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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Aiken County

Honorable Robert J. Bonds, Circuit Court Judge

MARKESE EAST,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2022-000557

APPENDIX

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State of South Carolina

Court of General Sessions

County of Aiken

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	)	Transcript of Record
v.	)	2013-GS-02-1734 - 1736
	)	
Markese East	)	
	)	
Defendant.	)	

January 5 - 7, 2016
Aiken, South Carolina

B E F O R E:

The Honorable Doyet A. Early, III, Judge; and a jury.

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Circuit Court Reporter

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P R O C E E D I N G S

* * *

THE COURT: Okay. Mr. Solicitor, you may call your first case.

MR. WEEKS: Thank you, Your Honor. The State of South Carolina calls Markese Dequam East for three indictments. The first indictment is for murder, that would be indictment 2013-GS-02-1734; second indictment for burglary in the first degree, 2013-GS-02-1736; and third indictment, 2013-GS-02-1735 for armed robbery.

THE COURT: Thank you. Gentlemen, do we have a witness list?

All right. Ladies and gentlemen of the jury panel, as I said, we're going to draw the jury. The first case the State has called for trial, the State of South Carolina vs. Markese, M-A-R-K-E-S-E, Dequam, D-E-Q-U-A-M, East on three indictments; an indictment for armed robbery, an indictment for burglary in the first degree, and an indictment for the offense of murder.

Mr. East has pled not guilty to each of these indictments. A plea of not guilty gives him the constitutional protection of being presumed to be innocent of all of these offenses unless the State

is able to prove each and every element of each and every offense contained in the indictments to you beyond a reasonable doubt.

Please bear in mind the fact that he has been indicted, you are not to infer anything from that. The indictments are simply the charging documents or the charging papers by way this case comes into this courtroom. As I've said, he has pled not guilty and the State has the burden of proving his guilt to you beyond a reasonable doubt.

Now, in order to qualify you to serve on this particular jury, I need to ask you some questions. Please listen carefully. Once again, if any of the questions apply to you, please stand, once again identify yourself, and then we will answer the question.

Mr. East, good morning. How are you?

THE DEFENDANT: I'm good, sir. How are you?

THE COURT: If you would, please stand and face the jury panel.

(Defendant stands.)

THE COURT: Thank you, Mr. East. You may be seated.

Ladies and gentlemen of the jury panel, do I have anyone on the jury panel who is related by

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blood or marriage or do you now or have you in the past had a close personal or social relationship with the defendant Markese Dequam East or the victim in the case Mr. Shane Jones? If so, please stand.

Yes, sir. Your name and number?

POTENTIAL JUROR: Jonathan Overstreet, Juror 135. I went to school with Shane Jones.

THE COURT: With Shane Jones?

POTENTIAL JUROR: Yes, sir.

THE COURT: Shane Jones is the alleged victim in this case. Y'all went to high school together, grammar school, or what?

POTENTIAL JUROR: What was that?

THE COURT: You went to high school together?

POTENTIAL JUROR: Yes, sir.

THE COURT: Well, it's not unusual to have someone on the jury who knows someone involved in the case. They have gone to school with them, go to church with them, perhaps work in the same area. That's not unusual. But I have to ask you this question: The fact that you went to school -- and how long ago was that?

POTENTIAL JUROR: I graduated in 2008.

THE COURT: 2008. So about seven years ago?

POTENTIAL JUROR: Yes, sir.

THE COURT: The fact that you went to school with the victim in the case, would that in any way preclude or keep you from being a fair and impartial juror?

POTENTIAL JUROR: No, sir.

THE COURT: And decide this case based solely on the evidence that you hear in the courtroom?

POTENTIAL JUROR: Yes, sir.

THE COURT: You can do that?

POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. You may be seated.

Now, ladies and gentlemen of the jury panel, I'm going to read out a list of the potential witnesses in the case. It's not necessarily that all these witnesses will be called, but we have to name them in the event that they are. And then I will ask you that same question. So I'll go through the list and then ask you the question about blood or marriage, et cetera, and then you can stand after that.

The potential witnesses in the case are as follows: Officer Brandon Bethmann, B-E-T-H-M-A-N-N, with Aiken Department of Public Safety; Officer Brian Griswold; Officer Christian Stutts; Agent Vicky Hallman with SLED; Agent Haley Quam, Q-U-A-M,

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with SLED; Captain Marty Sawyer with the Aiken Department of Public Safety; Heather Arthur; Raven Williams; Carl Taylor; Gage Moseley; Dr. Janice Ross, she's a pathologist from Newberry; Missy Odenthal, O-D-E-N-T-H-A-L; Dan DeFreese, retired SLED agent; Investigator David Savage, Department of Public Safety; Investigator Jeremy Hembree, Public Safety; Investigator Steve Miano with the Solicitor's Office; and Investigator Kirk Owen with the Solicitor's Office; as well as Leon Simmons, Tim East, Milton East, Rashawn Issac, Trevon Butler, and Brian Morton.

Do I have any member of the jury panel who is related by blood or marriage or do you now or have you in the past had a close personal or social relationship with any of the witnesses that I have just read? Please stand.

I will start on my right. Sir, in the blue shirt and dark jacket, name and number?

POTENTIAL JUROR: Juror No. 100, my name is Marion Kneece. Officer Sawyer, we were on the same fire department, GVW, back many years ago. I've been doing it 41 years. So, yes, I know some of them -- know Mr. Sawyer.

THE COURT: And Mr. Sawyer may be a witness in

the case. And the fact that you had some involvement with him in the past through your volunteer work, would that in any way, sir, preclude or keep you from being a fair and impartial juror and try this case based solely on what you hear in the courtroom?

POTENTIAL JUROR: No, sir, it will not.

THE COURT: Thank you. You may be seated.

Sir, in the camouflage jacket, your name and number?

POTENTIAL JUROR: Number 38. I went to school with Heather Arthur.

THE COURT: Went to school with who?

POTENTIAL JUROR: Heather Arthur.

THE COURT: Heather Arthur. And she's a potential witness in the case?

POTENTIAL JUROR: Yes, sir.

THE COURT: Where did y'all go to school?

POTENTIAL JUROR: Levelle and Midland Valley.

THE COURT: How long ago?

POTENTIAL JUROR: 2013.

THE COURT: So that would be about two years ago, three years ago. The fact that you went to school with a potential witness in the trial of the case, sir, would that preclude or keep you from

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being a fair and impartial juror in the trial of this case?

POTENTIAL JUROR: No.

THE COURT: Thank you. You may be seated.

Ma'am, in the -- no. Ma'am, the one in the cream-colored scarf?

POTENTIAL JUROR: Juror No. 59, Miranda Fulmer. I went to college with Officer Steve Miano.

THE COURT: The fact that you went to college with Officer Miano, would that in any way preclude you, ma'am, from being fair and impartial in the trial of this case?

POTENTIAL JUROR: No, sir.

THE COURT: Thank you, ma'am.

Now, ma'am, name and number?

POTENTIAL JUROR: Sherry Christensen, Juror No. 23. I've known Steve Miano since he was a little boy. And he's best friends with my son.

THE COURT: You've known him since he was a young person and he grew up with your child?

POTENTIAL JUROR: Yes, sir. They're good friends.

THE COURT: And the fact that one of the witnesses is friends with your son, ma'am, would that in any way keep you from being able to listen

to the evidence, decide what the true facts are, and be fair and impartial to both sides?

POTENTIAL JUROR: No, sir.

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

Mr. Davenport, name and number.

POTENTIAL JUROR: Juror No. 36, Michael Davenport. I'm a volunteer fire fighter with Aiken Department of Public Safety. I'm associated with all of the officers involved who will be testifying.

THE COURT: And the fact that you have done that through your volunteer work with these officers, would that in any way preclude or keep you from being fair and impartial in the trial of the case?

POTENTIAL JUROR: No, Your Honor.

THE COURT: Thank you. You may be seated.

Last, but not least, I think you're an apartment manager. Is that correct?

POTENTIAL JUROR: Yes, sir. Juror No. 171, Cortney Spina. I have a friendly and social relationship with several of the Aiken Public Safety witnesses.

THE COURT: You have a friendly and what kind?

POTENTIAL JUROR: Social relationship.

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THE COURT: Okay. And that's not unusual when we all live in a small community. The fact that you have that relationship, ma'am, would that in any way preclude or keep you from being fair and impartial and listen to the evidence and decide this case based solely on what you hear in the courtroom uninfluenced by your social relationship?

POTENTIAL JUROR: I also have friends associated with the victim. I am concerned I'm partial.

THE COURT: Well, you're concerned, but this is your civic duty. Can or can't you do it?

POTENTIAL JUROR: I don't know.

THE COURT: Thank you, ma'am. Be seated.

Take her off this jury.

But you're still qualified. You have to stay with us.

Ladies and gentlemen of the jury panel, the lawyers involved in the case representing the State through the Solicitor's Office is Chief Deputy Bill Weeks and from Jackson, South Carolina, and Ms. Cassie Hall.

Mr. Beck and Mr. Walsh represent the defendant. Mr. Aaron Walsh has practiced here for a number of years. He's now moving his practice to Nashville,

Tennessee. And Mr. Beck has been here also in the Aiken area, Mr. Kevin Beck.

The question is this: Number one, has any member of the jury panel now or in the past had legal services provided to you by any of the four lawyers? If so, please stand.

Any member of the jury panel related by blood or marriage or do you now or have you in the past had a close personal or social relationship with any of the four lawyers? If so, please stand.

Yes, sir, on the front row -- second row.

POTENTIAL JUROR: Juror 140, Robert Phan. I know Cassie. We went to college together.

THE COURT: At USC-Aiken?

POTENTIAL JUROR: Yes, sir.

THE COURT: And the fact that you went to college with Ms. Hall, who was then Ms. Weathersbee, would that in any way preclude or keep you, sir, from being a fair and impartial juror in the trial of the case?

POTENTIAL JUROR: Yes.

THE COURT: It would? Could you sit -- notwithstanding the fact that you went to school with Ms. Hall, could you sit on this jury and decide this case based on the evidence you hear in the

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courtroom uninfluenced by the fact that you went to school with her?

POTENTIAL JUROR: Yes.

THE COURT: Thank you.

The operator of Carolina Outdoors?

POTENTIAL JUROR: Yes, Your Honor. Juror No. 153, Stanley Roberson. I know Mr. Weeks and Mr. Beck personally and that will not hinder my participation in the jury.

THE COURT: Thank you very much. You may be seated.

Last, but not least, ma'am, on the back row?

POTENTIAL JUROR: Juror No. 75, Angela Hattaway. I went to school with Mr. Weeks and I'm friends with Ms. Hall's mother.

THE COURT: And the fact that you went to school with Solicitor Weeks and you know Ms. Hall's mother, Mrs. Weathersbee, would that in any way, ma'am, preclude or keep you from being a fair and impartial juror?

POTENTIAL JUROR: No.

THE COURT: Thank you. You may be seated.

Let me ask this question: Ladies and gentlemen, this case involves an incident that allegedly occurred here in Aiken County on May 28th,

2013. And it happened allegedly at the dwelling or house of one Shane Jones, and that is located at [redacted] Aldrich Street in Aiken.

And it is alleged that on that date, May 28th, 2013, at that location, [redacted] Aldrich Street, that on that night or that date in question, that the defendant, Mr. East, willfully and unlawfully and without permission and while armed entered that dwelling constituting the offense of burglary in the first degree in the nighttime; while allegedly in the dwelling on that same date, place, and time, that while armed with a weapon, that he took by force or intimidation certain items of personal property and others constituting the crime of armed robbery; and on that same date and place, May 28, 2013, at [redacted] Aldrich Street, that while there participating in the alleged armed robbery and the alleged burglary, that he, either himself or by means of being the hand of one is the hand of all, by means of shooting at Shane Jones, he did shoot him or participated in it. As a result of that shooting, Mr. Jones died as a proximate cause of the shooting constituting the offense of murder.

Now, ladies and gentlemen, those are all -- that's allegations. It's not evidence yet. But I

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just have to ask you, does anybody know anything? Have read anything? Anybody discussed it with you? Seen it on the television? Newspaper? Heard it on the radio? Any internet, computer research, or anything? Does anybody know anything about the facts in this case? Have you formed any opinion or know anything about what all is going on in this case? If so, please stand.

THE COURT: All right. My Carolina Outdoors again. Your name and number?

POTENTIAL JUROR: Yes, 153, Stanley Roberson. Your Honor, I'm just aware of it through the newspaper articles and the media.

THE COURT: We all live in a media intense world today. I read two newspapers in the morning and the internet and everything else. But the fact that you've heard about it and read about it, can you set that aside and try this case based solely on what you hear in the courtroom?

POTENTIAL JUROR: I can, Your Honor.

THE COURT: Thank you. You may be seated.

Ma'am, you've already been disqualified from this case. You can be seated. Thank you.

Ladies and gentlemen of the jury panel, obviously, sitting on a jury is one of the most

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important civic duties that you can perform. And when we try a case, we have two judges who participate in the trial of the case. The law makes me, or my position, the judge of the law in the case, so I have to instruct you on what the law is and you have to accept the law as I give it to you. And my other function in the case is to make sure the lawyers present their evidence under the rules of evidence and rules of criminal procedure. So I have to make sure that what is asked is admitted into the trial of the case.

And it could very well be that one person will say it's raining and one person will say it is complete sunshine outside. Both of those questions are being asked properly, you just got two different answers, two different facts, people interpreting the facts differently. I've tried cases now for 42 years, and I can promise you, you'll hear different witnesses say different things.

And that's where the second judge comes into play. And that judge is the judge of the facts in the case. And that judge is the 12 jurors who sit in the trial of the case collectively acting as the judges of the facts.

So you have to listen to what the witnesses say

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and then you have to make a determination and consider the credibility or the believability of the witnesses who testify in the case. And it becomes your duty as the judges of the facts to determine what facts convinces you of its truth. So you listen to various witnesses say different things, but, in the end, you have to determine what the true facts are. And you do that just like you were dealing with your children or your husband or your wife or your employee or your employer or your friend. You know how to judge when someone is telling the truth.

So as the judge of the facts, you listen to all of the evidence, you determine what evidence convinces you it is true. You take those true facts as you find them to be, the judge of the facts, and you apply it to the law as I give it to you. So I'm the judge of the law, you're the judge of the facts. Your job is much more important than anyone else in the courtroom.

Now, I say all that with this in mind: Do I have any member of this jury panel who, for whatever reason, any reason whatsoever, whether it be a personal belief or religious belief or political belief, any kind of belief, that you cannot perform

that civic duty of sitting with 11 other jurors, listening to the evidence, judging the credibility of the witnesses, and deciding what the true facts are and applying those facts to the law as I give to you and render a verdict in this case? If I have anybody who cannot perform that civic duty, I need to know now, please. Please stand.

Do I have any member of the jury panel who was on the grand jury on the indictment of these cases? These cases were presented to the Aiken County Grand Jury on October 31, 2013.

Do I have any member of the jury panel, you or your family member, work for any law enforcement agency or for any solicitor or prosecutor's office or for the attorney general's office? If so, please stand.

Yes, ma'am, name and number?

POTENTIAL JUROR: Patricia McClaughlin, 113. My husband worked as an Aiken County deputy until 2012 and City of Columbia officer currently, although he's still an employee at Fort Grady.

THE COURT: So he was with the Aiken County Public Service -- Sheriff's Department?

POTENTIAL JUROR: Aiken County Sheriff's Office.

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THE COURT: Until 2000 when?

POTENTIAL JUROR: '12.

THE COURT: And this happened allegedly in 2013.

POTENTIAL JUROR: Okay.

THE COURT: The fact that your husband was with the Aiken County Sheriff's Office before this happened, he didn't participate in any investigation, that he's still in law enforcement, ma'am, would that in any way preclude or keep you from being able to perform your services as a juror as I explained to you earlier?

POTENTIAL JUROR: No, sir.

