you're trying to reassure that Sunny everything is
9 okay, right?

10 A Yes, sir.

11 Q Not worry about it, don't think a bit about it,
12 right?

13 A Correct, yes, sir.

14 Q Gloria's going to be home in just a few minutes and
15 let you in everything will be fine, right?

16 A That's what I thought, yes, sir.

17 Q Sure. So after you dropped him off, you left?

18 A Yes, sir.

19 MR. GROVE: Beg the Court's indulgence.

20 THE COURT: All right.

21 (WHEREUPON, a pause in the proceedings.)

22 BY MR. GROVE:

23 Q You came out the deer stand right before dark, right?

24 A Yes, sir.

25 Q And then after a few minutes you carried Sunny home,

1 right?

2 A Correct.

3 Q And it takes you how long to get from Old River Road
4 to up here?

5 A About 15 minutes something like that.

6 Q Okay. Mike, did you believe Steve Springs was coming
7 over to Sharon Road that night?

8 A No, sir.

9 MR. GROVE: No further questions at this time,
10 Your Honor.

11 THE COURT: Redirect?

12 MR. OZMENT: No further questions, Your Honor.

13 THE COURT: All right. Mr. Bruce, you can step
14 down.

15 (WHEREUPON, the witness leaves the witness
16 stand.)

17 THE COURT: Can witness be released?

18 MR. OZMENT: Yes, sir, no objection from the
19 State.

20 THE COURT: Mr. Bruce, you can leave if you like
21 or certainly you can stay.

22 MR. GROVE: Your Honor, may we approach?

23 THE COURT: Yes, sir.

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

1 jury.)

2 THE COURT: Everybody okay?

3 MR. OZMENT: Appreciate your patience, Your
4 Honor, the State would call Gloria Scott to the stand.

5 THE COURT: Gloria Scott?

6 MR. OZMENT: Yes, Your Honor. Your Honor, may
7 we approach?

8 THE COURT: Yes, sir.

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

12 THE COURT: She's out there, Mr. Ozment?

13 MR. OZMENT: Yes, Your Honor, she was actually
14 on the tenth floor in the waiting room.

15 THE COURT: Okay.

16 MR. OZMENT: She's having to come up a floor.

17 THE COURT: All right.

18 (WHEREUPON, a pause in the proceedings.)

19 THE CLERK: If you'll place your left hand on
20 the Bible and raise your right hand. Do you swear to tell
21 the truth, the whole truth, and nothing but the truth so
22 help you God?

23 THE WITNESS: I do.

24 THE CLERK: Please be seated in the witness
25 chair and state your full name for the record.

1 THE WITNESS: Gloria Shadoan Scott.

2 WHEREUPON,

3 Gloria S. Scott,

4 after first having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. OZMENT:

7 Q How are you today, Mrs. Scott?

8 A Good.

9 Q What is your relationship with the defendant?

10 A That's my husband.

11 Q Okay. How long have you all been married?

12 A Eighteen years.

13 Q Do you all have any children?

14 A No.

15 Q Do you have any children?

16 A Yes.

17 Q How many children do you have?

18 A I have one.

19 Q And who is that?

20 A Crystal Shadoan Hanna.

21 Q How old is she?

22 A Twenty-seven.

23 Q Okay. Did she for the time it would obviously be
24 appropriate, she grew up in the house with you and

25 Mr. Scott; is that correct?

1 A Yes.

2 Q So be his stepdaughter?

3 A Yes.

4 Q Does she have any children?

5 A Yes.

6 Q How many children does she have?

7 A Two.

8 Q That would be your grandkids?

9 A Yes.

10 Q His step grandkids; correct?

11 A Correct.

12 Q Are you all a close family?

13 A Yes.

14 Q Okay. Do stuff with the grandkids?

15 A Oh, yes.

16 Q All right. Mr. Scott do things with the grandkids?

17 A Yes, he does.

18 Q Did your daughter have a relationship with Mr.

19 Springs?

20 A Yes.

21 Q All right. Let me back up. How did you first come

22 to know Steve Springs?

23 A He was doing heating and air for my boss. I manage

24 some rental properties and he was doing the heat and air

25 for all of our rentals.

1 Q When did this business relationship start?

2 A I don't know exactly. I would say for my boss
3 probably about seven years.

4 Q Okay. So you knew him a while?

5 A Yeah.

6 Q Okay. For the majority of that relationship, you and
7 Mr. Springs cordial?

8 A Yes.

9 Q Friendly?

10 A Yes.

11 Q Okay. Now, is your daughter married?

12 A Yes.

13 Q Was Mr. Springs married?

14 A Yes.

15 Q Were they married to each other? Was your daughter
16 married to Mr. Springs?

17 A No.

18 Q Okay. When did you determine that there may have
19 been something more going on between your daughter and
20 Mr. Springs?

21 A April or May of last year.

22 Q Okay. You didn't like that relationship?

23 A Not really. No.

24 Q Does your daughter have custody of her kids, your
25 grandkids?

- 1 A She does.
- 2 Q Okay. How did you feel about the fact that
- 3 Mr. Springs might be around those grandkids some?
- 4 A It concerned me.
- 5 Q Okay. Did you voice that to your daughter?
- 6 A I did.
- 7 Q And you told Mr. Springs about that?
- 8 A I did.
- 9 Q Okay. You said before your relationship with Mr.
- 10 Springs was cordial and friendly?
- 11 A Yes.
- 12 Q And at this point, did it turn a bit sour?
- 13 A Not really. I just -- no. At that point it didn't.
- 14 Q But didn't you tell him to stop coming to your house?
- 15 A No.
- 16 Q Did he at some point stop coming to your house?
- 17 A He did.
- 18 Q Why was that?
- 19 A I think that he knew that I didn't -- really didn't
- 20 approve of the relationship, that I felt he was having
- 21 with my daughter. So he had stopped coming probably mid
- 22 June I think was one of the last times he had been to my
- 23 house.
- 24 Q Before that, how often did he come to your house?
- 25 A Every week.

1 Q And after that mid June, did he ever come by the
2 house?

3 A No.

4 Q Did anybody come on his behalf?

5 A Yes.

6 Q Who was that?

7 A He would send his son or other coworkers or he would
8 meet me if I was out and about at the properties to give
9 me invoices and have me pay him for jobs he had done.

10 Q Okay. You and Mr. Springs ever talk about his
11 relationship with your daughter?

12 A We did.

13 Q Some of those conversations probably were not very
14 nice, were they?

15 A No, some of them were not.

16 Q All right. Probably wouldn't want your grandkids
17 hearing a lot of those conversations?

18 A Certainly not.

19 Q All right. A lot of cussing going on?

20 A A little bit.

21 Q In fact, the weekend before Mr. Springs died you
22 recall that weekend?

23 A Uh-huh.

24 Q You recall your grandson went on a camping trip I
25 believe?

1 A I do.

2 Q What was that camping trip?

3 A The cub scouts go to Lynches River at the beginning
4 of the season every year, so we had plan to take him down
5 there to let him spend the night with cub scouts.

6 Q Okay. Did Steve Springs interfere with that in any
7 way?

8 A He did.

9 Q Tell me about that?

10 A We had left to go down there probably about noon that
11 Saturday. And on the way down there, I had gotten a call
12 from a tenant that had an air conditioner problem. And
13 because of prior conversations that I had had with him, I
14 didn't know if I should call him or not, but I said, well,
15 I needed let him know. And I don't think he answered the
16 phone at that particular time. So I had called my
17 daughter and I said I was trying to get in touch with
18 Steve to let him know that, you know, I'm having an air
19 conditioner problem at this unit. And if you see or talk
20 to him could you please let him know. A little while
21 later I had gotten a phone call from her and she said he
22 said call Adam, which is his son. So I said, okay, I
23 tried to call him and couldn't get him. And I can't
24 remember if I left him a message or not, but I had tried
25 numerous -- on numerous occasions to get ahold of Adam

1 about it. And I don't know I think they had gotten the
2 message what unit it was, but I didn't understand at that
3 time why Steve couldn't go and fix it. Later that
4 evening -- and I had my phone with me wasn't picking up
5 very good reception, so I have to walk certain places down
6 there to pick up better reception. I had walked somewhere
7 and tried to call again and then I got a phone call from
8 him because I had made a post on Facebook from my phone
9 that we were down at Lynches River or we were there having
10 a good time with Jay. And he called and he's like
11 something to the effect I can't believe that you can F'ing
12 make post on Facebook about things but ---

13 Q Let me interrupt you, but he wasn't calling you about
14 the post about your grandson at the camp, is that not what
15 he was calling you about?

16 A No, he was -- I think he was upset because I had
17 gotten on my phone and was able to make a post, but I
18 wasn't able to get through to his son.

19 Q You don't -- and this was September 22nd?

20 A It was. It was.

21 Q Could the post you have made would that have been it
22 is ashamed that my grandson's night got F up by this
23 asshole, would that be the post?

24 A That -- I made that post after, that wasn't made
25 before. That was made after he called me and cussed at me

1 because that's what made me mad because I had to leave.

2 Q And so Mr. Springs was the asshole in that sentence?

3 A That's correct.

4 Q And then later in the same conversation on the
5 Facebook you said, yeah, and the asshole is going to cause
6 me to kill him. I will call you tomorrow and explain.

7 A Yeah, my sister-in-law asked me what had happened and
8 I told her that I would call her tomorrow and explain that
9 just because I didn't want to put on Facebook that my
10 daughter was messing with a married man.

11 Q Right. Did the full quote is ---

12 A Yes.

13 Q Okay. And then later in this same conversation on
14 Facebook regarding Sunny. You said Sunny did nothing yet
15 but when he finds out; is that correct?

16 A Yes.

17 Q What did that mean?

18 A I didn't let Sunny know that Mr. Springs had been
19 calling me, cussing me on the phone that evening. I just
20 told him that I needed to leave the camp. I had some
21 things I needed to go back to Florence. My phone wasn't
22 picking up. If tenants needed me, I needed to go back and
23 I was trying the whole time getting back to get in touch
24 with Adam about the air conditioner.

25 Q Okay. But when you said Sunny did nothing yet, but

1 when he finds out, that's applying Sunny would do
2 something when he found out?

3 A Certainly, he would be mad.

4 Q And then finally and there's some other conversation.
5 Jay is your grandson; that's correct?

6 A That's correct.

7 Q You said, no, Jay is there, but I had to leave
8 because of an asshole; is that correct?

9 A That's correct.

10 Q And that's again referring to Mr. Springs?

11 A Right.

12 Q Okay. And this was September 22nd I believe a
13 Friday?

14 A Saturday.

15 Q Excuse me that's a Saturday. And then on the 24th is
16 when Mr. Springs' is dead in your front yard?

17 A That's correct.

18 Q Let's move on to the 24th. What were you doing that
19 day? What were you doing on the 24th?

20 A I was at home, pick my grandson up from school. My
21 husband came home from work. He said he was going to go
22 hunting. He asked my grandson if he wanted to go. He
23 said no. He wanted to go skating, so I took him to Skate
24 Land.

25 Q All right. Where is Skate Land?

- 1 A Off of David McLeod Boulevard.
- 2 Q About what time did you take him to Skate Land?
- 3 A I think six.
- 4 Q What time did you leave Skate Land?
- 5 A It was after eight, I do know that. I don't know if
- 6 they stop at eight or 8:30 for the skate nights for the
- 7 kids.
- 8 Q It was dusk outside or dark?
- 9 A Yes.
- 10 Q And then you leave and are you on your way home at
- 11 that point?
- 12 A I am.
- 13 Q And you get a phone call from Sunny on this ride
- 14 home; is that correct?
- 15 A Not right away. I'm on my way to take Jay home is
- 16 where I was ---
- 17 Q Excuse me, excuse me. You take Jay home. You drop
- 18 Jay off?
- 19 A Yes.
- 20 Q After you drop Jay off, you received a phone call
- 21 from Sunny?
- 22 A Yes.
- 23 Q And what does Sunny -- after that conversation with
- 24 Sunny, what do you do next?
- 25 A I got a phone call from Sunny and I was already on my

1 way home and I just came straight to the -- through the
2 back of my neighborhood and I went to where he was.

3 Q Were you alarmed by the phone call?

4 A Yes.

5 Q Okay. Did you call 9-1-1?

6 A I did.

7 Q When did you call 9-1-1?

8 A As soon as I got Sunny and I was heading around to
9 the dirt road and I was heading around the little trailer.

10 Q Sunny was in the car when you called 9-1-1?

11 A Yes.

12 Q Okay. And so I guess you talk to Sunny -- where --
13 do you remember where you were on your drive home when you
14 were talking to Sunny on the phone?

15 A Coming down Pamplico Highway I would say probably
16 near I think that's the shop Kawasaki shop somewhere right
17 in there.

18 Q And how far -- how long did it take you to get from
19 there to home?

20 A Maybe three minutes, four minutes.

21 Q Short amount of time?

22 A Short amount of time.

23 Q You were driving pretty fast?

24 A Yes.

25 Q When you get home -- well, excuse me -- first place

- 1 you go is where?
- 2 A Carl's.
- 3 Q Why did you go Carl's?
- 4 A Because that's where Sunny said was headed.
- 5 Q Okay. And while you're at Carl's, you ran into
- 6 George Watson; is that correct?
- 7 A I did.
- 8 Q And what did George Watson have for you at Carl's?
- 9 A I asked him to go get me the gun and bring it to me.
- 10 Q Why did George have the gun or do you know why he had
- 11 the gun?
- 12 A I don't.
- 13 Q Okay. Did you pick up Sunny at Carl's?
- 14 A Yes.
- 15 Q Do you know how long Sunny had been at Carl's?
- 16 A When I had talked to him, he was walking to Carl's.
- 17 So it wouldn't have been for very long.
- 18 Q Two or three minutes?
- 19 A Probably.
- 20 Q Okay. And you get there and Sunny gets in the car
- 21 with you?
- 22 A Yes.
- 23 Q Where does the gun go?
- 24 A George had set it on the back of the truck.
- 25 Q And when you say the back, you mean the bed of the

1 truck?

2 A That's correct.

3 Q All right. What was in the bed of the truck at that
4 point?

5 A Well, I don't know, stuff that I use for work, but he
6 just sat it in the bed of the truck.

7 MR. OZMENT: May I approach, Your Honor?

8 THE COURT: Yes, sir.

9 BY MR. OZMENT:

10 Q Just so we're clear, this is State's Exhibit 16.
11 This is the gun that was set in the back of your truck?

12 A Yes.

13 Q And it was set there by George Watson?

14 A Yes.

15 Q George put's the gun -- how long were you at Carl's?

16 A Long enough to tell Sunny to come on and we were
17 going to the house. And as soon as he got in the truck, I
18 called 9-1-1.

19 Q Did you talk to Carl at all?

20 A Carl was walking out of the door to go to his
21 parent's house right next door at the time.

22 Q Okay. Do you remember telling Sunny to get his story
23 straight because you had a dead man in your yard?

24 A No, I don't remember telling him that.

25 Q Okay. And did you have a conversation with George

1 at that point?

2 A No, I believe all I asked George was to get the gun
3 and put it in the back of the truck.

4 Q Okay. Later on during the course of the night, did
5 you have any more conversations with George?

6 A I did.

7 Q Did you tell him what you wanted him to tell the law?

8 A No.

9 Q Didn't tell him to change his story anything like
10 that?

11 A No.

12 Q Okay. You pick up Sunny, the gun's in the back of
13 the car. You go straight home; is that right?

14 A That's correct.

15 Q At this point, you called 9-1-1 between Carl's house
16 and your house?

17 A That's correct.

18 Q How long is the drive to Carl's house to your house?

19 A A minute.

20 Q Okay. And you're on the phone with 9-1-1?

21 A I am.

22 Q Gun's in the back of the truck?

23 A That's correct.

24 Q Where does the gun go next?

25 A I took the gun in the house.

1 Q You took the gun in the house?

2 A I did.

3 Q Where did you put it in the house?

4 A I laid it on my bed.

5 Q Okay. Do you recall the 9-1-1 operator asking you
6 where the gun is?

7 A I think so and I think I had said it was in the
8 house.

9 Q All right. Would it surprise you if I told you that
10 you said it was probably in the house?

11 A I don't know I was in shock. I laid it on the bed.

12 Q But you wouldn't deny if on the tape that you say
13 it's probably in the house? You agree that you might have
14 said that?