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

Do I have any member of the jury panel who belongs to, is a member of, or a contributor to any group which has as its primary concern the promotion of law enforcement or victims rights such as SADD, Students Against Drunk Drivers; MADD, Mothers Against Drunk Drivers; CAVE, Citizens Against Violent Crime, any other type of organization? If so, please stand.

Ladies and gentlemen, does any member of this jury panel know of any reason whatsoever, something

I haven't covered or something I forgot to ask you, any reason why you should not be a juror in the trial of this case, with particular emphasis being placed on your ability to be fair and impartial both to the State and the defendant? If so, please stand. Any reason.

Any additional questions by the State?

MR. WEEKS: Not by the State, Your Honor.

THE COURT: All right. Mr. Walsh and Mr. Beck, I have your requested voir dire and will make it part of the record. I think I've covered most of it, except for bumper sticker and music questions, which I normally do not ask. I never ask. And you'll be protected on the record. Fair enough?

MR. BECK: Yes, sir.

MR. WEEKS: May we approach a second, Your Honor?

(Off-the-record discussion.)

THE COURT: Juror 174, Mr. Stikeleather, you work at Fiberglass?

POTENTIAL JUROR: Yes, sir.

THE COURT: Ms. Hall, formerly Ms. Weathersbee, said you, perhaps, went to school with her sisters or some of her family members?

POTENTIAL JUROR: Yes, sir.

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THE COURT: Just wanted to make sure everybody knows that. And the fact that you went to school with her sister, I think she has two sisters, would that in any way preclude or keep you from being a fair and impartial juror?

POTENTIAL JUROR: No, sir.

THE COURT: Thank you very much.

Any additional questions by the State?

MR. WEEKS: No, Your Honor.

THE COURT: And Mr. Walsh? Mr. Beck?

MR. BECK: None, Your Honor.

THE COURT: Ladies and gentlemen of the jury panel, what we're going to do now is draw the jury. If we were in civil court trying a car wreck case or a medical malpractice or breach of contract where one party is asking for monetary damages from the other for some type of wrongful actions, we would now have a random selection; we would put 20 names on a piece of paper and the lawyers representing the plaintiff would have four strikes and the defendant would have four strikes, so they would strike four and four, 20 less eight, leaving us with 12.

On the criminal side of the courtroom, we draw the jury a little different. What we're doing now is randomly putting everyone's name in the computer.

We have a random selection and however the random draw comes out, your name will be called according to the random selection. When your name is called, if you would come down, please, right up here in front where Ms. Godard is, turn around and face the lawyers. The State has five strikes, the defendant has ten. And we'll go through that strike process until I end up with 12 jurors and two alternates.

So don't get offended if they strike you, because they can basically strike you for any reason or no reason at all, within certain bounds that the lawyers know about. So don't get offended if you're not selected. Whichever way you want to go on that, I don't know. But, anyway, just give us a second to get the computer, which is printing out now, and this should not take us but about ten more minutes and we'll be in a position to go from there.

(Brief pause in the proceedings.)

THE COURT: As your name is called, please come forward. If you would, if you have any personal belongings, pocketbook, coats or books or whatever, bring it with you, because if you get selected on the jury, instead of going back to your seat, you'll be seated over here.

THE CLERK: Juror No. 197, Pamela Woodfill.

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(Juror No. 197 comes forward.)
THE CLERK: What say you the State?
MR. WEEKS: Please present Ms. Woodfill.
THE CLERK: What say you defense?
MR. BECK: Please strike this juror.
THE CLERK: Return to your seat.
Juror No. 49, Tina Eubanks.
(Juror No. 49 comes forward.)
THE CLERK: What say you the State?
MR. WEEKS: Please present Ms. Eubanks.
THE CLERK: What say you defense?
MR. BECK: Strike this juror, please.
THE CLERK: Return to your seat, please.
Juror No. 50, David Eyler.
(Juror No. 50 comes forward.)
THE CLERK: What say you the State?
MR. WEEKS: Please present Mr. Eyler.
THE CLERK: What say you defense?
MR. BECK: Please present Mr. Eyler.
THE CLERK: Have a seat in the jury box.
Juror 187, Christopher Watson.
(Juror No. 187 comes forward.)
THE CLERK: What say you the State?
MR. WEEKS: Please present Mr. Watson.
THE CLERK: What say you defense?

MR. BECK: Please excuse Mr. Watson.

THE CLERK: Return to your seat, please.

Juror 15, Deborah Bruce.

(Juror No. 15 comes forward.)

THE COURT: What say you the State?

MR. WEEKS: Please present Ms. Bruce.

THE CLERK: What say you defense?

MR. BECK: Please seat this juror.

THE CLERK: Have a seat to the left in the jury box, please.

117, Cornelius Mckie.

(Juror No. 117 comes forward.)

THE CLERK: What say you the State?

MR. WEEKS: Please present this juror.

THE CLERK: What say you defense?

MR. BECK: Please seat this juror.

THE CLERK: Have a seat in the jury box to your left, please.

Juror 123, Deshonda Mincey.

(Juror No. 123 comes forward.)

THE CLERK: What say you the State?

MR. WEEKS: Please present Ms. Mincey.

THE CLERK: What say you defense?

MR. BECK: Please seat Ms. Mincey.

THE CLERK: Have a seat in the jury box to the

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left, please.

Juror No. 64, John Gojda.

(Juror No. 64 comes forward.)

THE CLERK: What say you the State?

MR. WEEKS: Please present the juror.

THE CLERK: What say you defense?

MR. BECK: Please excuse this juror.

THE CLERK: Return to your seat, please.

Juror No. 61, Joshua Givens.

(Juror No. 61 comes forward.)

THE CLERK: What say you the State?

MR. WEEKS: Please present the juror.

THE CLERK: What say you defense?

MR. BECK: Please seat Mr. Givens.

THE CLERK: Have a seat in the jury box to the left, please.

Juror No. 19, Tony Cain.

(Juror No. 19 comes forward.)

THE CLERK: What say you the State?

MR. WEEKS: Please present Mr. Cain.

THE CLERK: What say you defense?

MR. BECK: Please seat Mr. Cain.

THE CLERK: Have a seat in the jury box to the left, please.

Juror No. 165, Sherry Slater.

(Juror No. 165 comes forward.)
THE CLERK: What say you the State?
MR. WEEKS: Please present Ms. Slater.
THE CLERK: What say you defense?
MR. BECK: Please excuse Ms. Slater.
THE CLERK: Please return to your seat.
The State has exhausted no strikes, defense five.
167, Nicholas Smith.
(Juror No. 167 comes forward.)
THE CLERK: What say you the State?
MR. WEEKS: Please present Mr. Smith.
THE CLERK: What say you defense?
MR. BECK: Please seat Mr. Smith.
THE CLERK: Have a seat in the jury box to th left, please.
Juror No. 154, Migdy Rodriquez.
(Juror No. 154 comes forward.)
THE CLERK: What say you the State?
MR. WEEKS: Please present Ms. Rodriquez.
THE CLERK: What say you defense?
MR. BECK: Please seat Ms. Rodriquez.
THE CLERK: Have a seat in the jury box to the left, please.
Juror No. 59, Miranda Fulmer.

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(Juror No. 59 comes forward.)
THE CLERK: What say you the State?
MR. WEEKS: Please present Ms. Fulmer.
THE CLERK: What say you defense?
MR. BECK: Please strike this juror.
THE CLERK: Juror No. 48, Leslie Ellison.
(Juror No. 48 comes forward.)
THE CLERK: What say you the State?
MR. WEEKS: Please present Ms. Ellison.
THE CLERK: What say you defense?
MR. BECK: Please seat this juror.
THE CLERK: Have a seat in the jury box to the left, please.
Juror No. 200, Nicole Young.
(Juror No. 200 comes forward.)
THE CLERK: What say you the State?
MR. WEEKS: Please present Ms. Young.
THE CLERK: What say you defense?
MR. BECK: Please seat Ms. Young.
THE CLERK: Have a seat in the jury box.
Juror No. 39, Joseph Deshields.
(Juror No. 39 comes forward.)
THE CLERK: What say you the State?
MR. WEEKS: Please excuse Mr. Deshields from this case.

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THE CLERK: Please return to your seat.

Juror No. 140, Robert Phan.

(Juror No. 140 comes forward.)

THE CLERK: What say you the State?

MR. WEEKS: Please present Mr. Phan.

THE CLERK: What say you defense?

MR. BECK: Please strike this juror.

THE CLERK: Return to your seat, please.

The State has exhausted one strike, defense seven.

Juror No. 109, Anna Long.

(Juror No. 109 comes forward.)

THE CLERK: What say you the State?

MR. WEEKS: Please present Ms. Long.

THE CLERK: What say you defense?

MR. BECK: Please seat this juror.

THE CLERK: Have a seat in the jury box to the left, please.

Juror No. 135, Jonathan Overstreet.

(Juror No. 135 comes forward.)

THE CLERK: What say you the State?

MR. WEEKS: Please present Mr. Overstreet.

THE CLERK: What say you defense?

MR. BECK: Please strike this juror.

THE CLERK: Juror No. 141, Justin Pitts.

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(Juror No. 141 comes forward.)

THE CLERK: What say you the State?

MR. WEEKS: Please present Mr. Pitts.

THE CLERK: What say you defense?

MR. BECK: Please seat Mr. Pitts.

THE CLERK: Have a seat in the jury box to the left, please.

THE COURT: All right. Ladies and gentlemen, two and one.

THE CLERK: Alternate No. 1.

Juror No. 192, Arthur Williamson.

(Juror No. 192 comes forward.)

THE CLERK: What say you the State?

MR. WEEKS: Please present Mr. Williamson.

THE CLERK: What say you defense?

MR. BECK: Please excuse this juror.

THE CLERK: Please return to your seat.

Juror No. 184, Diane Voss.

(Juror No. 184 comes forward.)

THE CLERK: What say you the State?

MR. WEEKS: Please present Ms. Voss.

THE CLERK: What say you defense?

MR. BECK: Please seat this juror.

THE CLERK: Have a seat in the jury box to the left.

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THE COURT: All right. Alternate No. 2.
THE CLERK: Juror 21, Lawrence Cauble.
(Juror No. 21 comes forward.)
THE CLERK: What say you the State?
MR. WEEKS: Please present Mr. Cauble.
THE CLERK: What say you defense?
MR. BECK: Please excuse this juror.
THE CLERK: Please return to your seat.
Juror No. 68, Angela Gunter.
(Juror No. 68 comes forward.)
THE CLERK: What say you the State?
MR. WEEKS: Please present Ms. Gunter.
THE CLERK: What say you defense?
MR. BECK: Strike this juror, Your Honor.
THE CLERK: Please return to your seat.
Juror No. 122, Jonathan Mills.
(Juror No. 122 comes forward.)
MR. WEEKS: Please present Mr. Mills.
THE CLERK: What say you defense?
MR. BECK: Please seat this juror.
THE CLERK: Please have a seat to your left.
THE COURT: Any motions by the State in connection with the selection of the jury?
MR. WEEKS: None by the State, Your Honor.
THE COURT: Mr. Beck? Mr. Walsh?

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MR. BECK: None, Your Honor.

THE COURT: Ladies and gentlemen of the jury panel, those of you who were not selected, you have a call back number on the sheets you have. If you would, please call back after 6:00 tonight and you'll receive instructions concerning tomorrow. It will be either call back at another time or report. I'm not sure which it will be. More than likely, the former.

But if I don't get to see you again, I thank you for coming. We cannot run the court system without jurors ready, willing and able to perform their civic duty. If I do see you again, we'll move along again. But, anyway, we'll be through by Friday, one way or the other.

So have a pleasant day, pleasant new year. Everyone else remain seated, except my jurors. You're free to leave. Well, you can't leave your badges because you don't have one, so don't worry about that. Thank you.

(The remaining jury panel was excused.)

THE COURT: Ladies and gentlemen of the jury panel, it's 11:30, just a tad longer than I thought it would take. I still have this morning -- we've got a huge plea in another murder case we've got.

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We've got some other matters we've got to do pretrial in this case. I've got to let everybody have a bite to eat. So I think we'll start at 2:30 and we'll get moving on, working through most of that. We'll start at 2:30. We'll probably go to 5:00, 5:15, just sort of see where we are at a breaking point this afternoon. Is that an imposition to anybody? Everybody got rides and way to get back and forth and so forth?

Tomorrow we'll normally start about 9:30. Tomorrow I will buy your lunch -- not me, the County will. We'll order some lunch in. We'll let y'all decide where you want to get that from. We'll have you something hot to drink in the morning and maybe a sausage biscuit or two. So I'm going to let y'all go until 2:30. At that time, we'll start the trial of the case.

Please do not discuss the case with anyone, do not let anybody discuss it with you. Don't do any independent research. Don't go home and look up anything on the computers. We'll move right along in an expeditious way and get this case moving as fast as we can. It takes a little time sometimes to do things. We should be through, hopefully, by Wednesday afternoon if everything goes according to

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plan.

So I look forward to being with you at 2:30. I'm going to let you go here now with Mr. Whittle. He'll show you how to get back to your jury room, how to get back through the courthouse when you come back in, and how to report back here. Let's be ready to go here at 2:30. Have a very pleasant lunch.

(Jury panel excused at 11:30 AM.)

THE COURT: I think we've got several people here for that plea that was supposed to be around 11:00. Let's take a quick break, come back, and do that plea. It shouldn't take us to about 12:00, a little after. I will handle the Jackson v. Denno -- I can do it then or I can do it at 1:30 or however you want to do it.

MR. WEEKS: We're good to go whatever time it works in.

THE COURT: Let's take about a five -- a short break, come back and do the plea, and we'll assess everything.

Madam Jailers, make sure Mr. East stays with us and make sure he gets some lunch.

So let's take a quick break.

(Short break.)

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THE COURT: All right. Back on the record with Mr. East.

Let me talk to you a second. Okay?

THE DEFENDANT: Yes, sir.

THE COURT: How old are you?

THE DEFENDANT: Twenty-two.

THE COURT: Twenty-two?

THE DEFENDANT: Yes, sir.

THE COURT: You got family in the courtroom?

THE DEFENDANT: Yes, sir.

THE COURT: All right. You understand what you're charged with? You and I had a little talk yesterday. I find you to be a rather intelligent, bright young man. You're charged with murder. You understand that?

THE DEFENDANT: Yes, sir.

THE COURT: And that carries up to -- a minimum of 30 years in the department of corrections up to the balance of your life.

THE DEFENDANT: Yes, sir.

THE COURT: You understand that? That's about as bad a charge as you can have. Then you've got the burglary.

Mr. Weeks, burglary is life too?

MR. WEEKS: Fifteen to life, Your Honor.

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THE COURT: Fifteen to life. And then armed robbery is --

MR. WEEKS: Ten to 30.

THE COURT: Ten to 30. So I just want to make sure you're aware of all of that.

THE DEFENDANT: Yes, sir.

THE COURT: And that if you're found guilty, I have to make a decision as to how much time to give you. But it would be a minimum. The least I could do would be 30 years. The most I could do is put you in jail for the rest of your life. At 22 years old, that's a long time.

THE DEFENDANT: Yes, sir.

THE COURT: I give a lot of credit, consideration for people who admit their guilt and accept their responsibility. Not suggesting that you do one thing or the other, I just want you to understand that if you accepted your responsibility and pled guilty, I would give you the least I could give you, a 30-year sentence, and let them all run together.

If we go to trial and the jury finds you not guilty, obviously you'll go home with your family. If they find you guilty, you will more than likely receive substantially more than that 30 years. I

want you to understand that. Do you? Do you understand all that?

THE DEFENDANT: Yes, sir.

THE COURT: All right. Are you ready to go?

THE DEFENDANT: Yes, sir.

THE COURT: All right. Let's do the Jackson v. Denno.

MR. WEEKS: Your Honor, the State would call Lieutenant David Savage.

DAVID SAVAGE

being first duly sworn, testified as follows:

THE WITNESS: Yes, ma'am.

THE CLERK: Have a seat in the witness box. State your full name for the Court.

THE WITNESS: My name is David E. Savage.

THE COURT: Spell that last name for me.

THE WITNESS: S-A-V-A-G-E.

DIRECT EXAMINATION

BY MR. WEEKS:

Q. David, where are you employed?

A. Aiken Department of Public Safety.

Q. How long have you been employed there?

A. Twenty-five and a half years.

Q. Could you, for the record, kind of give us your career there and how you progressed up the ranks, so

to speak?
A. Yes, sir. The first nine years, I was on patrol. And in '99, I made the rank of detective. In 2009, I made the rank of lieutenant over detectives, and that's my current position.
Q. And as part of the job description for your current role, what do you do?
A. My everyday duties?
Q. Yes.
A. Yes, sir. I assist Captain Sawyer with the day-to-day responsibilities of running the investigations division. I also manage evidence, I also run the Aiken Safe Communities program, and I work major crimes.
Q. Okay. And going back to major crimes, in May of 2013, specifically the evening of May the 28th, 2013, were you employed with public safety?
A. I was.
Q. Same capacity as you are now?
A. Yes, sir.
Q. And did you conduct an investigation in the death of an individual by the name of Shane Jones?
A. I did.
Q. And the location of the house at which Mr. Jones was located, was that in the City of

Aiken?

A. It was.

Q. Okay. David, if you would, just kind of tell me in real brief terms how you came to meet Markese East.

A. On the morning after the murder of Shane Jones, I was interviewing a gentlemen up at headquarters in reference to the murder. And when I got done interviewing him, Mr. Timothy East was in the front lobby of Aiken Public Safety requesting to speak to me --

THE COURT: Timothy East?

THE WITNESS: Yes, sir.

THE COURT: Any kin to Markese East?

THE WITNESS: I believe it's his uncle, if I remember correctly, Your Honor.

THE COURT: Okay. Go ahead.

THE WITNESS: And Mr. East asked to speak to me. I took Mr. East back to my office and we spoke. And he said that he was trying to talk his nephew into coming forward and telling me everything that happened the previous night. And I told Mr. East, I said, well, Mr. East, as you know, early cooperation is going to go a long way down the road.

BY MR. WEEKS:

Q. At that point in time, had y'all narrowed the persons of interest to include Markese East?
A. We had.
Q. And how had that come about?
A. By interviewing several different people, and Aaron Griffin being one of the main ones.
Q. The person you just referred to you were interviewing before --
A. Yes.
Q. -- you talked to Timothy East?
At some point, did Mr. Markese East come to meet with you?
A. He did.
Q. When was that?
A. About 20 minutes after I met with Mr. Tim East.
Q. And was that at Aiken Department of Public Safety?
A. It was.
Q. Where specifically?
A. In the interview room at Aiken Public Safety.
Q. Is that interview room audio and videotaped?
A. It is.
Q. Did you make any special arrangements for his interview at that time?
A. No, sir. I just sat him in the room and turned

the video on.
Q. Did you talk to him about his rights?
A. I did.
Q. Did you do that on videotape?
A. I did.
Q. I hand you what's marked State's Exhibit 55 for purposes of this hearing and ask if you can identify that piece of paper.
A. Yes, sir. This is the Miranda form where I Mirandized Mr. East.
Q. Can you tell me specifically for the record what you told Mr. East.
A. I asked his name and social. I told him where we was conducting the interview. And then I advised him of his Miranda rights. You want me to read those?
Q. Are they contained on that piece of paper?
A. They are.
Q. Is that what you read to him?
A. Yes, sir.
Q. Is there some acknowledgment that he gave you that you had read those Miranda rights to him?
A. Yes; he initialed them.
Q. Is there a portion of the Miranda rights form where a person can waive the right to have an

attorney present?
A. Yes, sir.
Q. Did he waive that right?
A. He did.
Q. Did he initial or sign that form in that particular location?
A. He initialed it and then printed his name and signed it.
Q. What did you do with that form at that time?
A. I witnessed it.
Q. Did you proceed to interview him?
A. I did.
Q. Did you keep that form for your records in the file?
A. I did.
Q. And that's the original form; is that correct?
A. That is the original.
MR. WEEKS: Your Honor, we move to introduce that form for purposes of this hearing.
THE COURT: Any objection by the defense?
MR. BECK: No objection.
(State's Exhibit No. 55 admitted into evidence.)
BY MR. WEEKS:
Q. Now, David, you told me that you cut the player

on. And, subsequent to that, did you conclude an interview at some time with him later on?

A. Yes, sir.

Q. Did you make a copy of that recording?

A. I did.

Q. Have you furnished that to the State and the defense?

A. I have.

Q. While this case has been pending, has there been a transcript done of that recording?

A. Yes, sir.

Q. Have you reviewed that transcript?

A. I have.

Q. Does it appear to be a true and accurate copy of the audio portion of the tape?

A. Yes, sir.

MR. WEEKS: In that regard, we'll mark this. I didn't mark this one.

(State's Exhibit No. 56 marked for identification.)

BY MR. WEEKS:

Q. I'm going to hand you what's marked for this hearing as State's Exhibit No. 56. Is that the transcript you are referring to?

A. Yes, sir, it is.

Q. And you've reviewed that transcript?
A. I have.
Q. And to the best of your ability, it conforms to the audiotape and the tape of the interview?
A. Yes, sir.
Q. Of Markese East that you performed on May the 29th, 2013?
A. Yes, sir.
MR. WEEKS: Your Honor, there's another pending motion in limine with regard to a portion of that transcript, so we are trying to get it redacted downstairs with the original videotape. So I do not have the original videotape right now, but the one I've turned over to them, as far as discovery, is what I will put in for purposes of record to this hearing. It just happens to be downstairs. We're trying to take a little segment out of it to --
THE COURT: To satisfy the motion in limine?
MR. WEEKS: To satisfy the motion in limine.
THE COURT: Any objection?
MR. WEEKS: We could put a copy in, but the one that we've been dealing with is downstairs.
THE COURT: We'll put it in when it comes upstairs.
MR. WEEKS: Okay.

THE COURT: You've done it at their request, the redaction?

MR. BECK: There's a certain portion of that transcript interview that we would like redacted.

THE COURT: And he's doing that. So we don't have it up here for this hearing now, but --

MR. WEEKS: They're downstairs doing that.

THE COURT: Thank you.

MR. WEEKS: I think we've about got it done, but it's just not up here.

THE COURT: No problem.

BY MR. WEEKS:

Q. David, you've listened to the audiotape replay or the videotape of the interview you had with Markese East?

A. Yes, sir.

Q. Does that videotape and audiotape encompass the entire conversation you had with Mr. East about his rights?

A. Yes, sir.

Q. Did you cut off the tape recorder, make any comments to him, do anything to him to get him to come to your office and make this statement?

A. I did not.

Q. Was there any kind of pending arrest warrants

or anything at the time?
A. There was not.
Q. Did you or anybody else for the Aiken Department of Public Safety coerce him, threaten him, force him to come to your office?
A. No, sir.
Q. Did y'all force him to talk?
A. No, sir.
Q. Did you promise anything to get him to talk about his involvement in this crime that day?
A. No, sir.
Q. Did you explain throughout the interview -- or did he tell you throughout the interview of his involvement?
A. He did.
Q. Did he ever at any time ask for the services of an attorney?
A. No, sir.
Q. Or ask that one be appointed to represent him?
A. No, sir.
Q. Did he appear to understand your questions and understand the answers that he was giving you in this interview?
A. He did.
Q. And the interview, the transcript of the

interview combined with the audio and video, is the entire interview?

A. Yes, sir.

Q. So if the Court were to review that, that would be as if you were testifying to it up here today?

A. Yes, sir.

Q. And you swear under oath that that is the interview you took from Markese East on May 29th, 2013?

A. Yes, sir.

Q. Anybody else participate in the interview and view the interview as it was taking place?

A. View it as I was interviewing him?

Q. Yes.

A. I believe Captain Sawyer and maybe a couple investigators were across the hall watching.

Q. Y'all's video recording setup basically pipes into another room; is that correct?

A. Yes, sir.

Q. And they can watch you interview and come in and ask you additional questions or bring you things that you ask for kind of in the air?

A. Yes. Absolutely.

Q. During this interview process, were you interrupted at some point in time by one or more of

the investigators working the case?
A. Yes, sir; Detective Miano.
Q. And what did Miano come in there for?
A. Detective Miano came in and brought Xanax bars that were stolen from the deceased and showed them to the defendant.
Q. And that was for purposes of getting him to identify them?
A. Yes, sir.
Q. And that all took place on the tape too?
A. Yes, sir.
Q. Okay. David, I know that the transcript the Judge will review will answer some of these questions, but Mr. East knew why he was up there, didn't he?
A. He did.
Q. And did you get details from him about the home invasion and a burglary and the murder of Shane Jones during this interview?
A. Yes, sir.
Q. And just a synopsis of it is, Mr. East indicated his role was participating with the four people who did this crime? He was a participant?
A. Yes, sir.
Q. Is that correct? He admitted to that?

A. Yes, sir.
Q. He admitted to being armed?
A. He did.
Q. Did he admit to going to the house into the doorway of Mr. Jones' residence that night?
A. He did.
Q. And did he admit to being armed when he did that?
A. He did.
Q. Did he admit to dressing out, for lack of a better word, for this crime?
A. Yes, sir.
Q. And what did that involve?
A. I believe it was black pants, black shirt, and a white T-shirt around his face.
Q. Did he indicate all of the participants got outfitted to go on this raid?
A. Yes, sir.
Q. Did he indicate that he shot anybody in this particular attempt?
A. No, sir. He did not shoot anybody.
Q. And did he indicate that he was present when Mr. Jones was shot?
A. Yes.
Q. Okay. Did he indicate what they did after

Mr. Jones was shot and after the house was robbed?
A. They went back to his baby mama's house on Carver Terrace.
Q. And at some point in your investigation, did y'all uncover a rifle at that residence?
A. We did.
Q. And where was that located?
A. It was behind the residence behind a tree.
Q. In the interview of Mr. East, did he tell you about that rifle?
A. He did not say where it was, but he did say he had the rifle.
Q. He had the rifle and he described them. One was black and one was brown?
A. Yes, sir.
Q. And who had the other weapon?
A. Leon Simmons.
Q. Had what?
A. A nine-millimeter.
Q. Handgun?
A. Yes, sir.
Q. And the other rifle?
A. Brian Morton.
Q. He outlined all of this to you in this interview?

A. He did.
Q. It's on the tape and on the transcript?
A. Yes, sir.
Q. David, did you question him about how far he'd gone in school and what his status was working and all that?
A. I did.
Q. Did any of that cause you concern that he didn't know what he was talking to you about?
A. No, sir.
Q. And that he was capable of understanding what you were telling him?
A. Yes, sir.
Q. When he came in, did he appear to be under the influence of any alcohol, drugs, any sort of intoxicants?
A. Not to me, sir.
Q. Was he emotionally upset while he was talking to you?
A. No, sir. He was pretty even keeled.
Q. And how long did this interview take, roughly?
A. Forty-five minutes.
Q. Okay. Whatever it is, it is on the videotape we're going to introduce?
A. Yes, sir.

MR. WEEKS: Answer any questions the defense has for you, David.

THE WITNESS: Yes, sir.

THE COURT: Gentlemen, cross-examination?

DIRECT EXAMINATION

BY MR. BECK:

Q. Detective Savage, we're going to start at an odd place. You just spoke a moment ago about the phone -- or, excuse me, the rifle found at Carver Terrace. How did you first learn of that particular rifle?

A. Detective Hembree interviewed a gentleman who knew where it was.

Q. Was that Aaron Griffin?

A. Yes.

Q. Didn't Aaron Griffin -- did Aaron Griffin inform you that it came from Mr. Morton, that rifle?

A. I believe he told Detective Hembree that. Yes, sir.

Q. Okay. But, I guess, about what time was it when Mr. East -- Tim East showed up at the police station?

A. 9:30, 10:00. I'm not sure exactly what time.

Q. Sometime in the morning?

A. Yes.

Q. And what exactly, to the best of your recollection, did you say to Mr. East prior to speaking with Markese East?

A. You talking about Tim East?

Q. Tim East, yeah.

A. Tim and I sat in my office and we just chatted back and forth about the old days there for a little while, some run-ins we had back in the old days when I was a young officer and he was a young man. Then we talked about Markese coming forward. And I told him -- I said, you know, who comes forward first usually gets the better deal down the road.

Q. And how long did this conversation go on between you and Tim?

A. About 10, 15 minutes.

Q. Was Markese there?

A. He was not.

Q. Had you even seen him at this point?

A. I had not.

Q. Okay. Did -- so early cooperation goes a long way. That is, verbatim, the language you used or --

A. Something similar to that.

Q. Or I'll look out for you, is that some language that could have been used?

A. I couldn't say.

Q. Couldn't say. Possibly?
A. I don't recall.
Q. Don't recall. That you'd treat him fairly? Markese, I'm referring to.
A. Yes.
Q. Okay. And so you did tell Tim East that Markese would get some advantage by being the first to make a true statement?
A. Yes, sir.
Q. And what did the other defendants get at their guilty pleas associated with this case?
A. What did they receive?
Q. Yes, sir.
A. I believe they all received 30 years --
MR. WEEKS: Your Honor, that has nothing to do with the voluntariness of his statement.
THE COURT: That's right. We're at a Jackson v. Denno. We're trying to determine whether or not he was given Miranda rights and whether or not his statement was voluntary.
MR. BECK: Withdrawn.
BY MR. BECK:
Q. At the beginning of the recorded interview, do you recall stating to Markese, do you know why we called you up here today?

A. Something similar to that, yes. Do you know why you're here today, I believe.

Q. Yes. Okay. And so the first time you spoke with Markese was back in the interview room; is that correct?

A. Correct.

Q. Do you recall Markese crying as you read him Miranda?

THE COURT: What was the question? Crying?

MR. BECK: Crying.

THE COURT: Tears, crying?

THE WITNESS: I believe he was sobbing a little bit.

BY MR. BECK:

Q. But you stated earlier that he had no emotion at all. But now you recall that he did?

A. Yes.

Q. So he was emotional?

A. At the very beginning, yes.

Q. And wasn't there a portion of the interview where you had left the room for some reason and it was just Markese in the room? Do you recall that?

A. I do remember leaving to get some water, I believe.

Q. And you've reviewed this video recently, you

stated that a moment ago; right?
A. Yes.
Q. And, I guess, at that point when he's in the room, did he get emotional then as well?
A. I remember him saying something, but I don't know if it was emotional or not.
Q. By his nonverbal communication?
A. Put his head down, if I remember correctly, but that was about it.
Q. Can't recall?
A. No, sir.
Q. Okay. I guess, other than Tim East, were any other members of his family there, Markese and Tim?
A. I do not recall.
Q. You don't?
A. I do not.
Q. Do you recall stating in your report that Markese's family was waiting in the lobby for you, noting that in your report?
A. I could have noted that, yes. I was probably referring to Tim.
Q. But as far as you recall, Tim was the only person you talked to?
A. Only person I spoke with.
Q. Did Markese, in fact, get a better deal in

reference to your statements regarding the potential -- let me word that right. I apologize.

In your reference to credit for cooperation with Tim, do you recall if any credit, so to speak, was given to Markese or offered?

A. I don't understand your question.

Q. Isn't it true that Markese was, in fact, not offered any better deal or offer in regards to his involvement in this?

A. No.

Q. He wasn't?

A. I think he was offered the same as everybody else.

MR. BECK: Nothing further.

THE COURT: Redirect?

MR. WEEKS: I don't have anything.

THE COURT: You may step down.

MR. WEEKS: One thing.

REDIRECT EXAMINATION

BY MR. WEEKS:

Q. David, who made all the offers in the case?

A. You did, sir.

Q. Thank you.

THE COURT: Any additional witnesses, Mr. Weeks?