15 A I might have said that.

16 Q Okay. But now you're sure you were the one who took
17 it in the house?

18 A Oh, yes, I was the one who took it off the truck and
19 put it in the house.

20 Q Okay. On the 9-1-1, you've taken the gun in the
21 house, I believe you checked on Mr. Springs at the 9-1-1
22 operator's request?

23 A I did, yes.

24 Q You checked and from what you could tell didn't
25 appear to be any signs of life based on what they were

1 telling you to do; is that correct?

2 A That's correct.

3 Q Okay. How long did it take the police to get there?

4 A I may be was on the phone with 9-1-1 for three

5 minutes may be.

6 Q Not very ---

7 A Not long at all.

8 Q --- to one officer arrived?

9 A Actually, it was a personal vehicle I think with two

10 like, I guess, like first responders in it and then right

11 behind was an offer.

12 Q Okay. And at that point, they kind of took over the

13 scene and they were running the show; correct?

14 A They did.

15 Q Do you know Larry Bruce?

16 A I do.

17 Q How do you know Larry Bruce?

18 A My husband worked for him.

19 Q How long did your husband work for him?

20 A Off and on for years.

21 Q And was he also a friend of you all?

22 A He was, yes.

23 Q You said was?

24 A Is.

25 Q Okay. Does he live somewhat near you all?

1 A He did.

2 Q Okay. What kind of work did your husband do with
3 him?

4 A Painting.

5 Q Okay. And that's what Larry does by trade?

6 A Yes.

7 Q Do you remember Larry coming over to the house a day
8 or two after this all happened?

9 A I do.

10 Q Do you remember talking to Larry at that time?

11 A I do.

12 Q Do you remember telling Larry Bruce that George
13 Watson taken the gun and brought it back to you. You
14 remember telling Larry that?

15 A Yes.

16 Q Okay. Do you remember telling Larry that you had put
17 a knife on the ground next to Steve Springs?

18 A No, I didn't say that.

19 Q You don't remember telling Larry that you were
20 worried that you might be in trouble, your DNA might be on
21 the knife?

22 A No.

23 Q You didn't tell Larry Bruce that?

24 A No.

25 Q You don't remember telling Larry Bruce that you all

1 might be in trouble because you're trying to cover this
2 thing up? You don't remember telling him that?

3 A No.

4 Q So certainly if he were to say that that all
5 happened, that's not true?

6 A That's correct.

7 MR. OZMENT: Beg the Court's indulgence.

8 (WHEREUPON, a pause in the proceedings.)

9 MR. OZMENT: No further questions at this time,
10 Your Honor.

11 THE COURT: Mr. Grove.

12 MR. GROVE: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. GROVE:

15 Q Hey, Gloria.

16 A Hello.

17 Q In answering, Mr. Ozment's questions you said that
18 you didn't approve your daughter's relationship with Steve
19 Springs?

20 A That's correct.

21 Q She got kids, right?

22 A Yes.

23 Q Does he have kids?

24 A Yes.

25 Q So each of them has a family of their own?

1 A That's correct.

2 Q And they were running around behind their spouses'
3 backs?

4 A Correct.

5 Q How old were his kids do you know or how old are his
6 kids?

7 A I know of one Adam and he not long graduated from
8 high school I would say 18, 19.

9 Q What about Crystal's kids?

10 A Jay is seven now and Kayla is four.

11 Q Sunny didn't -- wasn't crazy about this relationship
12 either, was he?

13 A No, not really.

14 Q In fact, I'm guessing the only two people that
15 approved of the relationship were Crystal and Steve?

16 A Pretty much, yes.

17 Q Had Kevin known about it he wouldn't have liked it,
18 right?

19 A Correct.

20 Q And I don't know who Steve was married to at the
21 time, but I bet she wouldn't have liked it either?

22 A Correct.

23 Q Is it safe to say you were more irritated or
24 disappointed in their choice of relationships?

25 A A little disappointed.

- 1 Q I mean, this is your daughter?
- 2 A Yes.
- 3 Q And she's making choices that you don't approve of?
- 4 A Correct.
- 5 Q So your testimony earlier Mr. Ozment was asking you
- 6 about Facebook. You were trying to get a hold of Steve
- 7 about an air conditioner, is that what you said?
- 8 A Correct.
- 9 Q And you couldn't get a hold of him so you started
- 10 trying to get ahold of his son Adam?
- 11 A Correct.
- 12 Q Because may be if you can get a hold of Adam, Adam
- 13 might be able to go find him, right?
- 14 A Right or go fix it.
- 15 Q Right. And you don't get very good cell phone
- 16 reception down at Lynches River is that what you said?
- 17 A That's correct.
- 18 Q And say you made some post about being down at
- 19 Lynches River enjoying some time with your grandson at cub
- 20 scouts, right?
- 21 A That's correct.
- 22 Q And you're telling me that Steve saw that and took
- 23 offense to the fact that you couldn't answer the phone
- 24 when somebody was trying to call you, but that you were
- 25 able to make Facebook posts?

1 A That's correct.

2 Q And then he got upset with you and he called you and
3 he started cussing with you and you removed yourself from
4 the situation with your grandson, right?

5 A Correct.

6 Q And that again probably irritated you, didn't it?

7 A It did.

8 Q You were looking forward to spending a little time on
9 a camping trip with your seven-year-old grandson's cub
10 scouts, weren't you?

11 A That's correct.

12 Q This Skate Land it's over there across from behind
13 Percy and Willie's, right?

14 A Correct.

15 Q And this is something that the school does regularly?

16 A School does once a month.

17 Q And what age kids are there?

18 A The whole school, so from 3-K to fourth grade.

19 Q So it's a crowd?

20 A Yes.

21 Q Everybody having a big time, right?

22 A Yes.

23 Q Mr. Ozment says that you might have said that the gun
24 is probably in the house when you're on the phone with
25 9-1-1. Have you ever heard the 9-1-1 tape?

- 1 A No.
- 2 Q Is it safe to say that you were a little bit frantic
3 at the time?
- 4 A Yes, I was.
- 5 Q And you were multitasking, weren't you?
- 6 A Yes.
- 7 Q You were going back to the house. You were trying to
8 do what you could to secure everything, so when the cops
9 got there they would be able to identify what had happened
10 and they would know that the situation was neutralize
11 right now, right?
- 12 A Yes.
- 13 Q That Sunny wasn't holding the gun when they pulled up
14 there, so the officers wouldn't be drawn down on him and
15 threatening to shoot him, right?
- 16 A That's correct.
- 17 Q So you probably weren't thinking about exactly what
18 the right way to say something was, were you?
- 19 A Correct.
- 20 Q You're also walking by the 9-1-1 operator at one
21 point is asking you to check for a pulse, right?
- 22 A Correct.
- 23 Q You remember them telling you don't touch the body
24 but check for a pulse?
- 25 A Correct.

1 Q And so you're trying to do all these things at the
2 same time and you do check for a pulse and you don't find
3 one, correct?

4 A That's correct.

5 MR. GROVE: Beg the Court's indulgence.

6 THE COURT: All right.

7 BY MR. GROVE:

8 Q You said on Facebook Sunny didn't do anything yet,
9 but when he find out, right?

10 A Yes.

11 Q Did you ever tell Sunny about that?

12 A I think he asked me why I left and I told him because
13 Steve was arguing with me on the phone. And I didn't want
14 to have a down time around the kids. I didn't want to,
15 you know, just be upset or anything around the kids. So I
16 figured I was going to leave and try to get the situation
17 settled to get the air conditioner fixed for the lady.

18 Q Sure. Ultimately, this all started over a tenant
19 needing some help?

20 A Correct.

21 Q So you told him that you had left because Steve had
22 been ugly with you, but you didn't get into nitty-gritty
23 details?

24 A Correct.

25 MR. GROVE: I don't think I have anything

1 further at this time, Your Honor.

2 THE COURT: Redirect.

3 MR. OZMENT: Briefly, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. OZMENT:

6 Q Mr. Grove just asked you said you didn't get into the
7 nitty-gritty details with your husband?

8 A Correct.

9 Q But you put the nitty-gritty details on Facebook that
10 night?

11 A He doesn't have Facebook or he doesn't get on
12 Facebook.

13 Q You let the world know, but you're telling me you
14 didn't tell your husband what happened?

15 A Yes.

16 Q Are you and your husband close?

17 A Yes.

18 Q I mean, he made you mad at one point. You were
19 calling him an asshole said cause me to kill him, but you
20 didn't feel the need to really tell your husband about the
21 details of that?

22 A I don't tell him all my post on my Facebook, no.

23 Q But you said that Steve had been cussing you and you
24 all were in a fight. You just plainly tell your husband,
25 oh, we had a small skirmish and that's what you did?

1 A I didn't want to get him upset. He was going to be
2 the one staying with my grandson. I was going to, but
3 after this I left.

4 Q Okay. So he stayed for the weekend with your
5 grandson?

6 A He stayed for the night, yes, and I picked them back
7 up the next morning.

8 Q Now, you did say Sunny did nothing, but when he finds
9 out. I mean, that imply in that comment is that Sunny
10 would do something when he finds out, but you're saying
11 Sunny never found out because you never told him?

12 A Correct.

13 Q You just kind of glossed over it, let's not mention
14 it even though you kind of put what Facebook kind of
15 implies that Sunny would end up doing something, right?

16 A That he would be mad, yes.

17 MR. OZMENT: No further questions, Your Honor.

18 THE COURT: Anything else, Mr. Grove?

19 MR. GROVE: Very briefly, Your Honor.

20 RECROSS-EXAMINATION

21 BY MR. GROVE:

22 Q Mr. Ozment says you put the nitty-gritty details on
23 Facebook. Do you remember exactly word for word what your
24 posts were?

25 A No.

1 Q Would it surprise you that the first one was shame
2 that my grandson's night got F'd up by this asshole?

3 A That's probably what I put, yes.

4 Q Are there any details in that?

5 A No.

6 Q Does that say Steve Springs called me this word and
7 that word and the other word?

8 A No.

9 Q So it is safe to say you didn't put the nitty-gritty
10 details on Facebook?

11 A Correct.

12 MR. GROVE: No further questions.

13 THE COURT: You can step down. Thank you,
14 ma'am.

15 (WHEREUPON, the witness leaves the witness
16 stand.)

17 THE COURT: All right, ladies and gentlemen, we
18 been in here for a little over an hour and 15 minutes.
19 We're going to take a break. You may not discuss the case
20 at all. We'll have you back out in just few minutes and
21 we'll begin with the next witness.

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

23 THE COURT: Anything from the State before we
24 break for a few minutes?

25 MR. OZMENT: I don't know if -- Mrs. Scott is

1 also on Mr. Grove's witness list. If she wants to stay in
2 the courtroom, I think Mr. Grove has to agree not to call
3 her, but I don't know what his intention is.

4 MR. GROVE: Your Honor, I'll need a couple
5 minutes to think about it.

6 THE COURT: Sure. Is the pathologist here yet?

7 MR. OZMENT: I don't see her. She said she had
8 to drop her kids off at 7:30, 7:40 in Charleston. She
9 told me she be here about ten. We all know how driving up
10 from Charleston can be.

11 THE COURT: We'll break until 11 or shortly
12 after.

13 Anything from the defense before we do that?

14 MR. GROVE: Not at this time, Your Honor.

15 THE COURT: Okay. We'll take a break for about
16 15 minutes.

17 (WHEREUPON, a break was taken.)

18 THE COURT: Everybody in place, Mr. Ozment?

19 MR. OZMENT: Yes, Your Honor, prepared to move
20 forward.

21 THE COURT: Mr. Grove.

22 MR. GROVE: I am prepared, Your Honor. I'll
23 just for the record say before we broke we discussed
24 Mrs. Scott was listed as one of my witnesses. I thought
25 about it, I talked to my client. I don't think I have any

1 more information that I would call her to get testimony
2 on. I told her that and I told her she isn't able to talk
3 with any witnesses that have not yet testified about how
4 many people have testified or who has testified or what
5 they've testified to or what she has testified to, but
6 being as that I'm agreeing not to call her as a witness in
7 my case, that so far as I'm concerned the sequestering no
8 longer applies to her.

9 MR. OZMENT: That's fine, Your Honor.

10 THE COURT: All right. You ready to go with
11 your next witness?

12 MR. OZMENT: Yes, Your Honor.

13 THE COURT: Bring in the jury.

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

15 THE COURT: All right. We're ready to move
16 forward, ladies and gentlemen.

17 Mr. Ozment, you can call your next witness.

18 MR. OZMENT: The State calls Larry Bruce to the
19 stand.

20 THE CLERK: Place your left hand on the Bible
21 and raise your right hand. Do you swear to tell the
22 truth, the whole truth, and nothing but the truth so help
23 you God?

24 THE WITNESS: I do.

25 THE CLERK: Please be seated in the witness

1 chair and state your full name for the record.

2 THE WITNESS: Larry Michael Bruce.

3 WHEREUPON,

4 Larry M. Bruce,

5 after first having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. OZMENT:

8 Q How are you today, Mr. Bruce?

9 A I'm doing fine.

10 Q Where do you live?

11 A I live on Pamplico Highway, [REDACTED] Pamplico Highway.

12 Q All right. How long have you lived there?

13 A About a year.

14 Q Where did you live before that?

15 A Let me rephrase that. I live there about eight
16 months. I lived at [REDACTED] Sharon Road prior to that.

17 Q Is that near the Scott's residence?

18 A Yes, it is.

19 Q Okay. Do you know Sunny Scott?

20 A Yes, I do.

21 Q Do you know Gloria Scott?

22 A Yes, I do.

23 Q How do you know those two individuals?

24 A Sunny's an employee of mine for the last 15 years or
25 so real good friend, real good fishing partner. Someone I

1 enjoy spending time with. His wife -- he's married to
2 Gloria.

3 Q Okay. You and Sunny always gotten along?

4 A Yeah, I got along good with Sunny.

5 Q Okay. Was Mr. Scott working for you back in
6 September of last year?

7 A Yes, sir.

8 Q Did he work for you on September 24th of last year?

9 A I don't know what date that was.

10 Q Okay.

11 A If it was on a Friday -- if you get into this, if it
12 was on a Friday prior to this happening that day, yeah, he
13 work with that day.

14 Q Okay. And do you recall or do you know are you aware
15 what Sunny did after he worked that day?

16 A I'm aware of the circumstances that happened after
17 what he did. Well, I know what he did for me that day.
18 He worked for me that day. And then he left and went
19 hunting with my son down at my son's residence.

20 Q That's what I meant he went hunting with your son.
21 You're aware of that?

22 A Yes, sir.

23 Q Okay. After he and your son went hunting, did you
24 have any contact with your son?

25 A Yes, sir. I think got a call from him. I don't

1 recall exactly what was said.

2 Q Don't tell me what your son said, but you had contact
3 with your son?

4 A Yeah.

5 Q Okay. Did you have any contact with Mr. Scott that
6 day after the hunting trip?

7 A Later on in that evening I got a call from him
8 wanting me to come over to his house, but he was kind of
9 intoxicated about that time kind of out of it. So me and
10 him always like that. You know, we fuss at each other
11 when one of us is drinking or something. We don't get
12 along good when we drinking, so I didn't want to deal with
13 him that day and he had made some comments about -- trying
14 to remember it correctly. It was Steve the air condition
15 man. They had been having a falling out, you know, for
16 months prior to this leading up and they had some type of
17 confrontation that day, exactly what went on I don't know.
18 I wasn't there.