MR. WEEKS: Not for this statement, Your Honor.
THE COURT: We have another statement?
MR. WEEKS: Yes, sir.
THE COURT: Mr. Beck, anything further?
MR. BECK: I have a witness as to the first statement, but I'm not sure if I'm going to call him at this point.
THE COURT: Well, this is the point we have to decide. I mean, you either got to do it or not.
MR. BECK: He doesn't know of the second statement or cannot speak to the --
THE COURT: We're conducting a Jackson v. Denno on the statement given to Officer Savage on 5/29/13. Do you have any witnesses to that?
MR. BECK: Yes, sir, I do.
THE COURT: Please call the witness.
Sir, if you would come around, please.
Your name, sir?
THE WITNESS: Timothy East, sir.
THE COURT: Mr. East, how are you today?
THE WITNESS: I'm doing well, sir. How about you?
THE COURT: Doing well. Looks like you've been working hard.
THE WITNESS: Sir, I've been going since 6:00

this morning. It's all right.

THE COURT: Hey, I appreciate that and I admire you.

They want you to testify as to something you know on this. If you'd come put your left hand on the Bible and raise your right, please.

TIMOTHY EAST

being first duly sworn, testified as follows:

THE WITNESS: I do.

THE COURT: Mr. East, come have a seat right up here, please.

Kind of cold out there, isn't it?

THE WITNESS: Well, if you're thinking about it.

THE COURT: Mr. Beck.

DIRECT EXAMINATION

BY MR. BECK:

Q. State your name.

A. Timothy East.

Q. Where are you from?

A. I'm originally from Edgefield.

Q. How, if any, relation do you have to --

A. Well, he was born my nephew, but about six, seven years ago, I lost my brother, so he's my son now. So...

Q. So he's your nephew, but --

THE COURT: Nephew, but you treat him like a son?

THE WITNESS: I got to.

THE COURT: I understand.

BY MR. BECK:

Q. Do you recall speaking with Detective Savage on May 29th, 2013?

A. I'm not sure of the date, but whatever the date we turned him in, yes, sir.

Q. You know why we're here?

A. Right. Right.

Q. Do you recall what time it was that morning?

A. Okay. My typical day starts, I take my wife to work, I take my grandson to work, I take my daughter. Timing is not -- I don't even know what time it is now -- oh, yeah, I do, clock up on the wall. It was, I guess, midmorning. Don't make me tell no lie. I'm not sure.

Q. Okay. I guess when you arrived at public safety, I guess you asked to speak with Detective Savage?

A. We went in and tried to find somebody that had something to so with it, and Savage came out.

Q. At this point, who was in the police station

with you?
A. The lady behind the -- my nephew. And we talked to the lady behind -- M.J.
Q. What's his name?
A. Milton East, Jr.
Q. Not Markese?
A. Not Markese.
Q. Markese wasn't with you?
A. He was with me, but he was outside. We wanted to talk first.
Q. Okay. So you went and got -- asked to speak with someone involving this, investigating that case?
A. Right.
Q. And that led you to get to talk to Detective Savage?
A. Correct.
Q. And from there, what transpired?
A. When I found out what was going on, me and my nephew -- me and M.J. called Markese and found out where he was, went and got him. So we met him, we got him, and took him to a place where I can talk to him and find out exactly what was going on, what his involvement was so I know the severity of it.
When he told me what was going on, you know, my

responsibility is to make sure he lived. So with all this other stuff going on, I said, let me get him up there first thing. You're going to turn yourself in, you're going to tell what happened, you're going to tell the truth, and we're going to let the chips fall like they may.

So we got up there, we asked for Officer Savage, came out. We told him what was going on. He said, okay, as long as Markese be truthful and he tell me everything, we're going to look out for him. I said, okay. So I went out, got him, came back in. He told Markese the same thing: As long as you be truthful, we're going to show you some love. I said, okay.

THE COURT: Show you some what?

THE WITNESS: Love.

THE COURT: L-O- --

THE WITNESS: L-O-V-E, love.

THE COURT: Love.

THE WITNESS: That's just a street term for looking out.

THE COURT: I understand.

THE WITNESS: And he called me later and gave me his personal cell number and told me, as long as everything -- he reassured me. And my wife ran

across the cell phone number the other night because I was unsure about that. But, yeah, he called me and gave me his cell phone number and told me as long as Markese be truthful and I don't find no lies, then I got him. I said, okay. End of the conversation.

THE COURT: Well, you knew what the situation was? I mean, you had somebody dead.

THE WITNESS: That's why -- Judge, we wasn't fixing to play no games. See, you need to understand, I spent my young youth in front of these fellows. You understand? So when -- I did seven years. When I started my seven years, I lost my child, that broke me. They ain't heard no more from me since I been out of the penitentiary on no drug tip, you know, nothing. I ain't came back and got no time, nothing, because that broke me. So it is no way we fixing to play no games with no court, no nothing.

That's why I told him, listen -- he ain't want to talk -- man, you going to talk or I'm going to break your neck. You going to tell them what the truth is and Savage say he got you. So that's what that was. And that is exactly how it is. You know, I made him. You know, them little boys, they don't

believe in that. They don't believe in telling the truth. They don't believe -- they believe in looking out for each other, going down together. That's why that hand of one hand of all, that's why -- it helps them.

Sir, I'm sorry. I'm sorry. But I'm fighting for my nephew's life up here. So I'm telling you, I'm going to tell you the truth and I'm going to tell you how I feel. So it was no -- it was no reason -- I asked anybody, did y'all catch him in any lies? That's the only question I kept asking. So if they did catch him in a lie, that should have voided Savage's promise to me. But everybody else told me no.

THE COURT: Well, I don't think anybody says he's lying.

THE WITNESS: Okay. I mean -- well, Your Honor -- I mean, well -- I mean, the only thing I'm saying is --

THE COURT: Unless he changes his story.

THE WITNESS: The solicitor in the last trial said Mr. East made it easy for us. So if he's giving him that much credit, he should be wanting to give him the same kind of time he gave the killer. That just don't make no sense to me. That don't

make no sense to me.

So that means you can promise, but you ain't got to be a man of your word, so you may as well be a thug on the street. The only thing that makes -- because I was a thug. My word was nothing, nil. The sheriff calls me -- I buy a lot of junk cars. The sheriff calls me, Tim, you got such and such a car? Sure. Let me make a copy of that bill of sale and drop it off to me, because he know. That's how my word is now. Before then, no, I was nothing.

THE COURT: So what you're upset about is --

THE WITNESS: That they ain't keeping their word.

THE COURT: Well, the word is that they want him to get the same amount of time --

THE WITNESS: As the shooter.

THE COURT: As the shooter.

THE WITNESS: And I got a real problem with that and we're going to fight. We going -- listen, we done told the lawyers, we done made it a point to everybody, you come with a plea, we shouldn't even be here. We shouldn't even be here. This is a waste of taxpayers' money. We shouldn't even be here. This man -- we're here -- the only reason I consider we here, I got to give all them niggers the

same amount of time. I don't mean no French. I'm sorry. Everybody get the same amount of time. The hand of one hand of all is that kind of law.

THE COURT: That is the law.

THE WITNESS: That is what -- that's that law. That's what they do. One man get a basket and scoop up a bunch of us. I'm sorry, sir. I mean, I blame myself because Markese -- I went out and took him from his mama because he was giving his mama problems. We wanted him to get through school, we wanted him to be somebody. I had responsibility for him. I -- I came and brought him to my house and I was tough on him. He was not going nowhere. He got with a girl and he went booty -- excuse me, ladies.

He went a little booty crazy and he went to go stay with the girl. And them boys grabbed him as soon as he got out there with them girls. I blame myself for being weak and letting him go. I let him go.

THE COURT: You can't keep him away from everything.

THE WITNESS: Listen here, sir, let me tell you something. That's good sitting up on that bench, but if me and you sitting behind a table, that conversation would be different. You got kids. You

know we'd do anything for them. And I blame it -- it wasn't even six months he was at my house, he was up in this crap. And I blame myself. I don't mean no disrespect to no solicitor, no police, no nothing. I don't mean none. But if you give somebody your word, you need to be man enough to stand behind it. If not, you might as well be on their side. I'm sorry.

BY MR. BECK:

Q. So you felt that Savage made you a promise?

A. No. He made me a promise.

Q. He made you a promise. And that promise was not kept?

A. Well, if you're telling me the shooters got 30 years and they want him to get 30 years, the promise was not kept. Correct.

Q. And did you communicate that promise to Markese?

A. Yes. And I told him -- I told him if he plead to that 30, I was going to whoop his butt. Yes, sir. And -- because I felt like --

THE COURT: Do you realize if he gets found guilty by the jury, he might get life?

THE WITNESS: Well, looka here, I'm glad we have -- if you don't mind me speaking candidly, sir.

Let me tell you something. If that happens, then, what y'all call that, that's a spank to that brother for trying to fight for his rights, to do what somebody said. If you give more time than the shooter to the person that did the less amount of time, you consider that a fair justification of the law?

THE COURT: I said that's what he's looking at.

THE WITNESS: I know he's looking at -- we know what he's looking at. That's all over. The shooter was looking at life too, but he got 30 because he -- I shot him, I took full responsibility. Okay. He did a man-up thing. But in that man-up thing, if he taking full responsibility and he quoted to you, if it wasn't for me, the whole thing wouldn't have happened, I could have turned everybody around, that man is taking responsibility.

My nephew -- he don't want -- you need to understand something. We don't want no probation, we don't want no -- we don't want that. We do not want -- a man lost his life. You understand? A man lost his -- I don't care if he was a dope dealer or baby molester, it don't make no difference. You went in that man's house and he got killed, regardless of what you did. But, still, we don't

want -- we --

THE COURT: You want him to get less than the shooter got?

THE WITNESS: I -- yes.

THE COURT: All right. That's simple.

THE WITNESS: That's simple.

THE COURT: Anything else?

MR. BECK: That's it for us.

THE COURT: Any questions, Mr. Weeks?

MR. WEEKS: I sure do.

THE WITNESS: I know you do.

CROSS-EXAMINATION

BY MR. WEEKS:

Q. Mr. East, you're a con, you did time in jail?

A. I said that.

Q. Plenty of it, didn't you?

A. Yeah. Yeah.

Q. And you were the one that went up to David Savage. He didn't approach you, did he?

A. He -- we went in there and asked for the officer in the thing. So...

Q. And David Savage comes out, who's arrested you before or chased you down before --

A. How long he been in the system?

Q. Twenty-five years.

A. I don't know him. But, okay.
Q. You've been in the system longer than 25 years?
A. I started off in 1990 -- 1989.
Q. And you know the difference between life in prison without parole and 30 years, don't you?
A. Do I know --
Q. Yeah. Do you --
A. Thirty years to a 20-year-old or 21-year-old is life in prison.
Q. Hell, it ain't. Thirty years to a 20-year-old makes him 50 --
A. Hey, let me tell you something -- I'm fixing to tell you something.
THE COURT: No --
A. Your size intimidate people, but it don't me.
Q. I know. I know. You're a bad guy.
A. Oh, you're a bad guy? What you mean?
THE COURT: Gentlemen --
THE DEPUTY: The Judge is speaking.
MR. WEEKS: Yes, sir, Your Honor.
THE WITNESS: Your Honor, I apologize for that. But --
THE COURT: All right. This man needs to leave the courtroom right now.
THE WITNESS: Who?

THE COURT: That one right there [indicating].
Thank you.
THE DEPUTY: How about the building?
THE COURT: The building, yes, sir.
THE WITNESS: That's my brother, Your Honor.
THE COURT: I understand. He's going to behave himself if he's going to stay in.
THE WITNESS: Yes, sir, he will.
THE COURT: He'll come back and we'll give him one more chance. He's got to cool down.
THE WITNESS: Thank you, Your Honor.
THE COURT: Everybody take a deep breath.
THE WITNESS: I'm cool. I apologize.
THE COURT: All right.
THE WITNESS: I apologize.
MR. WEEKS: Don't have to.
THE WITNESS: Okay. But I do.
THE COURT: What other questions?
BY MR. WEEKS:
Q. The difference between life in prison without parole and 30 years. In 30 years, this man here will be 50. I'm 59 and I ain't dead. But life without parole means if I caught life without parole at 20 years, I'd come out in a pine box. You understand all that?

A. Okay.
Q. You do. There's a difference.
A. Fifty-nine starting fresh -- if you came out of prison and went to go get a job at 59 with no experience, is you living or dead?
Q. I'm living. I ain't dead.
A. Okay.
Q. But, in your opinion, you ain't going to be there. You're going to be dead too. You're going to be just like me. When he's serving that 31 years or 32 or 40 years, you ain't going to do a day of that next 10 years, are you?
A. You think so?
Q. You ain't.
A. So you don't believe --
THE COURT: Hold on.
Ladies and gentlemen, y'all have been wonderful back there except for one person. If you can't stay in here without behaving, I'm going to ask you very politely to leave. You're welcome to stay, but you've got to maintain your decorum.
We okay back there?
UNIDENTIFIED FEMALE: She's driving and she has to leave to take him.
THE COURT: That's fine, she may leave if she'd

like.

Anybody else?

Everybody take a deep breath. All right?

BY MR. WEEKS:

Q. When David Savage, the very first day, before your nephew is even arrested, tells him he's going to help him, first person to the trough gets a little help. You think he violated that; am I correct?

A. No, sir.

Q. Then why are you up here?

A. That's an incorrect analogy. And, again, I'm fighting for my nephew's life, sir. If you need to ask me a question respectfully dealing with my nephew's life, so the trough, I don't know what that means. But the first one to come to an officer and talk and you tell the truth where the min -- what you said? Thanks to East, it minimized -- we ain't have to do much work. So that saved you. That's saved taxpayer -- that saved a lot.

So regardless of how you try to play it or minimize it, if you tell me the sky is blue out there, Mr. Weeks, I'm going out there looking for a blue sky. If it's not, you are a liar. Do you understand that?

Q. I sure do.
A. So that means Savage lied if he ain't speaking of otherwise. Listen, we like to play the middle field, Mr. Weeks. We like to play that. And I used to and I was a con. But since you brought that up, my integrity and my character and my word been put on trial about last year by the Department of Aiken Public Safety.

They witnessed a crime, they tried -- they called me in under false pretenses and talked to me about it. But then, once they realized that I had told them the truth, they let me know that they had witnessed it and filmed it. But because I told them the truth, we went on out the door shaking hands.

I mean, let me tell you something. Yes, at one time, I was nothing and I ain't had no character or integrity. But right now, you can't shake me. I am a man of God and proud of myself. I ain't never been proud of myself. I'm proud of myself now. So come on with it now.

Q. All right. You know about 85 percent?
A. I know about 85 percent.
Q. And you know 85 percent of a voluntary manslaughter conviction is less than he would have to do if he got 30 years on a murder, don't you?

A. Yes; four years.
Q. And you know he was offered that and turned it down probably because of your advice?
A. Exactly of my advice, sir. I mean, listen --
MR. WEEKS: No further questions, Judge.
THE WITNESS: That ain't happening.
THE COURT: Anything on redirect?
BY MR. WEEKS:
Q. Four years in the Department of Corrections couldn't help him?
A. What they got? Ain't they got the same plea?
Q. No, they didn't, Mr. East. If you'd talk to somebody that knows --
A. They got a 30-year plea.
Q. Thirty years on murder. If they --
A. So, wait a minute, you just mad 'cause he ain't take the plea?
Q. I ain't mad about --
A. So that means -- oh, so we need -- oh, so now -- thank you.
THE COURT: That's enough. You may step down.
THE WITNESS: Yes, sir, Your Honor. Thank you.
THE COURT: Just hold on.
Step away, Mr. East. You're welcome to stay or you're welcome to go. You're not under subpoena.

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Mr. Beck, anything else?

MR. BECK: No, Your Honor.

THE COURT: We have another statement we've got to deal with?

MR. WEEKS: Yes, sir, we do.

THE COURT: All right. Call your witness.

MR. BECK: Can we have a short recess, Your Honor?

THE COURT: For what?

MR. BECK: Quick restroom break.