19 Q Mr. Scott told you that they been ---

20 A Yeah, feuding. My recollection I told my son to
21 bring -- take Sunny back to his house. And I got a couple
22 calls from Sunny and he wanted me to come over there.

23 Q Did he tell you why he wanted you to come over there?

24 A Yeah.

25 Q What did he say?

1 A He wanted me to come over there and beat Steve
2 Brown's butt. I don't know if his name is Brown or
3 whatever, but he was the heating and air man. And he
4 wanted me to beat him up. I told him I didn't have no dog
5 in that fight and I wasn't getting in it and I took my
6 phone off the hook. And I didn't speak with him no more
7 that day.

8 Q Okay. Did you at some point after that find out that
9 Steve the heating and air man was now deceased?

10 A I found out the next morning through his wife.

11 Q Okay. Whose wife would that be?

12 A Gloria Scott.

13 Q How did you come into contact with her that next day?

14 A Well, the first thing I did I went over there and I
15 went to his house the next morning. And I met Gloria and
16 she said he did it. I said did what. She told me that he
17 killed Steve. And I was in shock because I couldn't put
18 Sunny hurting nobody or doing anything like that. And she
19 said I'm in trouble. I said, how are you in trouble if he
20 killed him. She said I put a knife in his hand and I'm
21 worried about the DNA coming back matching me. I said,
22 Gloria, why you tell me that. I said, I wish you hadn't
23 told me that.

24 Q When she told you that, what did you do?

25 A Well, I kind of asked her about it all. She said

1 something about it was a screwdriver or something in his
2 hand to begin with. She took the screwdriver out of his
3 hand and put a knife in it is what she told me.

4 Q Go ahead.

5 A I told Detective William Hester, I think that's his
6 name, this information. I gave him this information
7 because I was afraid that I be charge with accessory after
8 the fact of murder. Because I know this charge could
9 carry that and that's the reason I said about it because I
10 thought it was the right thing to do.

11 Q Okay. And this was the day that you were over, this
12 is the morning?

13 A It was the morning after he was killed that night. I
14 remember that precisely.

15 Q When you had this conversation with Gloria, how did
16 that make you feel?

17 A I'm gone be honest with you. I know Sunny Scott. I
18 know him real well. He's not capable of doing this on his
19 own. I think Gloria planned it ---

20 MR. GROVE: Your Honor, may I approach?

21 THE COURT: Yes, sir.

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

25 THE COURT: Ladies and gentlemen, if you would

1 please step to your jury room for just a few minutes.
2 I'll have you back out soon. Please do not discuss the
3 case.

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

5 THE COURT: All right. Mr. Grove, you can put
6 your objection on the record and it may cure itself, but
7 go ahead just put on the record what you mentioned up here
8 and anything else.

9 MR. GROVE: Certainly, Your Honor, and I don't
10 think any of this information has come out yet. I did try
11 and object right before the testimony that I predict
12 Mr. Bruce was about to offer. He's headed down a path of
13 simply suggesting that my wife -- my client's wife,
14 Gloria, and that my client had some sort of a plan to do
15 this and that Gloria, my client's wife, put him up to this
16 essentially. And that obviously the testimony that he
17 just gave was that Sunny isn't capable of doing this on
18 his own. I believe those was his exact words. The follow
19 ---

20 THE COURT: You're fine with that, right?

21 MR. GROVE: I'm fine with that portion, Your
22 Honor, but I'm not fine with him suggesting that there's
23 any sort of a conspiracy. The State's never charged
24 conspiracy to my client or his wife. His wife wasn't
25 charged with anything in relation to this crime whatsoever

1 assuming a crime was committed obviously, but she having
2 never been charged in relation to this incident. And he
3 having never been charged with any sort of a conspiracy.
4 The State's theory of the case being that he on his own
5 lured Mr. Springs to his house and shot him on his own
6 accord and then did the planting of the evidence by
7 himself, that -- any comment from Mr. Bruce regarding a
8 plan between Gloria and Sunny or a plan of Gloria's to put
9 Sunny up to this would certainly be improper.

10 THE COURT: All right. So, Mr. Ozment, was that
11 the path you were doing down?

12 MR. OZMENT: No, Your Honor. I also disagree
13 with my theory of the case a little bit, but, no, Your
14 Honor, I was more trying to elicit from the witness how
15 that made him personally feel when he heard those things
16 from Mrs. Scott --

17 THE COURT: Like happy, sad, scared?

18 MR. OZMENT: Yes, Your Honor.

19 THE COURT: Why don't you go ahead and rephrase
20 the question. If you have no intention of going into what
21 Mr. Grove objects to, I guess I will sustain the
22 objection. Of course, if you think that that's a relevant
23 issue, that's another point if you care to respond to
24 that.

25 MR. OZMENT: Well, Your Honor, and I guess I

1 said part of our theory would be that Mrs. Scott even
2 though she's not charged, that doesn't mean she didn't
3 help cover up this crime in some ways.

4 THE COURT: After the fact?

5 MR. OZMENT: Yeah, Mr. Bruce just testified that
6 she told him she put the knife there.

7 THE COURT: Okay. You have no technical
8 objection to that, do you?

9 MR. GROVE: To the comment about her putting the
10 knife there, no.

11 THE COURT: Taking the screwdriver out putting
12 the knife in?

13 MR. GROVE: I got no objection with that, Your
14 Honor. I certainly understand that testimony. But any
15 comments about how many client isn't capable of doing this
16 without encouragement from someone else, I think is
17 certainly a problem.

18 THE COURT: Do you have a problem with me
19 instructing the witness to testify not about any type of
20 conspiracy, but instead whether or not how he personally
21 felt? You can rephrase it if you want and we see how that
22 goes.

23 MR. OZMENT: Your Honor, I think what we're
24 really trying to avoid is speculative testimony.

25 THE COURT: All right. Why don't you go ahead

1 and ask him that question again how it made him feel.

2 Mr. Bruce, that's the question after she told
3 you all of this, how did that make you feel.

4 A How it made me feel? Well, it hurt me because he's a
5 friend of mine and I felt like I just lost a friend for
6 the rest of my life.

7 THE COURT: And when you say he, you mean
8 Mister...

9 A It hurt me to hear that Sunny had kill someone.

10 MR. OZMENT: All right.

11 THE COURT: Any objection to that?

12 MR. GROVE: I'm unclear as to which friend he's
13 lost for the rest of life.

14 A I'm talking about Sunny.

15 MR. GROVE: Okay, no objection, Judge.

16 THE COURT: Anything else that you think might
17 prompt us having to send the jury out?

18 MR. OZMENT: Not at this time, Your Honor.

19 THE COURT: Okay. Anything else, Mr. Grove?

20 MR. GROVE: Again, Your Honor, as long as
21 there's not testimony regarding a conspiracy or a plan or

22 ---

23 THE COURT: Before the fact?

24 MR. GROVE: Yes, sir, Your Honor. As long as,
25 there's no testimony in that regard that was the substance

1 of my objection here whether or not I find something
2 objectionable later.

3 THE COURT: I understand.

4 Mr. Bruce, please don't offer any testimony
5 without any permission from me about any thoughts on your
6 part that Gloria Scott may have organized any type of plan
7 with Mr. Scott.

8 LARRY BRUCE: All right, sir.

9 THE COURT: Ready for the jury?

10 MR. OZMENT: Yes, Your Honor.

11 THE COURT: You can bring them in.

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

13 THE COURT: You can go ahead, Mr. Ozment.

14 MR. OZMENT: Thank you, Your Honor.

15 DIRECT EXAMINATION CONTINUED

16 BY MR. OZMENT:

17 Q Mr. Bruce, when you had that conversation with
18 Mrs. Scott the day after, how did that make you feel
19 when you heard those things?

20 A I feel like I was hurt because I had lost a friend
21 and I felt like I had lost him forever.

22 Q When you said friend, who are you talking about?

23 A I'm talking about Sunny Scott.

24 Q How long was it before you contacted the law to tell
25 because earlier you said you spoke to Investigator Hester.

1 How long was that before you thought you needed to talk to
2 the law?

3 A Well, I'm pretty sure I didn't wait too long after
4 what Gloria had told me I did not wait too long at all
5 because like I said I know what that charge carries to
6 withholding information in a murder case. And I had
7 nothing to gain from telling him that and nothing -- no
8 rewards or anything. It was something I thought I should
9 do and I did it.

10 Q All right.

11 MR. OZMENT: No further questions, Your Honor.

12 THE COURT: Mr. Grove.

13 CROSS-EXAMINATION

14 BY MR. GROVE:

15 Q Mr. Bruce, you said you didn't wait too long to talk
16 to law enforcement. How long is not too long?

17 A I don't know.

18 Q You did you go straight there?

19 A I beg your pardon.

20 Q Did you go straight there?

21 A Did I go straight there? No, I didn't go straight
22 there.

23 Q Did you go that afternoon?

24 A I think I might have called him right after she told
25 me that.

1 Q You think you might have called him?

2 A Yeah, I'm pretty sure I called him and he told me
3 when to come in. I'm pretty sure I did.

4 Q What time did you call him?

5 A Sir, I hate to sound like I'm not trying to answer
6 your question, but I could ask you what time it was
7 yesterday when you went to the bathroom. I don't know
8 exactly what time.

9 Q That's perfectly fine. You made two statements with
10 law enforcement, didn't you?

11 A Yes, sir.

12 Q You made a first statement and then you came back and
13 made a second statement, right?

14 A I'm pretty sure I did, but I'm not gone say something
15 I can't recall a year ago.

16 Q You can't recall whether or not you made two
17 statements?

18 A I'm pretty sure I did. I know I made statements up
19 there. I know I did.

20 Q Sure. When was the first statement that you made?

21 A The first statement was I think and I'm not sure was
22 right after the killing.

23 Q They came over to your house that night?

24 A No, I was asleep. I didn't know it until the next
25 day.

1 Q Well, you went over there that night?

2 A No, I didn't.

3 Q And then -- well, the next morning you stop by
4 Gloria's?

5 A I went by there the next morning that's what I told
6 you.

7 Q You stop by Gloria's the next morning?

8 A That's right.

9 Q And you went -- and she told you she fixed the whole
10 crime scene, right?

11 A Sir, it was exactly what she told me is exactly what
12 she did. She had no reason to lie to me.

13 Q Please answer my question.

14 A I just answered it.

15 Q The following morning you went over to their house
16 and she told you she had fixed the crime scene?

17 A She didn't tell me anything about she fix no crime
18 scene. She told me she placed a knife in a man's hand and
19 removed a screwdriver, that's exactly what I just
20 testified to. She didn't say anything about fixing a
21 crime scene or anything like that, but being that you said
22 it, that's the way it sounded to me.

23 Q And that's when you called the law and said I got
24 something to tell you about Gloria Scott?

25 A I'm sure not on that. I know that it wasn't too long

1 after that. First of all, me and my son give a statement
2 up there together. And I give a statement about what
3 Gloria had told me.

4 Q Would it surprise you to know you didn't say anything
5 about any of this the first time you made a statement to
6 law enforcement?

7 A No, sir, it wouldn't surprise me at all.

8 Q So you didn't tell them that right after you left
9 Gloria Scott, did you?

10 A I beg your pardon. No, I just told you I give two
11 statements. The first statement I went up there. I don't
12 know which one I gave first, but I know I went up there
13 with my son. And I know what Gloria told me. And I don't
14 think I did mention it the first time and I had a reason
15 for not mentioning it. The reason that I did not mention
16 it is because the way I felt about Sunny Scott. But then
17 I got to thinking about, you know, what had lead up to all
18 this and everything. And that, you know, it was coming to
19 the job every day, he work for me and stuff. And I knew
20 that he didn't -- he might have shot him, but he ain't the
21 one that killed him, that's what I felt in my heart. And
22 I didn't see him go down. And I didn't say anything, but
23 I felt like if I didn't say anything I'm withholding
24 information on a murder trial and I couldn't sleep with
25 that. And so I went back and I told Mr. William Hester

1 exactly what I told in the courtroom this morning and
2 that's the truth and that's the truth as I know it.

3 MR. GROVE: Beg the Court's indulgence.

4 THE COURT: All right.

5 (WHEREUPON, a pause in the proceeding.)

6 BY MR. GROVE:

7 Q Do we agree that you made two statements?

8 A I would agree with that, yes, sir.

9 Q And do we agree in your first statement, you didn't
10 say any of this stuff?

11 A Sir, you talking something over a year ago. I would
12 agree that I did make that statement about what Gloria
13 told me. And I can't agree with you whether it was the
14 first one or the second one. I really can't agree with
15 you on that because I don't know. I mean, it's been a
16 long time ago. But I can agree with you on this is she
17 did tell me that.

18 Q In your first statement, do you remember talking with
19 Investigator Hester about there being a knife there? And
20 you said I'm betting that's his knife, in your first
21 statement. Didn't you say that?

22 A I can't recall that, but if you say and it's in that
23 statement and Mr. Hester wrote it up, I said it.

24 Q Do you remember Investigator Hester asking you about
25 what the knife looked like and you said it was camouflage

1 with a black blade. You talking about Sunny's knife at
2 this point.

3 A Sunny's knife was a camouflage knife with a black
4 blade. I work with him every day. He had a black knife
5 camouflage, yeah.

6 Q You agree you remember saying if it's Sunny's knife,
7 that's Sunny's knife?

8 A If I said that at that time, I said it. Like I said,
9 I know Sunny's knife cause we work with it and he hand it
10 to me when I needed to cut a tube of caulk. I said Sunny
11 let me hold your knife cause I don't carry a knife. He
12 hand it to me, I hand it back to him.

13 Q And he hand you a camouflage knife with a black
14 blade?

15 A Yes, sir.

16 MR. GROVE: May I approach the witness, Your
17 Honor?

18 THE COURT: Yes, sir.

19 BY MR. GROVE:

20 Q I'm going to show you a picture.

21 THE COURT: What's the number?

22 MR. OZMENT: Your Honor, this is State's 6.

23 BY MR. GROVE:

24 Q Take a look at that is that the knife Sunny use to
25 hand you to cut cooper?

1 A I ain't never seen that knife.

2 Q Is that a camouflage knife with a black blade?

3 A No.

4 MR. GROVE: Beg the Court's indulgence.

5 A But he's a knife collector now. He's got a bunch of
6 knives.

7 MR. GROVE: Thank you, sir.

8 THE COURT: Anything else? Oh, you need
9 sometime.

10 MR. GROVE: Just a moment, Your Honor.

11 (WHEREUPON, a pause in the proceedings.)

12 MR. GROVE: I don't have anything further at
13 this time, Your Honor.

14 THE COURT: All right. Redirect, Mr. Ozment?

15 MR. OZMENT: Briefly, Your Honor.

16 REDIRECT EXAMINATION

17 BY MR. OZMENT:

18 Q Mr. Bruce, Mr. Grove was just asking you about when
19 you were talking about Sunny's knife in your statement.
20 Did Gloria tell you what the knife looked like she put
21 next to Steve?

22 A She never told me what kind of knife she put in his
23 hand.

24 Q Okay. And so the description Mr. Grove just read
25 you, you were saying that is Sunny's knife, right?

1 A Exactly.

2 Q Okay.

3 MR. OZMENT: So -- may I approach, Your Honor?

4 THE COURT: Yes, sir.

5 BY MR. OZMENT:

6 Q This is not Sunny's knife?

7 A No, sir.

8 MR. OZMENT: No further questions, Your Honor.

9 RE CROSS-EXAMINATION

10 BY MR. GROVE:

11 Q Have you ever seen that knife before?

12 A That knife?

13 Q Yes, sir.

14 A No, sir.

15 MR. GROVE: Thank you.

16 THE COURT: Okay. You can step down. Thank
17 you, Mr. Bruce.

18 (WHEREUPON, the witness leaves the witness
19 stand.)