THE COURT: All right. Fine. Go right back there in the office.

(Short break.)

THE COURT: Mr. Beck, are you ready?

MR. BECK: Yes, sir, Your Honor.

THE COURT: We're going to do a second statement.

MR. WEEKS: This one is shorter, Judge.

THE COURT: All right. Call your first witness.

MR. WEEKS: The State would call Investigator Kirk Owen.

KIRKLAND OWEN

being first duly sworn, testified as follows:

THE WITNESS: Yes, ma'am.

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THE CLERK: Have a seat in the witness box, state your full name for the Court and spell your last.

THE WITNESS: Kirkland Lewis Owen, O-W-E-N.

THE COURT: Mr. Weeks, your witness.

MR. WEEKS: Your Honor, for the purposes of this hearing, we have a redacted videotape and we have the original videotape. And I would mark them State's 57 and 58.

THE COURT: Fifty-seven is going to be which one?

MR. WEEKS: It will be the original interview.

THE COURT: Fifty-eight is the redacted?

MR. WEEKS: Fifty-eight is redacted, the portion that defense asked me to redact.

THE COURT: This is a separate tape from the one we just did?

MR. WEEKS: No, sir. This is in reference to the one we just did. We got it from downstairs.

THE COURT: What we're doing now, in regard to the last transcript, we've got now the original and the redacted we're going to use at trial; is that correct? Any objection?

MR. BECK: No objection.

THE COURT: All right. Second statement.

(State's Exhibit Nos. 56, 57, and 58 admitted into evidence.)

DIRECT EXAMINATION

BY MR. WEEKS:

Q. Investigator Owen, where are you employed?

A. Second Circuit Solicitor's Office.

Q. And just briefly for the record, tell me your law enforcement background.

A. I started my career in the late '70s at the Aiken County Sheriff's Office. I worked there, I've worked at the police department through the early '80s, worked for what was the security contract at the plant during the early '80s for a few years, came back to Aiken Public Safety in the late '80s and just retired from there in 2013 and came to work for the Solicitor's Office shortly thereafter.

Q. Did you do a stint with South Carolina Law Enforcement Division?

A. Yes, sir, I did. When I retired, I went to work for the State Law Enforcement Division for about 11 months. Because of the drive entailed and the duties of the job, where it was, which was downtown Columbia, I made the decision to come back here.

Q. And came back to work for us?

A. Yes, sir.
Q. At the solicitor's office?
A. Yes, sir.
Q. For Strom Thurmond?
A. Yes, sir.
Q. And since you got back to working for us, have you become involved in the investigation and prosecution of the case against Markese East?
A. Yes, sir, I have.
Q. And during that investigation and while this case has been pending, did you have an opportunity to participate in the questioning of Mr. East?
A. Yes, sir, I did.
Q. Tell us how that came about.
A. There was conversation, I believe, between you and Mr. Beck that Mr. East wanted to speak with us. We went to the Aiken County Detention Center and interviewed him in the medical facility at the detention center.
Q. And it was a medical facility because of space?
A. We went to that area because of, that's correct, space for all of us to sit.
Q. What did we do?
A. We interviewed Mr. East. He --
Q. This is after he's been arrested and been in

jail for a good period of time?
A. Mid-September of 2015.
Q. And were we preparing to try some of the co-defendants?
A. Yes, sir.
Q. All right. And had -- what was -- why was Mr. East talking to us at this time?
A. My understanding is he was looking to cooperate to benefit himself.
Q. Was he going to testify?
A. That was my understanding, yes, sir, that he was going to testify in these upcoming cases.
Q. Who was interviewing him?
A. Myself and you.
Q. Who was present?
A. His counsel, Kevin Beck.
Q. And prior to us beginning talking to him, I mean, was it understood that he had his attorney there and he could object at any time?
A. Absolutely.
Q. What did he tell us different than what he's told Investigator Savage?
A. As I recall, it was essentially the same story. Some very minor things may have changed, but the gist of the case was the same.

Q. Can you give us the gist of the case that he told us?
A. That he got together with his co-defendants, they planned this burglary, slash, home invasion for money, went there, the intended target, victim, was shot and died as a result.
Q. Okay. Did he indicate whether or not he got armed and went there armed?
A. He was armed. There was some back-and-forth about whether he had the brown .22 or the black .22, but he had a .22 rifle.
Q. Talked about how they got there?
A. Yes, sir.
Q. Same as he told Investigator Savage?
A. Yes, sir.
Q. And how they left?
A. Yes, sir.
Q. Did he talk about having a conversation with the dying man laying there in the floor?
A. Yes, sir. There was some mention of him talking to Mr. Jones as he was dying.
Q. And he indicated that he didn't go in the house and he didn't shoot anybody, is that correct, that Markese East didn't shoot anybody?
A. He said he didn't shoot anybody, but I believe

he did come into the house.
Q. And Mr. Jones, where was he located when the police arrived?
A. He was deceased in the kitchen by the back door.
Q. Okay. At any time during this conversation we were having with his lawyer there, did he appear to not understand?
A. Quite the contrary. I think he understood completely the situation. I found him to be articulate, intelligent. He knew exactly what was going on.
Q. Did he appear to be under the influence or anything?
A. Not at all.
Q. Did he tell us about educational background, his desire to go play college football, that sort of stuff?
A. Yes, sir. He had had hopes for -- I think it was a small junior college in North Carolina maybe. I don't remember. But he had hopes of playing college football.
Q. Did I promise him anything in exchange for him giving a statement to us?
A. No, sir.

Q. Did I promise his lawyer anything outside his presence while we were there?
A. Not -- no, sir, not in my presence.
Q. Now, the four of us that were there in the room that day was the only conversation we had with Mr. East while this case has been pending; is that correct?
A. I'm sorry?
Q. The four of us that day were the only people that interviewed him?
A. Yes, sir.
Q. Did anybody threaten, coerce him, tell him we were going to drag him over the coals if he didn't give us a statement that day?
A. Not at all.
Q. Was his lawyer present the entire time?
A. The entire time.
MR. WEEKS: I don't have any further questions, Judge.
THE COURT: Mr. Beck, anything?
MR. WEEKS: Judge, just before --
BY MR. WEEKS:
Q. I want to make sure the statement we're referring to and audiotape we're referring to are the ones that we've introduced as State's Exhibits

56, 57, and 58 when you say he gave very similar statements to us that he gave to Lieutenant Savage.

A. Yes, sir.

Q. Those are the statements you're referring to?

A. Yes, sir.

Q. Thank you.

MR. WEEKS: Just to make that clear, Judge.

THE COURT: All right. Mr. Beck?

MR. BECK: Just a few quick questions.

CROSS-EXAMINATION

BY MR. BECK:

Q. You've reviewed this whole case file, I'm sure. You've seen -- you've seen the waiver of Miranda that he had with Mr. Savage?

A. I have.

Q. And he signed it, dated it, all that; is that correct?

A. Yes, sir.

Q. Was there one of those in this interview?

A. No, sir, you were there with him.

Q. So there wasn't one?

A. No, sir.

Q. Was there a videotape recording of this one?

A. No, sir. It was not available.

Q. Not available. And you said this happened

mid-September?
A. I think.
Q. You think?
A. Yeah.
Q. But you're not sure?
A. No, sir, I'm not exactly certain.
Q. And he said pretty much the same story; is that right?
A. Pretty much.
Q. But what do you recall when -- but you can't recall what was different, if anything?
A. No, sir.
Q. No.
MR. BECK: Nothing further.
THE COURT: Thank you.
Anything on redirect?
MR. WEEKS: No, Your Honor.
THE COURT: Any additional witnesses?
MR. WEEKS: No, Your Honor.
THE COURT: Any witnesses, Mr. Beck?
MR. BECK: None, Your Honor.
THE COURT: You may step down.
Anything else in regard to the two Jackson v. Denno?
MR. WEEKS: Nothing from the State, Your Honor.

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THE COURT: Mr. Beck, any argument you want to make?

MR. BECK: In regards to the second one, I would move to suppress on the grounds that it's not reliable and that --

THE COURT: Not reliable?

MR. BECK: It was videotaped. Not reliable because --

THE COURT: That's not an inquiry at the Jackson v. Denno. Jackson v. Denno is was he aware of his rights, was he protected, and was the statement voluntary by a preponderance or greater weight of the evidence.

MR. BECK: Or that it could be limited to -- that the statement and the first statement were the same. And in regards to -- I'll withdraw that.

The first statement was made on the grounds of implied promise, which rendered this statement involuntary.

THE COURT: Do you have any case law that would support that proposition?

MR. BECK: The --

THE COURT: But isn't it common practice that the more you cooperate, you'll be given consideration? That's not a waiver or promise that

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takes away from the statement being voluntary.

Anything else?

MR. BECK: Just one second, Judge. I apologize.

Yes, Judge, as to this implied promise slighted overbore Markese's will and rendered this.

THE COURT: Okay. Under the mandates of Jackson v. Denno, I find that by the preponderance or greater weight of the evidence that, obviously, in the first statement, Miranda warnings were given and by the preponderance or greater weight of the evidence that it's a voluntary statement and will be allowed to be introduced. The jury will have to give it whatever consideration, if any, it determines to give it.

And to the second statement, obviously he had you, his lawyer, present, which protects all the rights of Miranda. And I find by the preponderance or greater weight of the evidence, that too is voluntary. So it can be admitted in the trial of the case for the jury to give it any weight it deems necessary or whatever weight they want to deem.

Thank you. All right. We'll start at 2:30, gentlemen.

(Luncheon recess 1:24 PM - 2:34 PM.)

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THE COURT: Anything for the record before we start, Mr. Weeks?

MR. WEEKS: Nothing from the State.

THE COURT: Mr. Beck?

MR. BECK: Nothing, Your Honor.

THE COURT: All right. Mr. Walsh, I noticed he had some family members here before. Do they happen to be out in the hall? Make sure -- let's just give them a second to let them come in.

MR. WALSH: Thank you, Your Honor.

MR. BECK: Thank you, Judge.

THE COURT: All right. For everybody here, families on both sides, obviously these kind of cases are -- there will be a lot of testimony that will be emotionally upsetting to both sides. Everyone is welcome into the courtroom. It's a public facility. But I have to require proper behavior and proper respect for the Court, for security purposes, as well as we can't run the court system if people are acting up in the courtroom. Welcome to stay, but if anybody gets out of the way, you'll be asked to leave.

Fair enough, everybody?

(Unidentified persons answer in the affirmative collectively.)

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(The jury enters the courtroom at 2:38 PM.)

THE COURT: Okay. I hope you had a pleasant lunch. We're about right on time, right where we should be. The first thing we have to do this afternoon is, if you would, please stand and raise your right hand so I can swear you in for this particular jury.

(Jury sworn at 2:39 PM.)

THE COURT: Ladies and gentlemen of the jury, let me -- let's start off the trial of the case. Let me just give you some -- a few opening remarks, and then we'll get right into the trial of the case. Please let me remind you, once again, the fact that the defendant in this case, Mr. East, has been indicted and charged with the offense of murder, armed robbery, and burglary in the first degree, he has pled not guilty to each of these indictments.

And these indictments, obviously that is not evidence in the case, so don't infer anything from the indictments. He's pled not guilty and, obviously, the plea of not guilty puts the burden on the State to prove his guilt to you beyond a reasonable doubt.

So, please, you will have to make your decision from testimony and the evidence you hear in the

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case, the -- any exhibits that may come in. I will ask that you -- do y'all want to take notes? I've got one fellow back there, my electrical engineer, who is from Phoenix.

That's in Bamberg?

JUROR: What's that?

THE COURT: Phoenix. You work at Phoenix?

JUROR: Yes.

THE COURT: Is that in Bamberg?

JUROR: It used to be Phelon.

THE COURT: Phelon. Okay.

You'd like to take notes? All right. That's no problem. Let's get them some notepads.

Ms. Jimmie, would you get some notepads for us, please?

THE BAILIFF: Yes, sir.

THE COURT: Thank you, ma'am.

We'll pass the notepads out just as soon as she gets back and I'll give you some rules on that. But let me just start off by saying, in the trial of the case, since the State does have the burden of proof, they will go first. And that's how the trial will progress.

We'll start off by opening statements from the State, followed by an opening statement from the

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defendant. Opening statements is not evidence in the case, it is simply what the lawyers contend the issues are, want you to look at, sort of a roadmap of what you're going to be looking at, what they want you to look at, what they intend to prove.

Once the opening statements are done, then the State will go first because they have the burden of proof. Once the State has put up all of their testimony, the defendant has an opportunity to present a defense, if he chooses to do so. He doesn't have to. He doesn't have anything to prove. The burden is on the State. But if he does want to put up testimony or a defense, he has the opportunity to do so. After that, then we have any kind of reply testimony that the State may have. And then once that is done, that will conclude all the testimony.

After the testimony is concluded, then there will be final arguments by the State and by the defendant, and then I will be in a position at that time to charge or instruct you on the law.

Now, as I told you earlier, you and I have two separate roles to play. My position makes me the judge of the law, so when I give you the law or I charge you on the law, you've sworn to accept the

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law as I give it to you. So if you come into the courtroom with some preconceived idea about what the law should be or is and it doesn't agree with what I say, you have to accept the law as I give it to you. What I'm giving you is what the law is the Supreme Court of South Carolina has told us to give to you. So please accept the law as I give it to you. My other duty is to rule on the admissibility of evidence and make sure the lawyers are asking questions properly.

And I'm going to hold on just a second so we can pass out some pads. Just pass those down. Just keep one for yourself and pass it down, and likewise for the pencils.

As I said, my other responsibility is to rule on the admissibility of evidence. If the questions are asked properly, it's relevant, then that question and that answer will be admitted into the trial of the case. And it's like I said when we were drawing the jury, oftentimes one will say one thing, another witness will say another thing, another witness will say another thing. It's up to you, being the judges of the facts, to determine what evidence presented is the truth. And as I told you earlier, that's deciding on the credibility or

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the believability of the witnesses.

So please don't leave your common sense at home, bring that into the courtroom. You deal with husbands, wives, girlfriends, boyfriends, children, moms, dads, you know, people. You know how to judge the credibility of the person who is testifying. And it's your duty to find the true facts of the case. And when it's all said and done, when I charge and give you the law, if you apply those true facts to the law as I give it, you'll be in a position to render a verdict. So that's how the system works. That's your responsibility and that's my responsibility.

Now, I try to run an efficient courtroom, I try to start on time, I try to keep it rolling, keep it moving so nobody will be wasting their time. We will take an afternoon break and we'll probably go to around 5:00 or 5:30, somewhere in that neighborhood, depending on where we are with the witnesses. We'll start back in the morning at 9:30 and then see how we go into tomorrow. I'll have you some breakfast, as I said, in the morning.

Even though we're trying to be efficient, I'm not trying to run a race up here. So if at any time anybody gets uncomfortable, you need to use the

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restroom, just need to stretch, tired of listening to me, whatever, please raise your hand. You get too hot, you get too cold, just need a break, raise your hand. Don't get uncomfortable and we'll make sure your needs are met. We'll take a break at about 3:30, quarter to 4:00, somewhere in that neighborhood.

You've got notepads. The protocol on that is to please put your name on the front page. You can take notes. When we take breaks and when we break for the evening, you will leave your notepads in your chair. We will collect them at the end of the evening. No one will look at them. They will be kept under lock and key tonight by the bailiffs, be put back in the chairs tomorrow.

And then, obviously, you use notes like you do in anything else, so you might take a different note than this juror. So y'all respect each other with your notes and you can use them for whatever purposes you deem necessary. So use your notes.

I will ask you each time we take a break, please don't discuss the case with anyone, don't discuss it among yourselves, don't start deliberating. You can talk about anything you want to in the jury room, but please don't discuss the

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case until all of the evidence has been presented and the final arguments are made and I give you the charge on the law. So don't discuss the case until we get to that point.