20 MR. OZMENT: I ask that Mr. Bruce be released
21 from his subpoena.

22 MR. GROVE: No objection, Your Honor.

23 THE COURT: All right. Mr. Bruce, you can stay
24 if you like or you can leave.

25 Next witness.

1 MR. OZMENT: Your Honor, the State calls
2 Dr. Erin Presnell.

3 THE CLERK: You swear to tell the truth, the
4 whole truth and nothing but the truth so help you God?

5 THE WITNESS: Yes, ma'am.

6 THE CLERK: Please be seated, state your full
7 name for the record.

8 THE WITNESS: My name is Susan Erin Presnell
9 P-R-E-S-N-E-L-L.
10 WHEREUPON,

11 Dr. Susan E. Presnell,
12 after first having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. OZMENT:

15 Q How are you today, Dr. Presnell?

16 A I'm good, thank you.

17 Q What do you do for living?

18 A I'm a forensic pathologist. I work at Medical
19 University of South Carolina down in Charleston.

20 Q And how long have been in that position?

21 A I was hired as faculty forensic pathologist in 1999,
22 14 years.

23 Q What do you do down there?

24 A I'm a forensic pathologist. I know everyone is
25 kind of getting use to or expose to on television shows

1 and all about forensic pathology but just to kind of back
2 up and explain it for a moment. Forensics is actually a
3 subspecialty of the medical field of pathology. Pathology
4 is the study of disease, so pathologist are the ones that
5 will look at tissues and what not and diagnose disease.
6 So if you go to your doctor and get a skin biopsy or you
7 have an operation something comes up, the pathologist they
8 look for cancer, infection whatnot and generate a
9 diagnosis. So I'm trained in general pathology, but I
10 also did a subspecialty training in forensics where we're
11 not just looking at a piece of tissue or a biopsy or
12 something that's removed. But, of course, we're looking
13 at whole entire deceased person and our procedure or
14 examines are called the autopsy. We are looking for
15 disease processes, but we're also interpreting traumatic
16 injuries. And ultimately through the whole autopsy, we
17 generate a report with a cause and manner of death.

18 Q And I guess you say you conduct autopsies. Kind of
19 in layman terms what exactly is an autopsy?

20 A Well, an autopsy is a complete exam of a deceased
21 individual. So there's an external exam and then the
22 internal exam. And we do ancillary studies like we look
23 at some tissues under the microscope if needed, also do
24 toxicology for drugs and alcohol and blood. And when all
25 those results come back, then we generate a final autopsy

1 report.

2 Q Okay. What kind of school did you go to to become a
3 forensic pathologist?

4 A Well, a pathologist is a medical doctor, so I went to
5 Clemson for undergrad. Then I went to MUSC for medical
6 school, which is four years. At that point you pick your
7 specialty, so whether pediatrics, family medicine whatnot.
8 I choose pathology. And at the time, that's a five-year
9 training program and then additional year of forensic
10 training.

11 Q All right. Are you a board certified medical doctor
12 then?

13 A Right, I'm licensed to practice medicine in South
14 Carolina and I'm board certified in pathology and forensic
15 pathology.

16 Q All right. Are you a member of any kind of
17 professional organizations that do that kind of thing?

18 A Yes.

19 Q What organizations would those be?

20 A Well, National Association of Medical Examiners,
21 American Pathologist, Medical Academy of Forensic Science
22 several more.

23 Q All right.

24 MR. OZMENT: Your Honor, at this time, the State
25 would ask that Dr. Presnell be made an expert in forensic

1 pathology.

2 THE COURT: Mr. Grove.

3 MR. GROVE: No objection, Your Honor.

4 THE COURT: All right.. Ladies and gentlemen,
5 the witness is qualified as an expert in the field of
6 forensic pathology. As I mentioned to you earlier, the
7 witness is permitted to give opinions. And the reasons
8 for those you are not bound however by the testimony of an
9 expert just because it comes from an expert. You give her
10 and any other expert's testimony the weight you believe it
11 deserves.

12 You can continue, Mr. Ozment.

13 MR. OZMENT: Thank you, Your Honor.

14 BY MR. OZMENT:

15 Q Dr. Presnell, did you ever perform an autopsy on a
16 Steve Springs?

17 A Yes, I performed an autopsy at MUSC on September 25th
18 of 2012.

19 Q Okay. And how did you come into contact with
20 Mr. Springs?

21 A Well, South Carolina is a coroner state, so each of
22 the counties have coroners. They respond to crime -- that
23 scene and decide whether or not somebody needs an autopsy.
24 In this case, Mr. Matthews, who was the coroner at the
25 time referred this case to us down at MUSC down in

1 Charleston.

2 Q All right. And when you first saw Mr. Springs, what
3 was the first thing you did in your investigation or
4 examination excuse me?

5 A First thing we do is photographs.

6 Q Of the whole body and everything?

7 A Right, we take all kinds of photographs. And then
8 next would be kind of documenting anything that we needed
9 to prior to undressing him on diagram. Then we would
10 undress him, examine the clothes, go back examine the
11 body, clean what we needed to examine again. I get x-rays
12 in this case because it was a gunshot wound. The x-rays
13 are used to help locate the bullet if there is one inside.
14 And then after that, look inside document the injuries, do
15 the internal exam and then we're done with the gross
16 component of the autopsy.

17 Q You brought up this is a gunshot wound. Where did
18 you observe the gunshot on Mr. Springs?

19 A Mr. Springs had a gunshot wound to his right upper
20 abdomen.

21 Q You welcome to stand up to show where you're trying
22 to point.

23 A His entrance gunshot wound is to the right upper
24 abdomen right here. The bullet goes through the liver,
25 the stomach, the pancreas, the small intestines, the left

1 kidney, the left adrenal gland and the spleen and comes to
2 rest in the skin on the left left back.

3 Q Okay. Thank you. And how were you able to trace on
4 that external wound where all the bullet went?

5 A Well, the bullet leaves damage in the organs that
6 it's traveling through. And also we have the location of
7 where the bullet is located, so we can track that by
8 putting a probe through that entrance wound to where the
9 bullet is recovered.

10 Q All right. Were you able to recover the bullet?

11 A Yes, we did.

12 Q So there was not an exit wound?

13 A Correct, there was no exit wound.

14 Q Now, are you aware of what kind of firearm is alleged
15 to have shot this bullet?

16 A A riffle.

17 Q Is it consistent -- were your findings with no exit
18 wound that the path was that consistent with a riffle?

19 A I don't know that that gives me a clue one way or
20 another. We relay -- the information was relayed just by
21 the coroner. The other particular thing is I mention that
22 we took x-rays. In particular with riffle gunshot wounds
23 because of the high velocity you can get some shredding of
24 the lead in the bullet and it leaves little little tiny
25 sprinkles along the path, which we call a lead snowstorm

1 and this case it comes out to you.

2 Q All right. Did it seem notable to you that there was
3 no exit wound?

4 A I mean, riffles are high velocity, so it wouldn't be
5 unusual to see an exit wound. I don't know why particular
6 in this case it didn't exit.

7 Q In your examination of Mr. Springs, did you see any
8 other signs of trauma or other gunshot wounds anything
9 else on his person?

10 A He had a single gunshot wound. He did have two
11 abrasions, which are scratches on the back of his left
12 hand, two small scratches.

13 Q Anything else?

14 A No.

15 Q Okay. How significant were those abrasions?

16 A They're just .2 inch scratches. They were not
17 significant. They weren't significant to his health.

18 Q Were they bloody?

19 A I mean, I don't know. I can't recall. It would
20 have -- he would have come with blood on him already and
21 we would have washed it off to examine the injury.

22 Q Okay.

23 MR. OZMENT: Beg the Court's indulgence.

24 (WHEREUPON, a pause in the proceedings.)

25

1 BY MR. OZMENT:

2 Q Okay. Now, you stated that the gunshot went in kind
3 of right under the ribs right in here; is that correct?

4 A Right, although your ribs are probably a little
5 higher.

6 Q Okay. And from the angle the bullet went in, could
7 you tell at all anything about the location of the shooter
8 or anything like that?

9 A What I can do is track the bullet through the body,
10 but I can't correlate to his position at the time of the
11 event. The angle through his body. I mean, you can kind
12 of picture it just with the path way that I was saying.
13 If you go into the right upper abdomen and you're on the
14 left back, it's going in this direction. So from his
15 right to his left, from front to back and it's going just
16 slightly down, just a smidgen down.

17 Q Okay. When a bullet strikes a person's body, does
18 that -- does the angle it takes in the body is that all
19 correlate with the direction the bullet entered the body?

20 A Well, I mean it typically is unless it hit something,
21 you know, major perhaps that might throw it off its
22 pathway like hit a bone or something. But in general it's
23 the proximate direction of where the bullet came from.

24 Q Did it hit any bones in this case?

25 A No, I don't believe so. I'm looking to see if it

1 maybe had hit a rib, but, no, I don't have it hitting any
2 bone.

3 Q Okay. And so the angle you said was slightly down.
4 And so by that you mean going toward -- obviously, not
5 going toward the feet, but generally towards his feet and
6 not his head is what you mean by down?

7 A Right.

8 Q Okay. In your report, you kind of go through every
9 possible area of his body. Was there anything else you
10 found that could have caused his death in this case?

11 A No, the gunshot wound was the cause of his death.

12 Q Okay. And so what do you rule as the forensic
13 pathologist the manner of death was?

14 A The manner of death is homicide. He was killed at
15 the hands of another.

16 MR. OZMENT: No, further questions, Your Honor.

17 THE COURT: Mr. Grove.

18 MR. GROVE: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. GROVE:

21 Q Homicide doesn't mean murder though, does it, Doctor?

22 A Correct, that's the medical -- like the medical
23 examiner terminology for manner of death. We have four to
24 choose from. One is accident. The other is natural,
25 suicide and homicide. And, of course, there could be

1 undetermined. But of those four categories, homicide is
2 used at the death at the hands of another, but it doesn't
3 take into account whether it's murder or some other type
4 of reason.

5 Q It doesn't take into account that it could be
6 self-defense, does it?

7 A Correct.

8 Q In your report, does your diagnosis address a blood
9 alcohol content of Mr. Springs?

10 A Yes, we drew blood samples at the time of autopsy and
11 sent it to the SLED toxicology laboratories. They sent us
12 the results and his blood alcohol level was 0.199.

13 Q As a medical doctor, does that mean he's drunk?

14 A That he's good -- he's intoxicated, yes. So .08 mean
15 the legal limit for driving. And this is .199, so almost
16 .2.

17 Q I know you're not qualified as an expert in math,
18 but is that about two and a half times?

19 A Multiply on the stand. Say .08 times two is .16 and
20 then another .04 would be -- yeah, so about two and a
21 half.

22 Q Your diagnosis also in reference to the gunshot wound
23 itself. Your report says it hit the liver, stomach,
24 pancreas, mesentery, small bowel, spleen, left adrenal and
25 left kidney, that -- does that essentially mean that it

1 hit everything from here down in terms of organs?

2 A Well, there's more in your pelvis, so like your
3 bladder -- and he wouldn't have a uterus, but prostate and
4 your large intestines that it did not hit.

5 Q From the bottom of his ribs to his waist line, it hit
6 everything give or take in there with the exception of the
7 prostate and maybe the bladder?

8 A I thought of another one aorta, it didn't hit the
9 aorta.

10 Q But your report says it hit one, two, three, four,
11 five, six, seven, eight different organs; is that correct?

12 A Yes, mesentery you refer to mesentery, that's the
13 connected tissue that kind of holds the small bowel
14 together. So I guess we can count that as an organ, so,
15 yes, seven to eight.

16 Q Seven organs and some tissue?

17 A Correct.

18 Q A more accurate medical description?

19 A Yes.

20 Q Was Steve Springs standing upright when he was shot?

21 A I can't tell that at the time from just the autopsy.

22 Q Was he leaning forward?

23 A I can't tell.

24 Q Would that have an impact as to the upward or
25 downward direction of the bullet path through his body?

1 A This is good to explain. Remember, I'm documenting
2 the path through the body. So if -- I'll stand up. So if
3 it's going slight down, the bullet could be coming from
4 this direction. However, if he bends over and the bullet
5 is still trying to reproduce this direction, it could be
6 coming from down below. It all depends on his position as
7 to where that actual gun was fired from. Does that make
8 sense?

9 Q So is what you're telling me a bullet could be
10 traveling in an upward direction, but based on the angle
11 of his body, could be traveling downward through his body;
12 is that correct?

13 A Correct.

14 Q And you have no idea if he was standing upright
15 laying down, side ways or otherwise; correct?

16 A Correct.

17 Q What can you tell me about the effect of the damage
18 with a bullet hitting seven organs and some tissue?

19 A I been thinking about this. Well, first of all, it's
20 in my opinion a fatal injury. I mean, you can live with
21 one adrenal gland. You can live without one kidney. You
22 can live with part of your pancreas. You can live with
23 part of your liver. You can live if you sew your stomach
24 up. You can live if you sew your small intestine up. But
25 all that damage at once -- and keep in mind, too, that

1 it's not just like putting a hole through these organs.
2 There's a lot of kinetic energy associated with the bullet
3 that's released into the tissue, so it's not just the hole
4 that it makes. But it damages the tissues afar from it as
5 well, so all those in conjunction this is a -- I would
6 consider this a fatal injury.

7 Q When you say you consider this to be a fatal injury,
8 do you mean that at the point of impact -- at the time of
9 impact, it's your opinion that no amount of time to
10 receive medical treatment would have mattered?

11 A Yes, I think so. Is there possibly a chance, maybe,
12 but I don't think so. I think all greatest probability
13 this was not survivable.

14 Q It doesn't matter if EMS is on the way. In your
15 opinion, he's not going to survive this injury?

16 A Well, I'll make an even more extreme scenary in my
17 head what if he's in the hospital when this happened, you
18 know, could possibly, maybe. I don't know, but out in the
19 field type situation, I can't see how this could be
20 survivable.

21 Q So again your testimony is it doesn't matter if help
22 gets there in five minutes or ten minutes or an hour or
23 he's even already at the hospital, that you don't think
24 he's going to survive this?

25 A I think the greatest chances are he will not survive.

1 MR. GROVE: Thank you. No further questions.

2 THE COURT: Redirect.

3 MR. OZMENT: Briefly, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. OZMENT:

6 Q On the last point, you know that he wouldn't --
7 probably wouldn't survive this based on being a medical
8 doctor?

9 A Correct.

10 Q So you wouldn't expect Joe on the street to know
11 that?

12 A Correct.

13 Q Now, you talked about the position of the body, you
14 know, determines kind of how it would go in. So downward
15 as you talked about and it was shot from below, what would
16 the -- what would Mr. Springs have to been doing to get
17 down on his body and a shot coming from -- well, say the
18 shot was rising?

19 A When I think downward, it's slightly downward. So
20 think of it as almost straight with just a little bit
21 downward angle. And to get that position, you would have
22 to be bending over if he was -- he's in a standing up
23 position, you would have to bend over if it's coming from
24 bullets.

25 MR. OZMENT: No further questions, Your Honor.

1 THE COURT: Anything else?

2 MR. GROVE: Beg the Court's indulgence.

3 (WHEREUPON, a pause in the proceedings.)

4 MR. GROVE: Nothing further, Your Honor. Thank
5 you.

6 THE COURT: Okay. You can step down. Thank
7 you, ma'am.

8 (WHEREUPON, the witness leaves the witness
9 stand.)

10 THE COURT: Can the doctor be excused?

11 MR. OZMENT: Yes, Your Honor.

12 MR. GROVE: No objection, Your Honor.

13 THE COURT: Dr. Presnell, you can leave if you
14 would like.

15 Next witness.

16 MR. OZMENT: Your Honor, can we approach.

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

20 MR. OZMENT: Your Honor, the State would call
21 Crystal Hanna to the stand.

22 THE CLERK: Place your left hand on the Bible
23 and raise your right. Do you swear to tell the truth, the
24 whole truth, and nothing but the truth so help you God?

25 THE WITNESS: Yes, ma'am.

1 THE CLERK: Please be seated in the witness
2 chair and state your name for the record.

3 THE WITNESS: Crystal Shadoan Hanna.
4 WHEREUPON,

5 Crystal S. Hanna,
6 after first having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. OZMENT:

9 Q Mrs. Hanna, could you scoot up a little bit, so you
10 will be closer to that microphone. Where do you live?

11 A [REDACTED] South Canal Drive.

12 Q Who's your mom?

13 A Gloria.

14 Q And what's her last name?

15 A Scott.

16 Q Okay. Who is your step dad?

17 A Wayne Scott.

18 Q All right. Do you have any kids?

19 A Yes, sir.

20 Q How many kids do you have?

21 A Two.

22 Q What are their ages?

23 A Seven and four.

24 Q Is one of your children Jay?

25 A Yes, sir.

- 1 Q All right. He's in the Boy Scouts?
- 2 A Yes, sir.
- 3 Q Now, are you married?
- 4 A Yes, sir.
- 5 Q Who are you married to?
- 6 A Kevin Hanna.
- 7 Q How long have you and Kevin been married?
- 8 A Four years.
- 9 Q All right. Have you all had trouble at times in that
10 relationship?
- 11 A Yes, sir.
- 12 Q Is Sunny Scott your biological father?
- 13 A No.
- 14 Q How long have you known Mr. Scott?
- 15 A About 25 years.
- 16 Q All right. Most of your life?
- 17 A Yes, sir.
- 18 Q What is the relationship between your kids and
19 Mr. Scott?
- 20 A That's their granddaddy.
- 21 Q Okay. Now, did you know Steve Springs?
- 22 A Yes, sir.
- 23 Q How did you first come to know Steve Springs?
- 24 A He did air condition work on rental properties that
25 my mother manages.

1 Q Okay. Did you eventually become close to
2 Mr. Springs?

3 A Yes, sir.

4 Q Tell me how that had happened?

5 A My husband quit his job and he was willing to let me
6 work to try to ---

7 Q You said your husband quit his job. Who's he?

8 A Steve let me work to try to make money.

9 Q In his business with your mom?

10 A Right.

11 Q Okay. When did you start working with Steve?

12 A Maybe June, July.

13 Q Of?

14 A Last year 2012.

15 Q Okay. At Some point did you and Steve also become
16 romantically involved?

17 A Yes, sir.

18 Q When did that start?

19 A After we started working together.

20 Q All right. Were you married at the time?

21 A Yes, sir.

22 Q Was he married at the time?

23 A Yes, sir.

24 Q Okay. Did your mom know about you and Steve becoming
25 romantically involved?

- 1 A Yes, sir.
- 2 Q How did she find out about it?
- 3 A Because she knows everything.
- 4 Q All right. Did you spend a lot of time with your
5 family prior to last year?
- 6 A Yeah.
- 7 Q Okay. Close with your family?
- 8 A Yeah, pretty much.
- 9 Q Were you and Steve romantically involved in September
10 of last year?
- 11 A Yes, sir.
- 12 Q How often would you all spend time together?
- 13 A Almost every day.
- 14 Q Did your husband know about you and Steve?
- 15 A At the end, yes, sir.
- 16 Q Did your mom ever talk to you about your relationship
17 with Steve?
- 18 A Not really.
- 19 Q Okay. Did Sunny Scott ever talk to you about your
20 relationship with Steve?
- 21 A No, sir.
- 22 Q Okay. Did you ever hear them talking to Steve about
23 you alls relationship?
- 24 A No, no, sir.
- 25 Q Okay. The week before Steve died are you aware if

1 Mr. Springs and your mom had any contact with each other?

2 A Yes, sir, they did.

3 Q Were you there for that contact?

4 A Yes, sir.

5 Q Tell me what happened?

6 A Thursday prior to the Monday of his death, he was at
7 my house to pick me up and we were leaving. And my mom
8 showed up unannounced and him and her exchanged words.

9 And he went to go walk out the front door to sit in the
10 truck and wait on me to finish getting my stuff and, you
11 know, leave and she pushed him down the steps. He didn't
12 fall, but I mean she just put her hands on him, pushed him
13 down the steps and a police report was made.

14 Q Okay. Was her pushing him was that part of the
15 ongoing altercation they had?

16 A That was the only physical like -- the only touching
17 that there was, yes, sir.

18 Q How long did that argument go on that day at your
19 house?

20 A Maybe ten, 15 minutes if that like, that's probably
21 maybe a little too long maybe ten minutes.

22 Q All right. Do you know what the substance of their
23 argument was about?

24 A Just that they had Gloria and Steve had a business
25 relationship. When we started being involved

1 romantically, she found it her business of -- to make
2 everything else her business. So it was more less arguing
3 over my daily business. You know, to trying to get her to
4 mind her business. And it's just almost like high school
5 back and forth, texting wars. I mean, you know, one
6 saying one -- just back and forth constantly ---

7 Q Who?

8 A Steve and Gloria.

9 Q Would be texting?

10 A Constantly.

11 Q And that was Thursday. What were -- did you and
12 Steve have any plans for that weekend?

13 A The weekend before that Saturday he came and picked
14 me up and we went to the beach. And we were at the beach
15 until late Sunday night and then Monday the next day was
16 the day that this happened.

17 Q Okay. When you were talking about that weekend
18 that's after the Thursday incident?

19 A Right.

20 Q Okay. While you were at the beach and all that, do
21 you know if Steve had any contact with your parents?

22 A Yes.

23 Q What was that contact?

24 A I think some bills had to be turned in or something
25 for some work that had been done or money was trying to be

1 collected for work that had been done. And being we were
2 out of town, he was trying to get his son to go get it
3 from her, pick it up from her. Well, they had my little
4 boy at Lynches River State Park on a Cub Scouts camp out.
5 And on that Saturday that we were at the beach and they
6 had been texting back and forth arguing and carrying on
7 and that's...

8 Q After that texting and carrying on, you know if your
9 mom goes on Facebook?

10 A Yes.

11 Q Did she mention it on Facebook at all?

12 A A status was made that said an M.F. is going to cause
13 me to -- no, M.F. has mess my grandson's night up. So,
14 of course, people commented on it asking why, what
15 happened, you know. I thought you all were camping.

16 Q Let me interrupt you, don't tell me anything they
17 said. But you saw a Facebook status?

18 A I saw it, yes, sir.

19 Q Okay. When did you all come back from the beach?

20 A Late Sunday night.

21 Q Okay. What did Steve do or you know what Steve did
22 the rest of Sunday night when you all got back?

23 A Went home.

24 Q Okay. Did you have any contact with Steve Monday?

25 A Yes, sir.

1 Q What was the first time, did you have contact with
2 Steve Monday?

3 A It was late Monday afternoon, that I had talk to him.
4 I was gone with a friend of mine. And he had came by the
5 house and had gotten mad or something because I was gone
6 with my girlfriend and wasn't there. And I saw him for a
7 brief minute that Monday afternoon and then he was suppose
8 to come back later night, but unfortunately never made it.

9 Q Do you know where he went after you saw him?

10 A After I saw him, it was still early. It was probably
11 around four maybe or so three or four Monday afternoon. I
12 don't know exactly where he was going then.

13 Q Okay. After that, did he call you or text you or
14 anything the rest of that evening?

15 A Yes, sir, we had texted back and forth. Then he
16 called me and said that he had, you know, some phone calls
17 from Sunny saying that Michael's air condition was messed
18 up and needed to be looked at, which was where he was
19 hunting that night. And Steve called me because he said
20 that he had a really bad feeling about it. Something just
21 didn't sit right with him about Sunny calling him so
22 persistently about the air condition situation. So he
23 wasn't going to go down there and called him back to let
24 him know that and had me on three way when he called Sunny
25 back.

1 Q So when he called Sunny back you were on the
2 telephone with him ---

3 A Yes, sir.

4 Q --- like a conference call?

5 A Yes, sir.

6 Q Okay. Did Sunny pick up the phone?

7 A Yes, sir.

8 Q What was the substance of their conversation at that
9 point?

10 A You know, that he wasn't coming out there. Sunny
11 ended up saying that they ended up getting the air
12 condition fixed any ways, that it didn't matter, but that
13 they needed to talk. And Sunny said that -- blew up. You
14 could kind of tell he had been drinking and blew up and
15 was like I will beat your mother -- bla bla. And Steve
16 was like, woo, I don't have any beef with you. I'm not
17 trying to fight you, you know. He said so, you know, you
18 can just calm down. Like I'm not trying to fight you, all
19 I want to do is talk to you. And that's when Sunny told
20 him to -- that he could -- at first, the original plan
21 they were going to meet at my house to talk. And I said
22 that that was a not a good idea because I was putting my
23 kids to bed. And, you know, I didn't want any of that at
24 the house. So they -- Sunny then told him that he would
25 be home in just a little while that he could meet him at

1 his house and they could talk.

2 Q Okay. Was Steve mad?

3 A Uh-uh.

4 Q Steve -- did you hear any threats go from Steve to
5 Sunny?

6 A No, sir.

7 Q Why were you on this phone call? Why did he want you
8 on the phone call?

9 A Just -- I think he wanted me to see why it was maybe
10 that he had the uneasy feeling that he had about the
11 initial phone call about the whole air condition problem.
12 I think that just didn't sit right with him and he didn't
13 know why at the time. So he just said I'm going to call
14 three way.

15 Q Okay. After that phone call, did you hear anything
16 else from Steve?

17 A Yes.

18 Q What was that?

19 A He called me to let me know that he was almost at my
20 mom's house to talk to Sunny. He was about to pull up and
21 that he would see me when he left.

22 Q Did he ever come to your house? You have to answer.

23 A No, sir.

24 Q Okay. How did you hear Steve had passed away?

25 A I got a phone call from my husband because my mother

1 called him and told him so he called me.

2 Q What did you do when your husband called you?

3 A I ran to my neighbors to get her to come sit with my
4 babies cause I had just put them to bed. And I jumped in
5 the car and I stopped by the Exxon down the street from my
6 house, that he went to all the time and asked if they had
7 talk to him. And they said they had made a phone call to
8 him but hadn't gotten a return phone call. And I told
9 them what I had heard. The phone call I had just gotten
10 and they said just ---

11 MR. GROVE: Objection, Your Honor, hearsay.

12 MR. OZMENT: That's fine, Your Honor.

13 THE COURT: All right.

14 BY MR. OZMENT:

15 Q Don't tell me what they told you, but just tell me
16 what you did. You're at the gas station what did you do?

17 A I met -- I called my best friend and she told me or I
18 met her at the gas station, so she could drive me over
19 there because I was a little -- very much upset and she
20 drove me to my mother's house and that's pretty much
21 how...

22 Q When you got to your mother's house who was there?

23 A Seem like every police in the city. I came in the
24 back way. It was police as far as you can see. And the
25 ambulance at the end of my momma's driveway. And Steve's

1 van in the driveway with the door open.

2 Q Did you talk to any of the police that night?

3 A Yes, I think I talked to an investigator.

4 Q All right. Give him -- did you tell him what you
5 told us here today?

6 A Yes, sir, well, I answered any questions that he had
7 for me.

8 Q Okay. How has this affected your relationship with
9 your mom and dad?

10 MR. GROVE: Objection, Your Honor, relevance.

11 THE COURT: Mr. Ozment. Why don't you all come
12 on up for a second.

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

16 THE COURT: Objection is overruled. Go ahead,
17 Mr. Ozment.

18 BY MR. OZMENT:

19 Q How has this affected your relationship with mother
20 and stepfather?

21 A I hate them.

22 MR. OZMENT: I just have one last question. May
23 I approach, Your Honor.

24 THE COURT: Yes, sir.

25

1 BY MR. OZMENT:

2 Q Now, you also worked with Steve, right? You said
3 that earlier. I'm holding up defense exhibit one. Do you
4 recognize where that photo's taken of?

5 A In the van.

6 Q You see a black case in that photo?

7 A Yes, sir.

8 Q What is that black case for?

9 A His flashlight.

10 MR. OZMENT: No further questions, Your Honor.

11 THE COURT: Mr. Grove.

12 CROSS-EXAMINATION

13 BY MR. GROVE:

14 Q Okay. You spoke with an investigator when you got
15 there; is that correct?

16 A Where?

17 Q To Sharon Road last September?

18 A Yes, not when I got there, but before I left, I spoke
19 with one then.

20 Q You spoke with one that evening at Sharon Road?

21 A Yes.

22 Q And they recorded that statement from you? Do you
23 remember that?

24 A I'm not sure.

25 Q On the scene?

1 A Yes.

2 Q Do you remember what you said in that statement?

3 A I mean, I don't recall making a statement they ask
4 question and I gave them answers.

5 Q Do you remember what you said in that statement?

6 A I mean, I don't recall making a statement. They
7 asked questions and I gave them answers.

8 Q Do you remember them saying that Sunny didn't have a
9 problem with your relationship at least he never addressed
10 it with you, right?

11 A Right.

12 Q Do you remember saying that your last phone call with
13 Steve was at 8:07? Would that surprise you?

14 A No.

15 Q Do you remember not mentioning anything to the
16 investigator about your last phone call being that he was
17 on his way over to Gloria's?

18 A Do what now?

19 Q Would it surprise you that that information is not in
20 the statement that you gave to law enforcement?

21 A Because I didn't give a statement. They asked
22 questions and I answered the questions. I never made --
23 nobody asked me what happened this night and wrote down
24 word for word a statement from me. They ask me questions
25 and I answered them.

1 Q So you gave them information?

2 A Yes.

3 Q Would it surprise you to know in the information that
4 you gave them you didn't mention anything about your last
5 conversation with Steve being that he was on his way over
6 to Gloria and Sunny's?

7 A No.

8 Q Just a moment ago you said that you were on a
9 three-way phone call?

10 A Uh-huh.

11 Q Sunny and Steve were talking?

12 A Uh-huh.

13 Q And this is earlier in the same evening?

14 A Uh-huh.

15 Q And that originally you saying that Sunny was trying
16 to meet Steve somewhere, right?

17 A He tried to get Steve to go out to Michael's house
18 claiming that was an air condition problem and that it
19 needed to be looked out.

20 Q And then you testified that when the air conditioner
21 problem was solved, then he tried to get Steve to come
22 over to your house or meet him over there, right?

23 A The option of meeting at my house, yes, did come
24 about.

25 Q And you said that's not a good idea because I'm

1 putting my kids to bed?

2 A That's right.

3 Q While you were on mute in a three-way conversation?

4 A No...

5 Q Take your time.

6 A I mean, no. I mean, because they said that the idea
7 was thrown around. I said, no, that that wasn't gone
8 happen any ways, but I wasn't having a conversation with
9 them.

10 Q So earlier Steve had said ---

11 A I was on the conversation not carrying on a
12 conversation with them.

13 Q So earlier Steve said later on Sunny's going to
14 invite me over to your house, I want to make sure that's
15 not a good idea ---

16 A No, no, no, don't put words in my mouth, that's not
17 what I said.

18 Q What you said was that Sunny said let's go meet over
19 at Crystal's and then you said that that's not a good
20 idea, that's what you said?

21 A Yeah, I did say that, but I didn't say that I said
22 that on the conversation. I said that to myself to me in
23 my conversation.

24 Q You said in it your head and the two of them
25 miraculously figured out ---

1 A No, because then they decided that they were going to
2 his house any ways. I mean, like they -- they ultimately
3 decided they were not coming to my house. Regardless of
4 the fact that I -- that wouldn't have been an option any
5 ways is the point I'm making. I didn't physically say to
6 them, no, you are not coming to my house because I was on
7 a three-way conversation muted and was not carrying on a
8 conversation with them. I was listening to the
9 conversation.