At the first break this afternoon, I need a foreperson from the 12 regular jurors. The foreperson is simply someone who speaks and brings to my attention anything of your concern. You head up the deliberations and you will be the person who signs the verdict form. If you can't decide among yourselves, I'm just going to randomly pick somebody. But y'all just find somebody to be a foreperson for me.

I ask that you pay close attention. Obviously this is a substantial case for the State, for the county, as well as for the defendant. So please pay close attention so at the end of the case you'll be in a position to render a true verdict. That's all we ask of you. I look forward to working with you. Like I say, if you have any problem whatsoever, raise your hand and I'll make sure you're taken care of.

Any objections to my opening remarks by the State?

MR. WEEKS: No, Your Honor.

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THE COURT: By the defense?

MR. BECK: None, Judge.

THE COURT: Okay. Mr. Weeks?

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

This is the part of the trial they call opening argument. I'm not going to argue with you guys. I'm going to try to set a little game plan, like a movie-trailer-type scenario that you're going to hear over the next couple of days about what this case is all about.

On May the 28th of 2013, in the City of Aiken, in the community, for lack of a better description, of Crosland Park, Aiken, South Carolina, a murder occurred. This murder occurred at the guidance and handling of five different people. Those five different people elected in the late night hours of May the 28th, the early morning hours of May the 29th, to commit an armed robbery and a burglary in the first degree of the residence of Shane Jones.

Shane Jones' residence was where he lived, his home. His mother had lived there and had died a couple months earlier, and Shane was living in the home. Also staying in the home with him was Heather Arthur, who you will hear testify here today.

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Shane was not in school, he was not working regularly, and a lot of his friends frequented the house. In the late night of May 28th, there were a number of people in the residence, one particularly of significance was what I would call the spy. He was the Intel man in this operation.

You're going to hear testimony and evidence that these four individuals, of which Mr. Markese East was one of them, decided at some point late in the afternoon of May the 28th that they were going to go, in conjunction with this inside guy, and rob Mr. Jones or rob the people that were in this residence.

They were looking, the evidence will show, for money and drugs. All of these defendants were friends in various capacities. Some of them played ball at Aiken High, were fixing to graduate; some of them may have gone to college and played football. So the case is going to have an odd twist to it that is a little bit different than you would think.

These four people and the guy on the inside were going to go rob this house, they were going to rob anybody in it. And to get prepared to do that, you're going to hear evidence that they basically suited up, they changed into, basically, all black

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clothing. A couple of them had white T-shirts or masks, one of them had a camo mask. And they made a plan to drive to the back side of this residence, which was located [redacted] Aldrich Street in Crosland Park in the city of Aiken.

Their plan was to go in the back door. And the reason they were going to go in the back door is because the back door was supposed to be unlocked. And it was supposed to be unlocked by the inside guy. The inside guy was communicating with, at least, one of the participants in this armed robbery and burglary first by way of cell phone text. That's not so much important in this trial because he wasn't communicating with Mr. East.

Mr. East had a different role or was participating in this robbery. He wasn't the communicator, for lack of a better word, but he was clearly a willing participant of the armed robbery and the burglary first.

But these young men take one of them's pickup truck after they changed into their clothes and they go and park at a road behind the house. In order to get to the house or get to the back door of the house that they were going to rob, they had to go through some people's yards and go down a pretty

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little steep hill and go in the back door.

Well, one of them was elected to hold the horses, so to speak; he stayed back with the truck. The other three ran down the hill, may or may not have looked in the window, but basically busted in the back door of the residence. And when they busted in the back door of the residence, the people that were in the residence, a number of them, several of them were sitting at, basically, a dining room table right by the back door. Mr. Jones, the owner of the residence, was closest, for lack of a better word, to the back door when it busted open.

The testimony will show that two people busted through the door and one person stayed at the door. And those two people that busted through the door escalated this crime to a murder. One of them busted through the door -- I told you that they had armed themselves prior to coming.

Well, the three that were going in the house had armed themselves. Two of them had .22 caliber rifles and the other one had a nine-millimeter handgun, a pistol. The one that had the handgun, when he busted through the door, Mr. Jones confronts him, charges him, will be the testimony. When he charges him, the guy with the handgun shoots him.

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You're going to hear testimony from the pathologist that he was shot three times.

Two of the wounds would have been fatal, one of them was definitely fatal. It was one that went right through his chest. He was shot in the leg and he was shot in the hip, all of this while he was charging the people who were invading his home, masked people that were invading his home.

Well, when that happened, and that's right at the door, it kind of went berserk after that. Two of them, the shooter and the other guy that came to the door with a long rifle, go through the house. They're looking for money, looking for anybody with anything.

It's a TV comedy, to some degree, except for the fact that these boys set out on what turned out to be a murderous night, because nobody's got anything. As soon as they came in the back door, the guests in the home who were in various stages of drinking, smoking, watching TV, they exit stage right; they go through another door that leads out into the front yard and they book, they scatter, most of them.

A couple of them are kind of pinned in the house. And Heather Arthur was trying to go to sleep

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in her bedroom and they bust in on her, take her cell phone, and leave the residence. They leave the residence the same way they came in, through the kitchen door.

But before leaving the residence, the guy who's laying, dying on the floor, they helped themselves to, the testimony will be, probably five dollars and some Xanax pills, bars as they call them, because he's holding them up to them, please, just take these. And one of them does. While one of them is running through the residence, one of them is having a conversation with the guy that's bleeding out on the floor whose name was Shane Jones.

They leave by going back up the hill they had run down, get in the car, drive out Osbon Drive toward Meybohm Road in Aiken -- May Royal Drive in Aiken, make a left, loop all the way back around, get rid of various evidence. They dump out a camo mask that one of them was wearing. One of them says he burned his shirt to get rid of evidence. Well, they didn't get anything to speak of, except cell phones, a couple cell phones, a few Xanax pills, and a handful of dollar bills.

Well, they go there -- they leave there and they go to a residence where some of them are

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staying -- one of them, at least, is staying, and they kind of hem and haw at that residence. They're distraught because they killed somebody. They're distraught because the police are probably going to find out. They're distraught probably for a number of reasons. They weren't distraught enough not to do this crime and not go in and commit this murder. But they split up from there.

What you're going to hear about the investigation in this case is that the police were on to them in a variety of different ways. They were on to them by some of the descriptions and some of the statements given by the people that were in the house. They were pinged pinging a cell phone that was taken from one of the people that was in the house.

I believe it was another young lady who suffered a bullet wound from the projectiles that came out of this nine-millimeter gun or one of these rifles. It went through her thigh. She ended up in the hospital with some civilians taking her to the hospital. And the testimony of those witnesses about how many they saw and who they saw, they didn't know who they were. They were from a different group, so they weren't all aware of each

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other. And, like I said, they were masked up.

But the police started pinging these phones and getting -- there's some technology that you're not going to really hear about in this trial, but it really doesn't matter in this trial. But they were following these pings. They were getting them automatically from AT&T or some derivative of them letting them know where one of these phones is that was taken from the house. And it goes this way and then it goes this way and then it's pinged over here.

Well, they're chasing them all around. They got law enforcement officers passing each other in the road chasing these pings that are coming from these phones. But all the places they get pings on, they end up finding evidence and finding people. And they're gathering all this up the next day, throughout the course of the night, and into May 29th.

And May 29th, Markese East, the defendant in this trial, comes to the Aiken Department of Public Safety, questioned by Lieutenant Savage, 25 years plus investigative and police work, on videotape with audio, with Miranda, and tells the story that leads him into this courtroom here today.

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Now, the Judge said something -- I was listening -- in the opening remarks that sometimes I tell people during opening statements: That my statements of the law are, in my mind, always accurate. But his statement of the law is more accurate than mine. And what he says to you at the end of this trial and throughout this trial is what you have to follow.

In this trial, we're trying -- this is Markese East's day in court. These other fellows had their day or are going to have their days in court. But this is Markese East's day in court. And by his own mouth, he confesses to committing all three of these crimes, twice.

So we are here because he's asked for a jury trial by his peers. You will hear his testimony come in, you will see the video, you will see the transcript of the video. You will hear about the questioning of him after the initial video and audio is done. And at the end of this trial, you're going to go back to your jury room after hearing closing arguments, once again, arguments, I'm not arguing, but you're going to hear those and you're going to take the Judge's charge on the law.

And I feel comfortable saying right now that

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the Judge is going to charge you on the correct law in the State of South Carolina, that when people conspire, people get together to decide to do a crime, and they have different roles in the crime or different roles develop as they're doing the crime, and a crime occurs that maybe they didn't anticipate doing at the very beginning, in this case, quite honestly, murdering Shane Jones, well, every one of them, the guy sitting back at the car holding the horses, the guy that comes to the door and has a conversation with him while he's armed with his rifle, the two that ransacked the house, and one of those two that pulled the trigger three times at least that killed Shane Jones, are all guilty of murder. They are guilty of murder. The guy who was texting or signaling or opening the back door for them in the house is just as guilty of murder as Mr. East is.

You're going to hear testimony that Mr. East was armed by his own mouth. You're going to hear testimony that he was standing at the door conversing with the guy who was bleeding out on the floor. He's just as guilty as the first guy who went in and capped off the rounds.

Now, you may hear testimony about Shane Jones

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charging the door with a kitchen knife because there's a bloody kitchen knife right up underneath him. Well, he had the right to charge the door with a bazooka, but, unfortunately, all he had was a kitchen knife. And he died within a foot of the kitchen knife. But the guys that came armed, came prepared, were prepared to kill him or anybody else that resisted, were better armed. They didn't have a kitchen knife, they had nine-millimeter pistols and semiautomatic, .22 rifles. That's what the case is about. This is what opening arguments are about. It's me trying to give you a heads-up of what to expect.

Now, evidence in the case comes from the witness stand, comes from the people that testify, comes from the documents and photographs and forensic stuff that we will show you during the course of this trial.

But I will tell you that the evidence in this case, the beyond-a-reasonable-doubt proof, which is the standard you're going to have to apply, comes from the mouth of Markese East in this case. The parameters and the forensics and the pictures that we put up are just to kind of set the groundwork for Markese East telling you, on videotape, that he

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committed this crime.

Keep in mind, the indictments will all say that Markese East, along with others, committed these crimes. And that is the law that I've briefly explained to you. And the Judge will take longer to explain it to you. That's why at the end of this trial, the State believes that you'll find Markese East guilty of all three of these crimes. Thank you.

MR. BECK: May it please the Court.

Ladies and gentlemen of the jury, my name is Kevin Beck. Over there is Markese East and Aaron Walsh, co-counsel and second chair. You heard the State's side of the story. And it sounded kind of simple, but if it was simple, we wouldn't be here.

The evidence is going to show a lot of things; that, for one, Markese didn't come up with this, he didn't fire a weapon, nor could he have fired a weapon because there were no bullets in said weapon. He didn't gather and assemble any of these alleged weapons. He didn't run through the house like the other ones did. He didn't take anything nor did he receive any benefit from this.

And I know the solicitor just kind of told you that none of that stuff really matters, but talked

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about he was an accomplice, got together and, therefore, he was guilty of murder because he was a part of it. There are caveats to that rule, and the Judge is going to tell you what the law is to that, which he will do later.

But, bear in mind, you heard a lot about what other people did, other people. The main thing you really heard about Markese is that he made a statement. And you're going to get to see that here in a little while.

So, for now, I'm going to speak on it briefly, but just going to ask for your undivided attention when you see and observe all this evidence and testimony. And once you're done, you're going to see that there is reasonable doubt as to whether Markese committed or is -- beyond a reasonable doubt that he is guilty all of these crimes. Thank you.

MR. WEEKS: Your Honor, the State would call Officer Brandon Bethmann.

BRANDON BETHMANN

being first duly sworn, testified as follows:

THE WITNESS: Yes.

THE CLERK: Have a seat in the witness box, state your full name for the Court and spell your

last, please.

THE WITNESS: My name is Brandon Bethmann, last name is spelled B-E-T-H-M-A-N-N.

DIRECT EXAMINATION

BY MR. WEEKS:

Q. Brandon, you work for the Aiken Department of Public Safety?

A. That's correct.

Q. And how long have you been with them?

A. I'm on my eighth year, since 2008.

Q. As part of that employment with them, did you go to any special training or do anything like that?

A. Various trainings associated with patrol division.

Q. Is that what you do, is you work in the patrol division?

A. Yes, sir.

Q. Have you been doing that the majority of the eight years?

A. The entire time.

Q. Did you go to school anywhere?

A. Yes, sir.

Q. Where did you go to school?

A. Well, I graduated high school here in Aiken, South Aiken High School, and got a Bachelor of

Science at University of South Carolina, Columbia.
Q. Okay. On May the 28th of 2013, were you working with public safety then?
A. I was.
Q. And were you working, I don't know, second shift or days or -- what were you working?
A. Working night shift.
Q. And on night shift, did you receive a call to go to a particular location?
A. Yes, sir.
Q. Was that [redacted] Aldrich Street?
A. It was.
Q. And as a result of the call -- you would have got a call through dispatch?
A. Yes, sir.
Q. As a result of that call, did you go to that location?
A. We did.
Q. What did you find at the location?
A. When we first showed up, several people were out in the yard, heard a couple people -- there was people crying, various people. I couldn't tell who it was, but they were saying he's been shot. Myself and two other officers who arrived on scene around the same time went inside still looking for

suspects, victims, anything like that.

We did find Mr. Jones and his girlfriend on the floor in the kitchen. Nobody could really tell us if any suspects were on scene or not. We continued clearing the house and trying to secure the scene for EMS.

Q. What do you mean by clearing the house?

A. Make sure there was no suspects. There was still -- like I said, there was still several people running around. We had no idea if any of them were a threat, if any of them had also been shot themselves, witnesses, stuff like that.

Q. Kind of removed them all from the scene or got them outside of the perimeter?

A. Tried. Like I said, there was only three of us. And I couldn't tell you how many people were there. So we tried our best to do all that at once.

Q. Would you say it was kind of chaotic?

A. It was.

Q. Tell me about what you observed in the kitchen area.

A. Mr. Jones was initially -- he was kind of leaned up against the counter near the refrigerator, I believe it was. Kind of leaned up against his girlfriend, who was sitting down there comforting

him. I mean, obviously, he was in bad shape. I couldn't tell you whether he was still alive or dead or how close to the other he was.

But I do know that we initially made contact with them -- or made contact with the girlfriend. Again, she couldn't tell us if any suspects were still on scene. I do know that whenever we walked around the house to make sure nobody was in the woods or anything like that, he had completely changed colors in a matter of two minutes.

Q. He passed away?

A. He did. EMS confirmed that when they got on scene. Once we confirmed there were no threats, no further threat on scene, EMS came and assessed it and said that he was deceased.

Q. Now, you and Officer Griswold, what do you do at that point with a crime scene?

A. A number of things. You try to separate the victims from the witnesses, try to make sure people aren't sharing stories back and forth. You have to do a crime scene log. Anybody who comes on scene has to be noted on some sort of documentation. Command staff is notified, investigations is notified. And at that point, it's -- on the patrol division, we're more for scene security at that

point.
Q. Is that what you did then?
A. Yes, sir. Even after he was determined to be deceased, there was still a lot of chaos, you know, family members were upset. You have to be the level head in all that and make sure you preserve all the evidence you can. So I believe SLED was called. We didn't want anything destroyed that could be collected by them.
Q. How long did you stay there at that location, Brandon? Do you recall?
A. To be honest with you, I have no idea, sir.
Q. Were you sent out on other missions in the investigation that night?
A. Yes, sir. At some point in time, we did meet up with a couple investigators at a location off of Wire Road who were doing the cell phone pinging. But as far as actually being a part of the investigation, we were more there for numbers and bodies than anything else.
Q. You basically turn it over to investigations once they get there; is that correct?
A. Yes, sir.
Q. This location was in the City of Aiken?
A. [redacted] Aldrich Street. Yes, sir.

Q. And it was within your patrol area and your jurisdiction?
A. Yes, sir.
Q. Thank you. Answer any questions the defense may have for you.
THE COURT: Mr. Beck? Mr. Walsh?