10 Q Do you remember when you were speaking with law
11 enforcement that evening that you said that several days
12 before -- maybe a couple weeks before Steve had jumped out
13 the car and said something to Kevin at the baseball field?

14 A Uh-huh.

15 Q What was that about?

16 A About the relationship that we were having excuse
17 me -- the affair we were having is that better.

18 Q Steve was yours?

19 A Do what?

20 MR. OZMENT: Your Honor, object to relevance.

21 THE COURT: All right. The question was -- what
22 about the baseball field?

23 MR. GROVE: May we approach, Your Honor?

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

1 jury.)

2 THE COURT: Objection is overruled.

3 Go ahead, Mr. Grove.

4 BY MR. GROVE:

5 Q Steve confronted your husband out at the baseball
6 field?

7 A Uh-huh.

8 THE COURT: You need to answer with a no or a
9 yes.

10 A Yes, sir.

11 Q Was this like a little league game or T-ball game?

12 A No.

13 Q What was happening at the baseball field?

14 A He was trying to talk to Kevin Hanna.

15 Q About you?

16 A Uh-huh.

17 THE COURT: That's a...

18 A Yes, sir. I'm sorry, I'm sorry.

19 Q You and Steve had argued earlier that day, hadn't
20 you?

21 A Uh-huh. Yes, sir.

22 Q He went so far as to take his class ring back, didn't
23 he?

24 A Yes, sir.

25 Q Was Steve a drinker?

1 A Yes, sir, he drank a little bit.

2 MR. GROVE: Beg the Court's indulgence.

3 (WHEREUPON, a pause in the proceedings.)

4 BY MR. GROVE:

5 Q Crystal, how many times were you on the phone when
6 Steven and Sunny were talking? Let me ask it a different
7 way. Were you on one conversation that lasted a few
8 minutes or were you on several short conversations?

9 A I think because of where Michael lives off Claussen
10 Road, I think the service may haven gotten lost a time or
11 two. And it wasn't one long conversation that there had
12 to be -- the phone call had to be remade.

13 Q But you don't remember specifically?

14 A I don't remember exactly how many times, no, sir.

15 MR. GROVE: Nothing further at this time, Your
16 Honor.

17 THE COURT: Redirect?

18 MR. OZMENT: Nothing further from this witness,
19 Your Honor.

20 THE COURT: Thank you, ma'am. You can step
21 down.

22 (WHEREUPON, the witness leaves the witness
23 stand.)

24 THE COURT: Everybody on the jury, okay?

25 Mr. Ozment.

1 MR. OZMENT: Your Honor, the State would call
2 Carl Munn to the stand.

3 THE COURT: This will be the last witness before
4 we break for lunch, okay.

5 MR. GROVE: That will be fine, Your Honor.

6 THE CLERK: If you will, sir, come to the
7 witness stand. Place your left hand on the Bible and
8 raise your right hand. Do you swear to tell the truth,
9 the whole truth, and nothing but the truth so help you
10 God?

11 THE WITNESS: Yes, ma'am.

12 THE CLERK: Please be seated right there in the
13 witness chair and state your full name for the record.
14 WHEREUPON,

15 Carl Munn,
16 after first having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. OZMENT:

19 Q State your name please, sir?

20 A Carl Munn.

21 Q How are you today?

22 A Fine. You?

23 Q Good. Where do you live?

24 A [REDACTED] Silver Stone Drive.

25 Q Do you live near where the Scott's live?

1 A Yes, sir.

2 Q How far away is your house from their house?

3 A I say a block, maybe a little longer.

4 Q If I was going to walk it, how long would it take me
5 to walk it?

6 A Probably ten minutes.

7 THE COURT: Slid up just a little bit, sir.

8 BY MR. OZMENT:

9 Q Okay. How long have you known Sunny Scott?

10 A About over 20 years.

11 Q How do you know him?

12 A I use to work with him and all. We good friends.

13 Q All right. Do you recall back on September 24th of
14 2012 if Sunny came to your house that night?

15 A Yes, sir.

16 Q Do you remember about what time he came to your
17 house?

18 A It was right before -- Monday night Raw come on I
19 know.

20 Q Right ---

21 A I said right before Monday night Raw come on I know
22 that.

23 Q Okay. When he got there, did he have anything with
24 him?

25 A No, sir. Yes, he did have him a beer and one in a

1 bag.

2 Q How many beers did he have?

3 A He had one in a bag and one in his hand.

4 Q Okay. Did he say anything when he came down?

5 A He was kind of mumbling and I was trying to find the
6 channel on the TV. I was trying to find wrestling is what
7 it was. I say I be right back to take that truck, so I
8 went right there about say ten -- well, ten or 15 minutes
9 get over there and back with the truck. And then he said
10 he had shot Steve Springs.

11 Q Did he elaborate on that at all or is that all he
12 said?

13 A That's what he was telling me when I was coming out
14 the door.

15 Q All right. Did you react to that at all?

16 A I didn't pay it no attention to start with, sir.

17 Q Why didn't you pay him any attention?

18 A Because he always joking and stuff, you know.

19 Q So you didn't believe him is that what you're saying?

20 A No, sir, I didn't believe him.

21 Q Okay. Did he seem drunk to you?

22 A He seem like he been drinking, you know.

23 Q Did -- how long was he at your house?

24 A Probably about -- he was going out the door when I
25 come back him and his wife.

1 Q So I'm not going to hold you to it. Just give me an
2 estimate?

3 A Well, I say I went and took the truck back, right.
4 When I got back, they was going out the door him and his
5 wife. So I say ten minutes.

6 Q Looking at him, did you notice anything about the way
7 he looked?

8 A He look like something was bothering him to me.

9 Q What do you mean by that?

10 A Like he been drinking or something, might have been
11 doing something else.

12 Q Okay. When his wife get there, did you -- what was
13 Sunny doing when his wife got there?

14 A He was coming out the door when I got back there.

15 Q What was his -- was his wife driving?

16 A Yes, she come and got him in the truck.

17 Q Okay. Was anybody else at your house at that point?

18 A No, sir.

19 Q At any point or any of that with Sunny, did you ever
20 see him with a gun?

21 A No, sir.

22 MR. OZMENT: No further questions, Your Honor.

23 THE COURT: Mr. Grove.

24 CROSS-EXAMINATION

25

1 BY MR. GROVE:

2 Q You said he was over at your house may be ten
3 minutes, but you're not sure, right?

4 A About ten minutes. Well, he was there a little
5 longer than ten minutes because I told him I was going to
6 take my stepfather truck back. He already been siting
7 there about ten minutes then.

8 Q Sure. And when he made these comments to you, you
9 didn't pay him any attention?

10 A No, sir, not to start with.

11 Q Well, not to end with either. I mean, when he left,
12 you didn't think anything of it then?

13 A No, sir, not to start with, I didn't, no, sir.

14 Q You said Monday night Raw was about to come on?

15 A Yes, sir.

16 Q Does that come on at nine?

17 A Comes on at eight.

18 Q Okay. It comes on at eight?

19 A Yes, sir.

20 MR. GROVE: I don't have any further questions,
21 Your Honor.

22 MR. OZMENT: Very briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. OZMENT:

25 Q And I just want to be sure we got your time right.

1 How long was he there before you left?

2 A Before I left, he probably there ten minutes
3 something like that.

4 Q And then how long did it take you to take the truck
5 back?

6 A About ten minutes to go over there and walk back.

7 Q Ten and ten, about 20 minutes?

8 A Yes, sir.

9 Q And it's a short walk?

10 A Right behind me. My stepfather stay right behind me.

11 MR. OZMENT: No further questions, Your Honor.

12 THE COURT: Anything else, Mr. Grove?

13 MR. GROVE: No, Your Honor. Thank you.

14 THE COURT: All right, sir. You can step down.

15 (WHEREUPON, the witness leaves the witness
16 stand.).

17 MR. OZMENT: Your Honor, I ask that Mr. Munn be
18 released from his subpoena.

19 THE COURT: Mr. Grove.

20 MR. GROVE: No objection, Judge.

21 THE COURT: Okay. Mr. Munn, you can leave if
22 you like.

23 Okay. Mr. Ozment, would you like to break for
24 lunch now?

25 MR. OZMENT: That would be fine, Your Honor.

1 THE COURT: All right. Ladies and gentlemen,
2 according to that clock, it's about 12:34, 12:35. We will
3 break until two o'clock. You can go on about your
4 business for the next hour and a half or so. Please be
5 back in your jury room at two. As you know, you cannot
6 discuss this case at all. You cannot read anything about
7 it, listen to anything about it or watch anything about
8 it. If that should happen even inadvertently, please let
9 a bailiff know. Please be back again in your jury room at
10 two o'clock. Thank you. If everybody can stay seated for
11 just a minute.

12 (WHEREUPON, the jury was excused for lunch.)

13 THE COURT: I apologize, ma'am. I just wanted
14 to make sure the jury got out and that they're on the
15 elevators by themselves.

16 Anything before we break?

17 MR. OZMENT: No, Your Honor, and we're moving
18 quicker than I anticipated. I think we'll have two or
19 three witnesses. I may even recall Investigator Hester to
20 clarify one point, that's come up since. But I would
21 certainly anticipate that we'll finish today with the
22 State's case.

23 THE COURT: Mr. Grove, would you like to start
24 today or in the morning?

25 MR. GROVE: Your Honor, from my purposes, I like

1 to start in the morning. I told my witnesses -- in
2 conversations with Mr. Ozment it was kind of a long shot
3 to finish today. I told them that they would need to be
4 here until tomorrow.

5 THE COURT: Okay. We'll cover that. I think
6 that will be okay. Anything else before we ---

7 MR. GROVE: Not at this time.

8 MR. OZMENT: No, Your Honor.

9 THE COURT: If you be back about five minutes
10 until two just in case there's anything you like to cover
11 with me. We're off the record now.

12 (WHEREUPON, a lunch break was taken.)

13 THE COURT: We ready to go?

14 MR. GROVE: I believe I'm ready.

15 MR. OZMENT: Yes, sir, Your Honor.

16 THE COURT: You can bring in the jury.

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

18 THE COURT: All right. We ready to continue.

19 The State's case. You can call your next
20 witness.

21 MR. OZMENT: Yes, Your Honor. The State will
22 briefly recall Investigator Hester.

23 THE COURT: You're still under oath, sir. You
24 can come on up and have a seat.

25 WHEREUPON,

1 William Hester,
2 after first having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. OZMENT:

5 Q How are you today, Investigator?

6 A I'm doing well.

7 Q Good. Obviously, there's obviously been some
8 testimony about times phone calls were made. Did you have
9 an opportunity to look into the defendant's phone at the
10 time of his arrest?

11 A I did.

12 Q Did you see any phone calls that were made?

13 A I did.

14 Q I guess, tell me what phone calls were made after
15 eight o'clock that night?

16 A After eight o'clock, there was a phone call made from
17 the defendant's phone to Gloria at 8:07, that lasted
18 seven seconds. There's another phone call at 8:11 lasted
19 seven seconds, another one 8:12 lasted 23 seconds and 8:32
20 at 35 seconds.

21 Q And those were all to the same person?

22 A Those were all to -- yes, his wife.

23 Q Okay. After that were there any more phone calls to
24 his wife?

25 A No, there were no more phone calls to his wife after

1 8:32.

2 Q Are you aware what time the 9-1-1 calls was received
3 in this case?

4 A It was documented ---

5 MR. GROVE: Objection, Your Honor. I don't know
6 that he's qualified to answer that question.

7 MR. OZMENT: Your Honor, he's the lead
8 investigator and I asked him if he's aware of what time
9 the 9-1-1 call was made.

10 MR. GROVE: May we approach?

11 THE COURT: Sure.

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

15 THE COURT: Restate the question please. In
16 other words, just say it again.

17 BY MR. OZMENT:

18 Q Do you know what time the 9-1-1 call was made in this
19 case?

20 A I do.

21 Q How do you know that?

22 A I believe I was the one who got the records from
23 central dispatch the audio recording and the print out of
24 the CAD report.

25 Q Explain to me what a CAD report is?

1 A A CAD report is that any time you call 9-1-1 in from
2 the time that you make the phone call, it's documented the
3 time -- it's a time stamp. After that, anything that goes
4 on whether it's police, fire, EMS other units responding.
5 They are all documented the time that they are called, to
6 the time that they arrived, to the time that they cleared
7 the scene.

8 Q Is that generated by a computer?

9 A It is.

10 Q What time does the CAD report say that a 9-1-1 call
11 was made?

12 MR. GROVE: Objection, Your Honor.

13 THE COURT: Overruled.

14 A At 8:53.

15 MR. OZMENT: No further questions, Your Honor.

16 THE COURT: All right. Any questions,

17 Mr. Grove?

18 MR. GROVE: Not at this time, Your Honor. Thank
19 you.

20 THE COURT: You can step down.

21 (WHEREUPON, the witness leaves the witness
22 stand.)

23 MR. OZMENT: Your Honor, at this time the State
24 would call George Watson to the stand.

25 THE CLERK: If you will, sir, place your left

1 hand on the Bible and raise your right. Do you swear to
2 tell the truth, the whole truth, and nothing but the truth
3 so help you God?

4 THE WITNESS: I do.

5 THE CLERK: Please be seated in the witness
6 chair. And if you will, sir, state your full name for the
7 record.

8 THE WITNESS: George Howard Watson, Jr.

9 WHEREUPON,

10 George H. Watson,
11 after first having been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. OZMENT:

14 Q How are you today, Mr. Watson?

15 A I'm okay.

16 Q Do you know Sunny Wayne Scott.

17 A Yes, sir.

18 Q How long have you known him?

19 A Going on about nine years I believe.

20 Q How do you know Mr. Scott?

21 A I bought some property right behind him.

22 Q So you all neighbors?

23 A Yes, sir.

24 Q How long -- nine years?

25 A Yes, sir.

1 Q Okay. How often would you all see each other living
2 next to each other?

3 A Probably every day.

4 Q So you were friends?

5 A Yeah.

6 Q Okay. Do you recall the night of September 24th
7 2012?

8 A Yes, sir.

9 Q You remember what night of the week it was?

10 A I believe it was a Monday.

11 Q All right. What were you doing that evening?

12 A Waiting on American Chopper to come on.

13 Q What time does that come on?

14 A I want to say about seven.

15 Q Okay. Did anything happen that night that aroused
16 you out of your house?

17 A I remember a commercial coming on saying it was ten
18 minutes before it came on and I heard a gunshot. It sound
19 like it was in my background.

20 Q Okay. How many shots did you hear?

21 A Just one.

22 Q What did you do when you heard the gunshot?

23 A Ask my fiance to let me hold her .45 and I put it in
24 my belt, went outside to take a look and see what's going
25 on.

1 Q Why did you ask for the .45?

2 A Sound like a -- it was right there in my backyard. I
3 just want to be prepared in case something was wrong.

4 Q Okay.

5 A Because you don't usually hear gunshots that late at
6 night because there's a lot of hunting going on around the
7 house. You can hear gunshots off in the distance not
8 right there in the yard.

9 Q When you walked outside, where did you go?

10 A I started over there by my shop towards the backside
11 of my house. I walked over to my jet ski. It was real
12 dark over there on that side. And I looked toward's
13 Sunny house and I seen him in the backyard talking on a
14 cell phone.

15 Q Could you hear anything he was saying?

16 A The only thing I heard him say is I shot him.

17 Q What did you do at that time?

18 A I waited until he got off the phone to acknowledge
19 that I was in the yard. I say, hey, Sunny was that you
20 that shot and he replied, yeah. The gun went off and the
21 bullet jammed in his gun. So I started making my way
22 toward him.

23 Q Okay. Did you see a gun at that point?

24 A No, sir.

25 Q Okay. Did you ask him any follow-up questions about

1 his gun jamming?