CROSS-EXAMINATION

BY MR. BECK:
Q. You stated earlier it was a chaotic scene; correct?
A. That's correct.
Q. And one of your jobs is taking an inventory of witnesses, like you just said; is that right?
A. That's correct.
Q. How many witnesses did you keep an inventory of?
A. We were writing down names and contact information of various people who said that they may or may not have information and that was passed on to investigators. As far as how many I spoke with directly --
Q. With the inventory, you made the best list you could?
A. That's correct.
Q. Thank you. That's all. Thank you.

MR. WEEKS: No further questions.

THE COURT: You may step down. You're excused from your subpoena.

Next witness, please.

MR. WEEKS: We call Officer Brian Griswold.

BRIAN GRISWOLD

being first duly sworn, testified as follows:

THE WITNESS: I do.

THE CLERK: Have a seat and state your name for the Court, spelling your last.

THE WITNESS: Brian Griswold, G-R-I-S-W-O-L-D.

DIRECT EXAMINATION

BY MR. WEEKS:

Q. Brian, you're employed with Aiken Department of Public Safety?

A. I am, sir.

Q. How long and what capacity?

A. Sixteen years.

Q. And what have you done --

A. Currently, I'm assigned to the patrol division as a K-9 handler.

Q. On May 28th of 2013, were you in the same division?

A. Yes, sir.

Q. Did you answer a call to [redacted] Aldrich Street?

A. I did.
Q. Is that within the City of Aiken?
A. It is.
Q. What did you do when you arrived there, Brian?
A. Pretty much the same thing. That night, because it was such a hectic scene, pretty much everybody working showed up because there were so many people there and we just really had to control the scene and protect the evidence.
Q. Did you roll tape or did you just keep people out of the house? What did you do?
A. We put down tape to keep a barrier out for people just showing up to be gawkers. I think we did almost the entire yard of the house and part of next door and the road, actually.
Q. And during that time -- when are you relieved of that job?
A. It was several hours.
Q. Investigations shows up before that?
A. Yes, sir.
Q. Did you kind of turn the scene over to the investigators?
A. Once they get there and they start doing their job, our job is just to make sure -- we protect the scene from anybody coming up inside.

Q. Did you do like Brandon to clear the house when you got there?

A. No, sir. They had already done that when we got there and we just provided scene security.

Q. Okay. Who was the head of the investigating unit at that time that you turned the scene over to?

A. I believe it was Captain Sawyer.

Q. Thank you, sir. No further questions.

THE COURT: Cross, if any?

MR. BECK: None, Your Honor.

THE COURT: Thank you. You may step down.

Next witness.

MR. WEEKS: We call Captain Marty Sawyer.

MARTIN SAWYER

being first duly sworn, testified as follows:

THE WITNESS: Yes.

THE CLERK: Have a seat in the witness box, state your full name for the Court and spell your last.

THE WITNESS: Martin Earl Sawyer, Jr., S-A-W-Y-E-R.

DIRECT EXAMINATION

BY MR. WEEKS:

Q. Captain Sawyer, can you tell me how long you've been involved in law enforcement and what your

various roles were -- have been?
A. I started Aiken Public Safety in 1989, so it's 26 years. I worked road patrol for a while, then I went to community services, which is blood hound tracking, fugitive apprehension, community policing; worked narcotics for 12 years after that, promoted to captain over investigations division in September 2012.
Q. And on May the 28th of 2013, were you over the investigative unit at Aiken Department of Public Safety?
A. Yes, I was.
Q. Did you respond to calls to [redacted] Aldrich Street?
A. I did.
Q. What did you do when you got there, Marty? What's your kind of big picture role when you get to a crime scene like this?
A. Well, that time of night, by the time I get there, most of the chaos is calmed down. The road patrol officers try to get everybody calmed down and under control. Once I arrive, I get a briefing from the on-duty supervisor as to what has happened or what they think has happened, what they've observed, what they've heard, and at that point, I'll make a

decision on how many investigators need to be called out, whether we need one or five, whether SLED is going to be called to work the crime scene or whether we're going to work it.

We notify the Solicitor's Office to respond with an attorney and investigator and, just overall, at that point in time, have to sit back and look at the big picture and see what other resources are needed.

Q. And on this particular night, did you make a decision to call in the SLED forensic team?

A. I did. When I arrived and received a briefing, myself and Lieutenant Savage who had arrived at that time, did a brief walkthrough, looked to see what we had, and we made the decision to notify SLED to come work the crime scene.

Q. Did you determine who the victims were in this particular incident at this location?

A. At some point, I was given some names. I don't remember at what point. I mean, I had been there a brief amount of time when I was given -- I think, originally, I mean, within the first 15 or 20 minutes, I was given two names of the victims.

Q. Was one of them at the hospital?

A. Yes, Raven, I think it's Williams. I know it's

Raven.
Q. What was she a victim from?
A. A gunshot wound to the leg.
Q. Nonlife-threatening?
A. As far as we knew at the time, and it ended up being nonlife-threatening, yes.
Q. EMS didn't take her to the hospital, she got a ride some other way?
A. Yes.
Q. Before you got there?
A. Yes.
Q. Was Shane Jones still on scene?
A. He was.
Q. And his location, was he moved or messed with in any way other than EMS?
A. He was in the kitchen floor within two or three feet of the back door, kind of in a sitting position, slumped over -- or leaning against the cabinet slumped over a little bit with blood all around him.
Q. Did you see any evidence in your initial canvassing of the scene of guns being used?
A. Yes. When I walked into the kitchen, obviously Mr. Jones was there. I noticed a couple shell casings. And if you know what a shell casing is,

it's ejected from a gun after it's been fired. There were empty shell casings. There was at least one bullet that I could see laying on the floor; a plastic knife, like if you're eating at a Christmas party or something, a little plastic knife that was on the floor that had blood on it, and then a steak -- what looked to me like a steak knife, I believe, between Mr. Jones and the back door.

Q. And you described him kind of propped up against the cabinet. Was that near the back door of the residence?

A. Yes, sir, within two or three feet of the back door.

Q. And where did that back door lead to in terms of the property?

A. Well, you go out in the backyard, and if you go across the backyard, it meets the backyards of the houses that face Osbon Drive, which is the next intersecting road up from where this house was at.

Q. Can you describe the terrain?

A. Well, the backyard was kind of trashy and I believe there was a fence. But then there's a small wooded area and then you go up a hill to get into the backyard of the other house.

Q. And then you would exit out of that yard out

onto Osbon Drive?
A. Yes, that's correct.
Q. Now, during the course of the night, were y'all investigating phones? Tell me how that works.
A. Yes. I stayed at the crime scene waiting on SLED to get there. They come from various parts of the state, most of the time around Columbia. It's normally an hour, hour and a half before they arrive.

One reason out of many we call them is because we don't have investigators tied up working the crime scene. They can go start following up on leads. As in any crime, especially a murder, the quicker you can get on this stuff, the better off it is. So SLED works the crime scenes. These investigators, they go out and start working and following leads. And the phones was one of them.
Q. Phones that were taken from people?
A. Phones that were stolen from the residence, yes.
Q. Now, are you coordinating all of that or is all that Intel coming in through you?
A. Well, I don't micromanage, but I know what's going on. Lieutenant Savage was heading that up because he was not at the crime scene. Him and

Jeremy Hembree and Keith Glover was out, a couple other -- Steve Miano and the Solicitor's Office, they were doing that while I was at the crime scene with SLED.

So Lieutenant Savage would call me and give me an update or a brief, hey, we got the ping on this phone and it's here. So I kind of knew what was going on, but not exactly what they were doing.

Q. And later on in the night or early on in the morning, did y'all develop leads as to people that might have been involved in this?

A. Yes. Like I said, Lieutenant Savage kept me up to date. He called and said that they had started getting some names on some people and they were going to start going to some houses and knocking on some doors and contacting some people trying to talk to them.

Q. At some point did you just kind of turn it over to him or did you go back to the station or what did you do?

A. Well, I stayed at the crime scene until probably, I don't know, 4:00, 5:00, 6:00 in the morning with SLED. So he pretty much had that part of the investigation. If he had a question, he'd call me; if not, they'd just handle what they were

doing.
Q. As a result of some interviews and stuff that was done, did y'all obtain warrants on people for this crime?
A. Yes, sir. There was warrants obtained on four people at that time.
Q. And those four people, what were their names?
A. Markese East, Brian Morton, Rashawn Isaac --
Q. Leon Simmons?
A. Leon Simmons, I'm drawing a blank on him, yes, sir.
Q. And when those warrants were issued, were those people arrested on those charges?
A. At some point in time, yes, sir.
Q. And then, subsequently, over the last couple of years, have you issued more warrants?
A. Yes, sir. Recently, within the last two months, maybe three months, we've issued the same warrants on Trevon or Tremaine Butler. I think it's Trevon -- Tremaine Butler.
Q. Your understanding or the reason you arrested him, he was supposedly the inside guy?
A. Yes, sir. From the get-go, we knew somebody was on the inside, we just couldn't figure out who and we didn't have any evidence. We finally

obtained the evidence we needed to get warrants on him and he's in jail now.

Q. At some point after interviewing people to get more information, did you go looking for clothing? Did you participate in the search for clothing?

A. Well, at some point, myself and Chief Barranco were together. Detective Hembree called me and said that he had Markese East with him and he was going to show him where some stuff may be.

So we went over to Osbon Drive, which is, like I say, one yard through the backyard of this house, and somewhere in close proximity to where they had parked, we found camouflaged netting that goes over your head. If any of you hunt or your family hunts, you know what I'm talking about. And it had been discarded on the side of the road. Actually, if we wouldn't have been shown the area it was in, we probably would have walked past it because it was camouflaged. It fit in with the surroundings.

Q. Marty, have you looked at an aerial photograph of Osbon Drive and the location of the crime scene in this case?

A. Yes, sir.

Q. I'll show you what's marked as State's Exhibit 48 for identification and ask if you can identify

that object.
A. Yes, sir.
Q. And what does it purport to show?
A. The general area, the exact location of the crime scene, Osbon Drive, and where it leads to down here on May Royal Drive. So it's a general area -- the back side of Crosland Park.
Q. The part that's marked in green there, what is that?
A. That's the crime scene. That's the Aldrich Street address.
Q. Aldrich Street address?
A. Yes, sir.
Q. And the place immediately adjacent to that, behind it that you described?
A. Right in here.
Q. Could you kind of point out or put an X on where you think approximately the mask was discovered.
A. Well, I don't know in looking at this map and these houses, but I would say -- this is the crime scene, somewhere right in this general area here. From this wood line back to maybe the second house or so right in here.
Q. And y'all took pictures of the mask and other

people can testify to that; is that correct?
A. Yes, sir.
MR. WEEKS: Move to introduce State's 48, Your Honor.
MR. BECK: No objection.
THE COURT: Without objection.
(State's Exhibit No. 48 admitted into evidence.)
BY MR. WEEKS:
Q. Marty, when you got there, did you walk through the residence, crime scene?
A. Yes, sir. I got there and, like I said, myself and Lieutenant Savage did an initial walkthrough to make a decision if we were going to call. Then I did another walkthrough when you arrived and then another walkthrough with SLED when they arrived.
Q. I'm going to hand you what's marked State's Exhibit 49. Can you identify what's depicted on there?
A. Yes, sir. That's the residence, [redacted] Aldrich Street.
Q. Is that kind of a floor plan?
A. Yes, sir.
Q. All right. And who prepared this?
A. Wasn't me. I don't know.

Q. But, based on what you see, it's a true and accurate representation of it?
A. Yes, sir. I would assume SLED did.
THE COURT: Any objection, gentlemen?
MR. BECK: None, Your Honor.
THE COURT: Thank you.
(State's Exhibit No. 49 admitted into evidence.)
BY MR. WEEKS:
Q. Marty, in describing State's 49, what is this location over here?
A. It's a side door under a carport.
Q. Carport underneath it?
A. Yes, sir.
Q. And this back here?
A. The back door.
Q. And the body that's depicted on there is the approximate location where Shane Jones was lying when you got there?
A. Yes, it is.
Q. Thank you. Marty, answer any questions that the defense has for you.
THE WITNESS: Yes, sir.

CROSS-EXAMINATION

BY MR. BECK:

Q. About what time was it that you arrived at the scene, Captain Sawyer? It was early on?
A. It was probably 30 minutes after the initial call went out, 30 to 40 minutes after the initial call went out. Because they have to page us or call us on the phone and get gas and go.
Q. How long after that did you contact SLED?
A. I'd say after I got on scene, done my initial walkthrough, within the first 20 minutes, 30 minutes at the most.
Q. Who did SLED wind up sending to you?
A. I'd have to look at their names. Crime scene techs, but I don't know their names. We have ones -- they come for different crime scenes.
Q. But you've seen -- you observed the crime scene firsthand and watched the inventory of said crime scene?
A. Well, I do a walkthrough. I don't necessarily stay inside with SLED the whole time. I don't want to get in their way. I just let them do their job. That's their job, is crime scene, so I'm not going to stay in there and ask questions. If they find something they think is important enough for me to know up front, then they'll call me in, show me what it is, and I'll go back outside. I don't stay

inside with them the whole time.
Q. Do you recall how many projectiles were found at the scene?
A. There was two spent shell casings that I saw in the kitchen floor. And I saw, at the time, one in the kitchen floor that was not spent, it was a full bullet. I understand there may be another one that might have been under his leg or something, but one bullet and two spent shell casings.
Q. So just two casings and one unspent bullet?
A. That's what I observed when I first walked in.
Q. Okay. But projectiles, how many -- let me be more clear --
A. Bullet holes?
Q. A fired bullet projectile. Not the shell casing, but the actual bullet, the projectile.
A. I didn't --
Q. You didn't stay there?
A. I didn't see any during the initial walkthrough, no. I'm sorry. I misunderstood.
Q. That's fine. And you said earlier Savage and Miano were heading up the pinging.
A. Well, I wasn't there. Lieutenant Savage was heading up that part of the investigation. There were several people assisting him in that.

Q. Was SLED assisting in that operation?
A. Not initially. I don't know if they came in or -- I don't remember if they came in to help with that at the end or not. But not initially, no.
Q. That's all the questions I've got, Captain Sawyer. Thank you.
THE COURT: Redirect?
MR. WEEKS: That's all, Your Honor.
THE COURT: Step down, please.
Next witness.
MR. WEEKS: It might be a good time for a short break.
THE COURT: All right. Ladies and gentlemen of the jury, we're going to take our little afternoon break for about 15 minutes. We'll come back and we'll go to about 5:00 or 5:30. Please do not discuss the case. Leave your notes in your chair. And please select me a foreperson.
(Jury exits the courtroom at 3:33 PM.)
THE COURT: Mr. Weeks, anything for the record before we break?
MR. WEEKS: No, sir.
THE COURT: Mr. Beck?
MR. BECK: No, Your Honor.
THE COURT: Thank you. We'll stand at ease for

15 minutes.

(Brief recess.)

THE COURT: Anything for the record, Mr. Weeks, before we start?

MR. WEEKS: No, Your Honor.

THE COURT: Mr. Beck?

MR. BECK: Nothing, Your Honor.

THE COURT: Bring the jury in, please.

(Jury enters the courtroom at 3:55 PM.)

THE COURT: Ms. Mincey, congratulations being elected as foreperson. I know you'll do a wonderful job. Is this your first political election? Congratulations.

Mr. Weeks, you may call your next witness.

MR. WEEKS: Thank you, Your Honor. The State would call Heather Arthur.

HEATHER ARTHUR

being first duly sworn, testified as follows:

THE WITNESS: Yes, ma'am.

THE CLERK: Have a seat in the witness box, state your full name for the Court and spell your last, please.

THE WITNESS: Heather Arthur, A-R-T-H-U-R.