2 A Well, I asked him did he kill a dog or a cat. I
3 figured that's what he probably done. One was in his yard
4 in the trash or something, I figured he probably shot one
5 of them or something.

6 Q Okay. What did you do next?

7 A We walked half way to my house, half way to his house
8 is about right at the corner of my property line and we
9 started talking. He was telling me about hunting.

10 Q And how long did that go on?

11 A Not long. And then he confessed something to me.

12 Q What do you mean by that?

13 A He told me he shot Steve.

14 Q Do you know who Steve is?

15 A Yes, sir.

16 Q Who is Steve? Did you know Steve personally?

17 A Yeah, he came to my house and fixed my air
18 conditioner and didn't charge me nothing.

19 Q Okay. And when Sunny said that to you, what did you
20 do?

21 A I thought he was lying. I mean, I just didn't pay it
22 no attention at first. And then ---

23 Q What was demeanor? How was he acting?

24 A That's why I didn't think he was telling the truth
25 because, I mean, he didn't act weird or anything abnormal

1 out the way. He was just acting like we are right now.

2 Q So did you continue talking to him?

3 A Yes, sir.

4 Q What happened then?

5 A We started talking. And then after he told me that
6 he killed Steve and I didn't believe him. And he
7 threatened me said if you tell anybody, I will shoot you
8 or you gone have to shoot me or I'm going to burn your
9 house down with your kids in it.

10 Q What did you think of that?

11 A I didn't know what to think about it. So I walked
12 out towards -- to the left towards the trash pile of my
13 house and his house. And I looked around the corner and
14 seen Steve's van there with the light on and the door open
15 on the driver's side.

16 Q When you say the light on, which light are you
17 talking?

18 A Inside the cab of the truck.

19 Q Okay.

20 A And that's when it sunk in that he might be telling
21 the truth and that's when my heart just fell. I just,
22 just didn't know what to do.

23 Q What happened once you saw the van and you thought he
24 might be serious?

25 A He was -- after he threaten me, he ask me to help him

1 put the body in the van and take it down the road, so he
2 could dump him out. And I told him I wasn't and that's
3 when he threaten me again. If I didn't help him, he was
4 going to kill me.

5 Q So what did you do?

6 A I started crying and fell to my knees.

7 Q Did you help him?

8 A No, sir, I did not.

9 Q What did he do?

10 A He proceeded to tell me the reason he killed Steve
11 was he wasn't gone have his grandkids calling him
12 father -- daddy.

13 Q Calling who daddy?

14 A Steve.

15 Q What did you say to that?

16 A I said, well, did he have anything in his hand Sunny.
17 He said no. I said, well, you know that's plan out
18 cold-blooded murder. I said if he didn't come after you
19 with something, it was murder.

20 Q What did Sunny say to that?

21 A He said that he didn't have nothing in his hand, so
22 that's when he proceeded over to his boat and he got a
23 screwdriver out, a black one red tip about this long
24 whipped it off with his jacket and went around there to
25 put it in his hand. I stayed around back. I never went

1 around towards the front of the house. I stayed around
2 back, that's when he come back and told me that Steve was
3 still alive.

4 Q And let me stop you there.

5 MR. OZMENT: May I approach the witness, Your
6 Honor?

7 THE COURT: Yes, sir.

8 BY MR. OZMENT:

9 Q George, I'm going to show you what's been marked as
10 State's Exhibit 8. Do you recognize what's in that
11 picture?

12 A Yes, sir.

13 Q What is in that picture?

14 A That's Sunny's boat.

15 Q Is that the boat you were just talking about?

16 A Yes, sir. He got the screwdriver out of the live
17 well right there where there's a bunch of tools.

18 Q So show me where exactly?

19 A Right there.

20 Q What looks like a seat, but you're saying it's a live
21 well?

22 A I think it's tools. It was a bunch of tools in
23 there.

24 Q Okay. Have you seen the screwdriver since you saw it
25 that night?

1 A No, sir.

2 Q I'm going to open State's Exhibit 14. Is this the
3 screwdriver?

4 A Yes, sir.

5 Q The one you saw that night?

6 A Yes, sir, that's the one he whipped off and went
7 around there to put it in his hand.

8 Q Went around the house with the screwdriver and he
9 came back. What happened next?

10 A He told me he was still alive. He was going to go
11 around there and shoot him again. And that's when I was
12 going take my .45 out and shoot him, but I got scared.

13 Q Did he tell you that Steve said anything to him?

14 A No, he just said he was still moving.

15 Q What did you say to that?

16 A That's when I fell to my knees again and started
17 crying please Sunny.

18 Q What did Sunny do?

19 A When he came back and told me that, he went back
20 around there and come back with his gun and point it at
21 me, coming at me like this with his gun. And when he got
22 about four or five feet from me, he dropped the butt of it
23 and handed the gun up like this. I said what do you want
24 me to do with this. He said get rid of it. I said what
25 you want me to do with it. He said I don't care what you

1 do with it, throw it woods for all I care.

2 Q You remember what the gun look like?

3 A Yeah, it was a hunting riffle .30 ought 6.

4 Q What color was it?

5 A I want to say it was a blue barrel synthetic stock.

6 I think it was a dark color.

7 Q Have you seen the gun since that night?

8 A No, sir, like I said, it was dark too.

9 MR. OZMENT: May I approach, Your Honor?

10 THE COURT: Yes, sir.

11 BY MR. OZMENT:

12 Q I'm going to show you what's been marked as State's
13 Exhibit 16. Is this the gun he handed you that night?

14 A Yes, sir.

15 Q When he handed you the gun, what did you do with it?

16 A I grabbed it by the strap, so my fingerprints
17 wouldn't be on it and took it through my yard and tossed
18 it in the woods across the street.

19 Q Once you tossed it in the woods, what did you do
20 next?

21 A Ran to my house and told my wife to get the kids in
22 the bedroom. It took me a few minutes to calm down to
23 actually tell my girlfriend what happened.

24 Q Did you tell her everything that happened?

25 A No, I just told her that Steve was shot and Sunny did

1 it to be -- just stay in my room and just in case he wants
2 to come back and finish the job after he confessed to me.

3 Q And don't tell me what she said. But what did she
4 do?

5 A She was panicking and she told me not to go outside.
6 I stayed on the porch with the .45 just in case he try to
7 come back and finish me off cause he confessed everything
8 to me.

9 Q Do you know where Sunny was during this time?

10 A No, sir. I thought he was still at home.

11 Q Okay. What happened next after you were standing on
12 the porch?

13 A I got a phone call from Gloria and she ask me --
14 Sunny threaten said if I told anybody, he kill me. So
15 when Gloria asked me, George, have you talked to Sunny. I
16 said yes, ma'am. She said what did he tell you. I said
17 what did he tell you. He told me that he shot Steve. Is
18 said, well, that's what he told me. That's when -- next
19 thing I know I seen her drive up in the driveway, drive
20 around the yard, drive through my yard. After she paused,
21 the headlights towards the van, then drove through the
22 middle of my yard and went around the curve to my
23 brother-in-law's house right across the street from my...
24 Then she ask me to meet her half way. She ask me where is
25 the gun. I said Sunny told me to get rid of it. I threw

1 it in the woods. She said, well, go get the gun for me.
2 She went in and proceeded into my brother-in-law's house
3 Carl's.

4 Q Who is your brother-in-law?

5 A Carl Munn.

6 Q Okay. Did you go get the gun?

7 A Yes, sir, I did. I knew about where I threw it and
8 so I kicked around until I found it. And then I picked it
9 up by the strap so my fingerprints wouldn't be on it. I
10 carried it like this to my brother-in-law's house and laid
11 it in the back -- bed of the truck with the barrel on the
12 box.

13 Q Okay.

14 A And then I proceed into the house where she was
15 trying to get Sunny off the couch. He was drinking and
16 watching wrestling. She said you better get your story
17 straight because we got a dead man in the front yard. We
18 got to get our story straight before we call the law.

19 Q Okay. Was she on the phone with anyone while you saw
20 her there?

21 A No, sir, she was yelling at Sunny to get his ass up
22 excuse me sorry -- get his butt up.

23 Q After you witnessed their interaction at Carl's
24 house, what did you do next?

25 A We all proceed outside and Gloria told me if the cops

1 ask me anything the only thing I heard was arguing and a
2 gunshot.

3 Q Okay. Where did you go then?

4 A I went home. Me and brother-in-law Carl walked to my
5 house and waited on the law to get there. So whenever
6 they got there, we was going to make our presence known by
7 walking over there and try to get somebody to hear the
8 truth.

9 Q How long was it until the law got there?

10 A After she left his house, approximately about 20
11 minutes.

12 Q And when did you go back over?

13 A I was in the yard the whole time.

14 Q In whose yard?

15 A Mine.

16 Q Okay. And the law got there, what did you do?

17 A We kind of eased our way because they was looking for
18 the gunshot shell that he said he threw in my yard. They
19 was over near my trash pile, so I kind of made my way over
20 there me and Carl did just to kind of let them know --
21 make ourself known.

22 Q And did you speak to any of the law enforcement?

23 A Yes, sir, I did. I talk to one of them. I told them
24 exactly what Gloria told me why Sunny and Gloria were
25 right there.

- 1 Q What did you say?
- 2 A That all I heard is arguing and gunshot.
- 3 Q All right. Go ahead.
- 4 A When they put Sunny in the cop car and had Gloria
- 5 detained around the corner, is when got I another officer
- 6 and told him if they would meet me down the road, I will
- 7 tell them what happened after the gunshot.
- 8 Q Did you end up meeting someone down the road?
- 9 A Yes, sir, I did.
- 10 Q Where did you meet them?
- 11 A At the Waffle House.
- 12 Q Who did you meet?
- 13 A Officer Hester and another investigator.
- 14 Q Okay. When you got there, what did you tell them?
- 15 A I told them the same thing I told you.
- 16 Q What you said here today you mean?
- 17 A Yes, sir.
- 18 Q Briefly, I want to clear one thing up. I think at
- 19 one point, you said your fiancé, at one point you said
- 20 your wife. Who do you live with?
- 21 A It's my fiancé. We been together almost 15 years. I
- 22 consider her my wife. I'm sorry.
- 23 Q But that's the same person?
- 24 A Yeah, sorry.
- 25 MR. OZMENT: Thank you very much. Please answer

1 any questions Mr. Grove has for you.

2 CROSS-EXAMINATION

3 BY MR. GROVE:

4 Q Good afternoon, Mr. Watson.

5 A How you doing?

6 Q I'm doing all right. So you gave a very brief
7 statement at the scene and then you gave another statement
8 later on; is that correct?

9 A Yes, I told them what she wanted me to tell them.
10 Then I told them the truth.

11 Q And you gave another statement after that, right?

12 A What do you mean?

13 Q You spoke to somebody on the scene?

14 A Yes.

15 Q Then a few minutes later you spoke with somebody at
16 the Waffle House?

17 A Thirty minutes later.

18 Q Right, later that evening?

19 A Right.

20 Q A few days later did you also speak with law
21 enforcement again?

22 A Yes.

23 Q So if we don't count the first one at the scene, you
24 gave two statements one at the Waffle House and one a few
25 days later, right?

1 A If you're trying to say I talked to the officers more
2 than once, yes, I have.

3 Q I just wanted to make sure. You said that you were
4 inside with your fiancé?

5 A Yes, sir.

6 Q And then you heard a gunshot and then you went
7 outside?

8 A Yes, sir.

9 Q And your testimony today is that Gloria told you to
10 say that you had heard arguing and then a gunshot, right?

11 A Later on, yes.

12 Q You testified earlier that Gloria told you say you
13 heard arguing and a gunshot?

14 A Yes, sir.

15 Q And then at the Waffle House you still maintained
16 that you thought that you heard arguing, but that you
17 originally thought it might have been Carl with loud
18 speakers, do you remember saying that?

19 A I might have.

20 Q You don't deny saying that?

21 A I do remember hearing a car.

22 Q And originally you thought that Sunny may have shot a
23 dog?

24 A Yes, sir.

25 Q Do you remember in that second statement agree with

1 the Investigator Hester that you did hear some arguing,
2 but main I just heard Sunny. Do you remember say that?

3 A No, I do not.

4 Q And you armed yourself before you went outside?

5 A Yes, sir.

6 Q With a .45?

7 A Yes, sir.

8 Q Did you say that that was your fiancé's gun?

9 A Yes, sir.

10 Q Not your gun?

11 A No.

12 Q Do you remember telling Investigator Hester in your
13 statement that you're not allowed to have a gun?

14 MR. OZMENT: Your Honor, I would object.

15 THE COURT: All right, come on up please.

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

19 THE COURT: Ladies and gentlemen, please step to
20 your jury room. You are not to discuss the case.

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

22 THE COURT: All right. Before it slips my mind,
23 earlier you had objected to Investigator Hester testifying
24 about the time of the 9-1-1 call on hearsay grounds and I
25 overruled that. I want to make sure that the grounds you

1 expressed up here are on the record. Okay, go ahead and
2 complete your questioning on this topic. And if you would
3 just be as complete as you can, so I'll know what I may
4 need to ask.

5 CROSS-EXAMINATION IN-CAMERA

6 BY MR. GROVE:

7 Q Do you remember in a statement to Investigator Hester
8 telling him that you couldn't own a firearm?

9 A Yes, sir, I do.

10 Q And you couldn't own that firearm because you were a
11 felon?

12 A Yes, sir.

13 Q And you expressed those concerns to him because you
14 are admitting being in position of a firearm?

15 A Yeah.

16 Q And in fact your in possession of two firearms at one
17 point. You're in possession of the .45 and you're in
18 possession of a 30 ought 6?

19 A Yes, sir.

20 THE COURT: Why -- what type of felon are you?

21 GEORGE WATSON: I got caught with some marijuana
22 when I was 21 I believe, Your Honor. It was over an once,
23 so considered it with intent.

24 THE COURT: All right. And that was when, sir?

25 GEORGE WATSON: When I was 21?

1 THE COURT: How old are you now?

2 THE WITNESS: Forty-three.

3 THE COURT: And when were you convicted, what
4 year? How old were you?

5 GEORGE WATSON: I was 21.

6 THE COURT: Okay. Go ahead, Mr. Grove, any
7 other questions on that immediate subject?

8 MR. GROVE: Something may come up in my head
9 later, Your Honor, but that's the general line of my
10 questioning is that he's concern -- his concerns are he
11 expressed them voluntary in a statement that he admits to
12 being a felon.

13 THE COURT: Mr. Ozment, your objection?

14 MR. OZMENT: Your Honor, I would object. Under
15 Rule 609 that's what governs whether or not you can
16 impeach a witness with his prior criminal record. Here --
17 and I have his -- Mr. Watson's NCIC right now in front of
18 me. He was convicted on June 29th 1993 of PWID marijuana.
19 He was sentenced 18 months suspended to one year
20 probation. All that was over -- well, beyond the ten year
21 time limit, that is governed by the rule. Furthermore,
22 it's not a crime of dishonesty in any way. There's case
23 law that says drug crimes are not crimes of dishonesty.
24 So I don't see how it's admissible. The fact he brought
25 it up in his statement has no bearing on its admissibility

1 once we're in court from anything in the statement that
2 are not admissible. So I don't see how that would affect
3 in any way its admissibility under the Rule 609.

4 THE COURT: All right, Mr. Grove.

5 MR. GROVE: Your Honor, I'm not using this prior
6 to impeach him under Rule 609. I'm using this prior to
7 show bias, that he would have a reason to explain away his
8 possession of a handgun and possession of a 30 ought six
9 that evening.

10 THE COURT: Well, what's your theory of why he
11 had the 30 ought six. I don't know whether you're
12 challenging or just leaving up the air whether or not it
13 is true that the gun was handed to him. I don't remember
14 Mrs. Scott's testimony on that. What she say about it?
15 She say she got the gun from inside the house or she said
16 she got it George, didn't she?

17 MR. GROVE: That's correct, she did.

18 THE COURT: Okay, so that is not something you
19 really contest.

20 MR. GROVE: No, it's not.

21 THE COURT: Let's put aside the possession of 30
22 ought six for a second because that -- if things are as
23 even you say, I would doubt that would ever rise to the
24 level of a felon being in possession if somebody handed
25 somebody a riffle and said here by the way this is the gun

1 I was going to shoot you with. I want you to get rid of
2 it, so let's just put that aside for the moment. Let's
3 talk about the .45.

4 MR. GROVE: Sure. And, Your Honor, I don't
5 really have a problem with the .45. My focus is on the 30
6 ought six. I would like to come back to that in a minute
7 without giving away my defense.

8 THE COURT: Sure.

9 MR. GROVE: That's not exactly the road I'm
10 going down.

11 THE COURT: But you have explain to me why it's
12 relevant for reasons other than impeachment?

13 MR. GROVE: Right. And, Your Honor, I think
14 that it goes to bias.

15 THE COURT: Tell me how it goes to bias, which
16 is a form of impeachment.

17 MR. GROVE: Sure. It goes to the credibility of
18 a witness in terms of the circumstances under which he
19 came in possession of the 30 ought 6. His testimony is
20 that it was forced upon him under threat of harm.

21 THE COURT: Right.

22 MR. GROVE: That certainly would absolve him of
23 any guilt, but if it came into his possession voluntarily,
24 if he went and picked it up and chose to do something with
25 it, that would obviously expose him to being in possession

1 of a weapon. .

2 THE COURT: Of the 30 ought 6?

3 MR. GROVE: Yes, sir.

4 THE COURT: You're not worried about the -- what
5 did his statement say could I maybe get an idea?

6 MR. GROVE: I got the transcript of the second
7 statement right in front of me.

8 THE COURT: What did he say? Did he say that he
9 told them I have the .45 and I shouldn't have had it or I
10 had the 30 ought 6 and I shouldn't have had it.

11 MR. GROVE: He spoke in general terms, Your
12 Honor.

13 THE COURT: What did he say?

14 MR. GROVE: I been looking for the exact quote.
15 Matt, if you find it before me, feel free to speak up.

16 GEORGE WATSON: Your Honor, would you like me to
17 tell you?

18 THE COURT: Not right now. Thank you though.

19 MR. GROVE: I apologize, Your Honor, it is not
20 in the transcript. It is in the original recorded
21 statement from this evening.

22 THE COURT: Do you have that?

23 MR. GROVE: I got a disk. I don't have a
24 transcript.

25 THE COURT: But no transcript of the disk?

1 MR. GROVE: He can play it on an iPad, Your
2 Honor. The entirety of the statement last about 15
3 minutes, this is at the end. So we can -- I'm happy to
4 skip forward to the end. He also -- essentially, all he
5 says is I'm a felon, I want you to know that. When he's
6 discussing why he thinks that's not a problem for him to
7 have been in possession of a firearm basically.

8 THE COURT: However can ---

9 MR. GROVE: It comes in around 11 or 11:30.

10 THE COURT: I don't know how work that very
11 well. Do you know how to turn it up?

12 (WHEREUPON, a pause in the proceedings. Judge,
13 listening to a recording on a iPad.)

14 THE COURT: On the recording, the witness told
15 the -- I guess, that was Investigator Hester; is that
16 correct?

17 MR. GROVE: It is, Your Honor.

18 THE COURT: Told Investigator Hester say let me
19 tell you the truth I'm a felon and I had my girlfriend's
20 gun. I didn't hear anything in that exchange about
21 anything involving the 30 ought six. So if you would
22 please explain to me aside from a conviction with which
23 you like to impeachment him. Of course, it's impossible
24 to impeach somebody with a remote conviction. It's just a
25 heightened burden you would have. One of the burdens you

1 have to fulfill is you have to give him sufficient written
2 advance notice of your intent to use that remote
3 conviction, so he'll be provided a fair opportunity to
4 contest your use of it. So put that aside for the moment
5 because you say you're not trying to get in the actual
6 conviction. What is it about him being a felon in
7 possession of a firearm that has relevance on the issue of
8 bias or anything else?

9 MR. GROVE: Your Honor, it's -- again, it goes
10 to how he came into possession of the 30 ought six. His
11 statement to law enforcement, again, like I said the
12 essence of it is it was thrust upon him. And that is his
13 end around as to how -- doesn't violate the law.
14 Otherwise, if he comes into it -- if he goes and picks it
15 up off the ground voluntarily obviously he is breaking the
16 law. And if he told law enforcement that, he would be
17 admitting to breaking the law.

18 THE COURT: So you think -- when he makes the
19 comment on the recording, I'm a felon. I'm not suppose to
20 have a firearm, but I got my fiancé's .45. Is that some
21 calculation on his -- in your mind that he's also
22 providing a cover as to why he had the 30 ought 6?

23 MR. GROVE: And, Your Honor, again we're getting
24 a little further into my defense than I like to.

25 THE COURT: Well, but you got to explain to me

1 relevance or I'm just going to have to sustain the
2 objection. You're trying to get it in for reasons that
3 perhaps are only known to you and that's fine, but now is
4 the time you got to tell me if you want me to allow that
5 statement to come in.

6 MR. GROVE: Certainly. And, yes, that's about
7 the best answer I can give you, Your Honor. And if you
8 have to sustain the objection ---

9 THE COURT: I'll sustain it. I don't know
10 whether the State wants me to tell the jury to disregard
11 the statement, disregard, ladies and gentlemen, that
12 statement that he's a felon or whether or not you now want
13 it to come in whether or not just want me to be quiet.

14 MR. OZMENT: Your Honor, I just want a short
15 curative instruction that they disregard the last question
16 and partial answer they heard.

17 THE COURT: All right. Well, what if they say
18 which question and answer was that because right now I
19 don't really remember either except that it had -- your
20 objection was immediate.

21 MR. GROVE: I believe, Your Honor, at least it
22 was my intention, I believe my question to him was about
23 the fact that he can't possess a firearm. I think that I
24 said felon.

25 THE COURT: You did. I'm pretty sure you did.

1 MR. OZMENT: I remember him saying did you tell
2 Investigator Hester something about you're a felon or
3 something like that.

4 THE COURT: All right. So you want me to just
5 tell the jury to disregard the last question and the last
6 answer.

7 MR. OZMENT: And it's not to be considered by
8 them in any way.

9 THE COURT: Okay. All right. In that regard,
10 Mr. Grove, the objection is sustain. I'll give that
11 instruction, okay. You ready for the jury?

12 MR. OZMENT: Yes, Your Honor.

13 THE COURT: All right. You understand that,
14 sir, don't go into your -- unless prompted by Mr. Ozment
15 or I'll give you permission. Don't talk about the
16 conviction.

17 GEORGE WATSON: Yes, sir.

18 THE COURT: You can bring in the jury.

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

20 THE COURT: Ladies and gentlemen, thank you for
21 your patience. You remember or you do remember at the
22 beginning of the trial, I told you that if I instructed
23 you to disregard something under the oath that you've
24 taken to follow the law, you must disregard something if I
25 tell you to disregard it. I'm instructing you to

1 disregard the last question and the last answer between
2 Mr. Grove and this witness. And you're not to take any of
3 those exchanges if you will into consideration in any
4 manner in this case at all.

5 All right, Mr. Grove, you can continue.

6 MR. GROVE: Thank you, Your Honor.

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION CONTINUED

9 BY MR. GROVE:

10 Q George, sort of pick up where we were. You were
11 inside with your fiancé watching TV and you heard a
12 gunshot and then you went outside. Do you remember in
13 your statement saying -- and when I say your statement, I
14 don't mean your statement on the scene. I'm talking about
15 the statement that you gave maybe 30 minutes later at the
16 Waffle House. Do you remember saying at that point you
17 heard some arguing and you went outside and then you heard
18 a gunshot?

19 A That's what I was told to say.

20 Q Thirty minutes later when you're away from the scene?

21 A She still at large. Just because he pull the
22 trigger, don't mean she ain't guilty.

23 Q Now, your whole purpose of removing yourself from the
24 scene and going to Waffle House and speaking with
25 Investigator Hester and another investigator is so you can

1 tell them what really happened? Right?

2 A Yes.

3 Q And then when you get there your statement to them is
4 I heard some arguing, I went outside. I heard a gunshot.
5 Then I went back inside and told my girl to get a gun,
6 right?

7 A If you would read the statement, it said I heard some
8 loud noise and then I heard a gunshot. And that was that
9 car you was talking about whole ago.

10 Q Sure. So you hear a gunshot you're either inside or
11 outside. You hear a gunshot and at some point you walk
12 out of your house with a loaded .45, right?

13 A Yes.

14 Q And you walk in the direction of Sunny's?

15 A No.

16 Q I'm sorry. Where do you go?

17 A I told you I went by my building, it's still on my
18 property. Sunny's property line is three foot off my --
19 his trailer is three foot off my property line. So I was
20 in my yard, in my front yard, when I heard Sunny. Sunny's
21 about from here to the exit sign from where I seen him.
22 He was in his backyard. I can hear him on the phone.

23 Q But you walked in his direction at some point?

24 A After I made myself known. You don't walk up on
25 somebody in their yard at nighttime around there.

1 Q At some point the two of you were close enough to
2 have a conversation, right?

3 A I made myself known, let Sunny know that it was me.
4 And me and him started conversating. I asked him was it a
5 dog he shot or a cat.

6 Q But first he told you that a bullet was jammed and it
7 discharged, right?

8 A Right. He said they got back from hunting and the
9 gun misfired.

10 Q Right.

11 A When we got closer is when he started telling me the
12 truth.

13 Q Okay. You took this loaded .45. Did you carry it in
14 your hand? Did you have a holster for it? What did you
15 do with it?

16 A In my back belt behind me. He didn't even know I had
17 it.

18 Q Behind you?

19 A He didn't even know I had it.

20 Q And you say that he has come from around the house
21 and he's on the phone, right?

22 A He was in the backyard when I spotted him.

23 Q Right.

24 A He was already in the backyard.

25 Q And he was on the phone?

1 A Right.

2 Q And the two of y'all got close enough to have a
3 conversation; correct?

4 A Two foot from each other.

5 Q And at that point he's unarmed; correct?

6 A Right.

7 Q And at that point he tells you my gun jammed, I
8 discharged and then you asked him I thought he shot a dog;
9 correct?

10 A I asked him that before I walked over there.

11 Q Okay.

12 A Before he even started getting close enough to have a
13 conversation.

14 Q Okay. So you all talked about that. And then you
15 said you had some small talk for a minute or two?

16 A We talked about -- he talked about hunting a little
17 bit, he just got back from hunting.

18 Q And then at some point he comes clean to you and he
19 says I shot Steve?

20 A Yes, sir.

21 Q And you said you didn't take him seriously at first,
22 did you?

23 A No, sir.

24 Q You thought he was joking around?

25 A He's been known to joke a bit.

1 Q And it was a moment after that that you said you
2 walked around the edge of his house and then you could see
3 Steve's van?

4 A I walked out to the side. I never went forward, I
5 walked back ten feet to my left, still in my yard and seen
6 the van in the yard with the door open.

7 Q Let me rephrase. I'm not trying to trick you.

8 A I'm just trying to answer the best of my ability.

9 Q You walk far enough away to where you could see
10 around the edge of his building?

11 A Yeah, I could barely make out the van in the edge of
12 the driver door.

13 Q And you could see that the light was on inside the
14 van?

15 A Yes, sir.

16 Q And then you come back around and that's when you
17 start taking him seriously?

18 A Oh, yeah.

19 Q And it's not long after that you say you start
20 hyperventilating, that might not be the right word, but
21 you get anxious?

22 A I was having a panic attack is what it felt like, I
23 fell to my knees.

24 Q And at some point he says if you tell anybody, I'll
25 kill you?

- 1 A He did that three times.
- 2 Q And he wasn't just gone kill you. He was gone kill
3 your fiancé and he was gone burn her kids up in your
4 house, right?
- 5 A Yes, sir, if I didn't help him.
- 6 Q And then after that he at some point comes back
7 around the house with a 30 ought 6 that you identified a
8 moment ago?
- 9 A Yes.
- 10 Q And I know that other things happened and I'm
11 skipping over that for now.
- 12 A Okay.
- 13 Q But later on, he comes back with a gun?
- 14 A Yes, sir, pointing it at me.
- 15 Q Certainly. And he's back there with you and he gives
16 you that gun?
- 17 A Told me to get rid of it.
- 18 Q And now you have both guns, don't you?
- 19 A Yes.
- 20 Q You got your gun that he doesn't even know about?
- 21 A Right.
- 22 Q And you got his gun?
- 23 A Right.
- 24 Q Why not as you said to Investigator Hester make a
25 citizens arrest at that point?

- 1 A He's got more than one gun brother.
- 2 Q He didn't have any of them on him, did he?
- 3 A It don't take but a second to run back in his house
- 4 and get it.
- 5 Q But y'all are behind the house at the burn pile
- 6 remember?
- 7 A Yes, we are.
- 8 Q Certainly. And he doesn't have that much of a lead
- 9 on you, does he? Y'all are two feet away.
- 10 A I'm not a murderer.
- 11 Q You two feet away yes or no?
- 12 A Yeah, when he handed me the gun, yes, right at that
- 13 point.
- 14 Q And at that point, you be defending yourself,
- 15 wouldn't you?
- 16 A There would have been two dead bodies for me trying
- 17 to explain it up here to y'all.
- 18 Q He's threatened you, hadn't he?
- 19 A Yes, he's been threatening me.
- 20 Q He's gone kill you, wasn't he?
- 21 A Yeah.
- 22 Q And then he handed you a gun?
- 23 A Right. How did I know he didn't have another on him.
- 24 When people go hunting, they usually take more than one
- 25 gun.

1 MR. GROVE: Your Honor, can you instruct him to
2 answer my question.

3 THE COURT: Just answer the question and don't
4 respond with a question.

5 GEORGE WATSON: Okay.

6 BY MR. GROVE:

7 Q At one point in your statement, you said that you
8 were afraid for your life. And at another point in your
9 statement, you said that you were going to make a citizens
10 arrest, don't you?

11 A I said at one point I been scared for my life the
12 whole time. The second time when he come around there
13 said the dude was still alive, he's gone shoot him.
14 That's when I started -- was going to take action, but I
15 couldn't find it in my heart to shoot another human being.
16 I know it looks different on TV, but until you're in real
17 life...

18 MR. GROVE: May I approach the witness, Your
19 Honor?

20 THE COURT: Yes, sir.

21 BY MR. GROVE:

22 Q I'm putting in front of you State's Exhibit 14,
23 that's a screwdriver; isn't it?

24 A A flat head screwdriver, yes, sir.

25 Q I'm also putting in front of you State's Exhibit 8.

1 That's a picture of Sunny's boat; isn't it?

2 A Yes, sir.

3 Q And that night in your statement you said you saw
4 Sunny go over to the boat, open up the live well, fish
5 down in there and pull out that screwdriver and walk
6 around the house with it and then he didn't come back with
7 it, right?

8 A We both walked to the boat. He asked me to walk to
9 the boat with him.

10 Q Did you say that in your statement?

11 A No, sir, I told them we went to the boat, that's when
12 I seen him pull the screwdriver out. He whipped it off on
13 his jacket.

14 Q You never went around to the front of the house, did
15 you?

16 A No, sir.

17 Q And you never saw Steve, did you?

18 A No, sir. I never went past where I was until the law
19 got there.

20 Q And that's when you eventually approached them that
21 evening, made a brief statement. Then made another
22 statement later and then several days later made a third
23 statement?

24 A Yes, sir.

25 MR. GROVE: Beg the Court's indulgence.