DIRECT EXAMINATION

BY MR. WEEKS:

Q. Deep breath.
A. I'm trying.
Q. State your -- you stated your name.
Where do you live, Heather?
A. In Graniteville.
Q. You're going to have to speak loud enough for these folks on the back row to hear you.
How old are you?
A. I'm 22.
THE COURT: If you can't hear, let me know.
Q. Where do you work at?
A. I work at Nail Studio in North Augusta.
Q. Do you have any children?
A. Yes, sir.
Q. How many?
A. One.
Q. What's his name?
A. His name is MINOR.
Q. Who is his father?
A. Shane Jones.
THE COURT: Ma'am, take a real deep breath for me. I know this is tough. You need to speak loud enough so all the jurors can hear you. Okay? You need a second?
THE WITNESS: (Shakes head.)

Q. Heather, on May the 28th of 2013, where were you living?
A. In Crosland Park at [redacted] Aldrich Street.
Q. And who were you living there with?
A. Shane Jones.
Q. How long had you been living there with him on May the 28th? Do you remember?
A. Probably about four months.
Q. And do you know how long he'd lived there?
A. I'm not for sure. But maybe about a year or so.
Q. Longer than you?
A. Oh, yes, sir.
Q. And is that where his mother had lived?
A. Yes, sir.
Q. What happened to his mother?
A. She passed away that March before. She had some kind of cancer, lung cancer or something like that.
Q. She had some sort of cancer?
A. Yes, she had cancer.
Q. After she died, did Shane -- was Shane living there when she was alive?
A. Yes, sir.
Q. Were you living there when she was alive?

A. Yes, sir.
Q. After she died, did y'all continue to reside at that [redacted] Aldrich Street address?
A. Yes, sir.
Q. On May the 28th of 2013, were you pregnant?
A. Yes, sir.
Q. And that is the child you have described?
A. Yes, sir.
Q. Tell me what you did on the late afternoon hours and up until midnight of May 28th. Can you tell me what you were doing?
A. Well, I had worked that day until 8:00 that night --
Q. At the same place you're working now?
A. Yes, sir. And I went home and I guess I got dressed or something. I ended up going to my sister's house until about 11:00 or 11:30. And I went back home, took a shower, got in bed.
Q. When you got back to the -- at some point, did you go to [redacted] Aldrich Street?
A. Yes, sir.
Q. Do you recall who was present, who was there?
A. Shane was there and there were a few friends, maybe about like four or five friends. There weren't that many people there.

Q. Is this when you came back and took a shower?
A. Yes, sir.
Q. What kind of car do you drive? What color is it and what kind?
A. At the time, I drove a 2000 Honda Accord and it was a champagne, goldish color.
Q. Okay. Was it at the house? Is that what you were driving that night?
A. Yes, sir.
Q. Heather, when you got back to the house about 11:00, can you name who was there that you remember?
A. Akeem Coston, Shane Jones, Gage Moseley, I think Trevon Butler was there, and the girl who got shot. I didn't know her. She was there. That's what I remember.
Q. Do you remember her name? Did you know her name?
A. I didn't really know her at all. I met her once, but I think she's got more than one name, nicknames or whatever.
Q. Did you know anybody she was there with?
A. No, sir.
Q. Could there have been other people there that you didn't recognize or know?
A. There could have been. I know other people

showed up after because I could hear voices and everything and it sounded like a good bit of people.

Q. After you went to bed?

A. Yes, sir.

Q. If you were going down the hallway in y'all's home, which bedroom were you in?

A. The first bedroom on the right.

Q. Tell me what happened after you got in bed, Heather.

A. I laid there for probably about 30, 40 minutes to an hour or so and I heard somebody arguing and I heard just, like, banging. And then all of a sudden --

THE COURT: Heard what?

THE WITNESS: Banging, like banging and arguing. And then I just heard a couple gunshots and it got really quiet and then --

Q. What did you do when you heard the gunshots?

A. I kind of scrunched up in the bed and just sat there. And I waited because I wasn't going to go out the room after I heard that. I was scared.

Q. You were by yourself in that room?

A. Yes, sir.

Q. Was the door closed?

A. Yes, sir.

Q. How many doors to the outside of the house?
A. Two.
Q. If you came out of your bedroom and went to the kitchen, is there a dining room table or something heading towards the kitchen?
A. Uh-huh.
Q. If you came right out of your bedroom and went right across the hallway, what's right across the hallway?
A. From the bedroom door, it was just a wall. You go down and there is a bathroom.
Q. Okay. Bathroom is just shortly across the hall?
A. Yes. You have to pass the other bedrooms to get to it.
Q. Tell me what you did after you heard the shots.
A. I sat there and I waited for it to get quiet. And then I heard someone coming through the house. He kind of, like, tapped on my door, but he kept going. And when he tapped, I kind of squealed, so he knew I was in there. He kept going. He went on to what was Shane's mom's room and then the next room and then he skipped over the bathroom and came back to my room.
Q. When he came back to your room, what happened?

A. He just busted the door open and he had a gun in his hand and he pointed it at me and pointed it all around the room and he asked me -- he said, I want everything. And I looked at him and said, I don't know what you want, I don't have anything. He said, you got a cell phone? And I took my foot or my hand and I nudged my cell phone to him and he took it. My keys and my wallet were laying next him. I didn't say anything. He didn't take it. He took my cell phone and he looked around, looked in the closet, and left.

Q. Could you describe this man?

A. I just know that he had on like a ski mask. I think it was camo, if I remember right. He had on a camo or black jacket. I couldn't see anything. I couldn't tell who he was or anything.

Q. Can you describe the weapon that he had?

A. I mean, it was a long gun. I don't know what kind of gun it was. It was long though.

Q. Not a pistol?

A. Not a pistol, no, sir.

Q. When he left your room, what did you do?

A. I sat there for a few minutes, maybe like three or four minutes, just until it quieted out so I knew that no one else was still in there.

Q. What did you do then?
A. I prepared myself for the worst. And when I walked out of the room, the bathroom door came open, Trevon Butler walked out, the girl who got shot walked out, and there was a guy with her. I think it was her boyfriend. And I looked at them. The girl was shot. She tried to hand me the phone to call 911 and I shoved it back at her and told her she needed to call them. Trevon looked at me like I was stupid. He said --
Q. Don't get into what he said. Tell me what you did.
A. Okay. Well, after I seen them, I walked into the kitchen and I seen Shane laying there. And I walked up to him and I sat down beside him and I told him it was going to be okay.
Q. Heather, did he appear to be alive at that point?
A. Yes, sir, he was. He was alive. He tried to speak to me, but he couldn't get it out of his mouth, whatever he wanted to say.
Q. At some point, while you were holding him, what happened?
A. After that, I sat there for a minute and the only thing that ran through my mind was that I

needed to go get his sister. She lived, like, two or three houses down. So I immediately jumped in my car because I didn't know what to do. And I went down the road and I grabbed her and went right back. And I sat there until he took his last breath. I didn't move until they made me get out the house.

Q. At what point did the police arrive?

A. Well, when I got back to the house, I think they pulled up right after I did.

Q. Okay. Heather, how long had you lived there prior to that?

A. I was only there for -- well, I was there all the time, like, those four months before. But before that, I stayed there on and off and back at my dad's house.

Q. Okay. I'm going to hand you a few pictures and ask if you can identify what's depicted in the photographs just with yes or no.

A. Okay.

Q. State's 1, State's 2, State's 3, State's 4, State's 5, State's 6, State's 28, State's 22, State's 30, State's 31 and 32. I'll just ask you to flip through all of these and see if you recognize the scene that's depicted in them.

A. Yes, sir.

Q. Do you recognize the scene in each of those photographs?
A. Yes, sir.
Q. What is that scene? Where was it?
A. That was at our house.
Q. [redacted] Aldrich Street?
A. Yes, sir.
Q. Okay. Now I'm going to get you to -- in just a second.
Any objection?
MR. BECK: No objection.
BY MR. WEEKS:
Q. State's No. 1, Heather, could you tell me what that's showing?
A. That's the front of our house and that's Shane's brother's car and that's the front of my car.
Q. Is there a door depicted in that photograph?
A. Yes, sir. That was, like, the front door we always went through.
Q. State's No. 2, can you tell me what that is?
A. That's the backyard and the back door to the house.
Q. Okay. Does that door go right into the kitchen?

A. The back door, yes, sir.
Q. Is that where Shane was laying?
A. Yes, sir.
Q. State's No. 3?
A. That was the living room and the dining room and the back of the couch.
Q. Also in the house?
A. Yes, sir.
Q. State's No. 4?
A. That was our dining room in the house.
Q. 5?
A. That's the dining room again.
Q. Another picture of the dining room?
A. Yes, sir.
Q. Did you have any -- were you aware of any bullet holes in your refrigerator when you went to bed that night?
A. When I went to bed? No, sir.
Q. Were you aware of any bullet holes in your house that night before you went to bed?
A. No, sir.
Q. Do you know what the hole is depicted in State's No. 6?
A. It looks like a bullet hole.
Q. Okay. Were you aware of that in your house?

A. No, sir.
Q. State's 28, can you tell me what that is?
A. That was our bedroom.
Q. Is that the bed you were in that you described?
A. Yes, sir.
Q. State's 22?
A. That's the kitchen.
Q. Okay. State's 30, 31, and 32, what do those pictures show?
A. Those are all the bathroom.
Q. Pictures of your bathroom?
A. Yes, sir.
MR. WEEKS: Your Honor, the State intends to publish these at a little bit later time.
THE COURT: Certainly.
BY MR. WEEKS:
Q. Heather, what's marked on State's Exhibit 16? Can you identify what's depicted in that photograph?
A. That's the refrigerator at our house.
Q. Did it have that hole in it that night before you went to bed?
A. No, sir.
Q. Heather, how many shots do you recall hearing?
A. I think I heard at least four or five.
Q. And did they all sound close or far away or --

A. Very close.
Q. Okay. Did you know the person or had you ever seen the person that came into your room?
A. No, sir.
MR. WEEKS: Your Honor, I move 16 into evidence along with the others.
THE COURT: Any objection?
MR. BECK: No, sir.
(State's Exhibit Nos. 1, 2, 3, 4, 5, 6, 16, 22, 28, 30, 31, and 32 admitted into evidence.)
BY MR. WEEKS:
Q. Heather, were you aware of any real guns in your house?
A. No, sir.
Q. Did you have BB guns in your house?
A. Not that I know of. No, sir.
Q. BB pistols, you don't know what they are?
A. I mean, I've probably seen one before, but I don't mess with guns.
Q. You didn't have any in your room that you know of?
A. No, sir.
Q. That you carried or whatever?
A. No, sir.
Q. You didn't have anything like that, did you?

A. No, sir.
Q. Heather, if you would, answer any questions the defense may have for you.
A. Yes, sir.

CROSS-EXAMINATION

BY MR. WALSH:
Q. Good afternoon.
A. Hey.
Q. On May 28th of 2013, when you came home from your sister's or even before you went, did you observe any people using drugs in your house?
A. Yes, sir.
Q. Okay. Did you see people specifically using cocaine?
A. No, sir.
Q. Okay. Was that the first time you'd ever seen people using drugs in your house?
A. No, sir.
Q. Had you ever seen people using cocaine in your house?
A. No, sir.
Q. On May 28, 2013, did you see anyone selling drugs at your house?
A. No, sir. I was not there during the day.
Q. After you came home?

A. No, sir.
Q. Had you ever seen any selling of drugs at that house?
A. No, sir.
Q. Have you ever heard the term -- are you familiar with the term trap house?
A. From songs, yeah.
Q. Okay. What does that mean to you, if anything?
A. Trap house is where people sell drugs.
Q. At the time of this incident, was Mr. Jones employed?
A. No, sir.
Q. Was he, to your knowledge, on disability?
A. No, sir.
Q. Did he receive any government benefits?
A. No, sir.
Q. Did he have any source of income that you were aware of?
A. Not that I -- no, sir.
Q. And just to -- you have not -- I mean, you didn't just identify the person that you -- did you only actually see one of the people that came into your house, the one that came into the room?
A. Yes, sir, I seen one person.
Q. And I think you said the only thing that really

was distinctive was that he had a camouflage face mask of some kind.
A. Yes, sir.
Q. Definitely not a white T-shirt?
A. No, sir. This guy didn't have a white T-shirt.
Q. Okay. Before the police arrived, I know you said that you left and went down and got Mr. Jones' sister and came back.
A. Yes, sir.
Q. Do you know if any other people that were there at the time of the shooting were able to leave before the police arrived?
A. Oh, everybody scattered.
Q. Okay. Well -- so there is at least some number of people that you believe -- and I understand I know you were not trying to -- it's not what you were paying attention to. And I understand that. But is it fair that there's a number of people that you believe were there at the time of the shooting that were not when the police arrived?
A. Yes, sir.
Q. And those folks, they never did come back; correct?
A. Not that I know of, no, sir.
Q. You said you'd seen Mr. -- Trevon's name is

Butler, Trevon Butler?
A. Yes, sir.
Q. Had he been there also earlier that day?
A. I'm not sure earlier. I think he was there when I got off work, yes, sir. But earlier during the day, I'm not sure.
Q. Was he a friend of Mr. Jones?
A. Yes, sir.
Q. Were they fairly good friends? How would you describe it?
A. They were really close. I mean, he would spend the night. I cooked dinner for him. He even carried his mom's casket.
Q. Did he ever spend the night there on the couch or anything?
A. Yes, sir, I think so.
Q. Are you able to say -- and maybe not exactly. But are you able to say how recently he might have spent the night there?
A. No, sir.
Q. Within a week or a month?
A. Oh, yes, sir. It was very soon, probably up until the days before.
Q. You just said, I think, you thought you heard four or five gunshots. The biggest difference -- do

you remember being interviewed while this was going on, closer time, by law enforcement? Do you remember speaking with them?

A. I remember being interviewed, but I honestly don't remember what I said. I was so shook up.

Q. If I told you that you, in that interview, said it was three or four shots, would you think that was probably true?

A. That's probably true.

Q. Did it happen pretty fast? Was it one, two, three, four, one, two, three, or was -- do you understand the question?

A. Yes, sir. I think it was pretty fast, that I remember.

Q. Okay. So if I now say, you know, based on three or four then or four or five today, that if it was three to five shots, do you feel comfortable with that?

A. Yes, sir.

Q. So possibly three?

A. Yes, sir.

Q. And possibly five?

A. Yes, sir.

Q. Did they sound like the same gun firing? Do you understand the question? I mean, did they have

the same -- was it boom, boom, boom, boom, or boom, boom, crack, boom? I know that's a strange question. But do you understand --

A. I understand. I honestly don't remember.

Q. But, again, it appeared that it was basically at one time?

A. Yeah.

Q. Okay. You were asked a minute ago if you were aware of any BB guns or anything in the house. I think you were not aware.

A. No, sir.

Q. If I were to tell you that several of them were recovered from that residence, would that surprise you?

A. Yes, sir.

Q. So if they were, in fact, recovered, then that would mean there were several of these BB guns that you didn't know about?

A. Yes, sir.

Q. Based on that, isn't it possible that there were real guns that you didn't know about?

A. I guess it could be.

Q. And you definitely agree that a number of people were able to leave the residence before the police responded?

A. Yes, sir.
Q. I'll hand you one photo that's been marked State's Exhibit 5. Would you agree with me there appears to be white powder on the table next to the liquor bottles?
A. I guess so. Yes, sir, it looks powdery.
Q. Do you recall having noticed that that day or this is the first time you've seen that white powder?
A. I didn't notice it before. I mean, I noticed it the night after I walked in there, yes, sir.
Q. Okay. And I think you indicated Akeem Coston was there. Do you know whether Akeem Coston is currently in prison for cocaine charges?
A. That I know of, yes, sir.
Q. You believe he is in prison for cocaine charges as we speak?
A. Yes, sir.
Q. Do you remember what time your shift ended that day, what time you got off work?
A. I get off at 8:00 all the time.
Q. You said that was North Augusta?
A. Yes, sir.
Q. So you probably got home 8:30, give or take?
A. Yeah, or longer.

Q. I mean, between 8:00 and 9:00 probably?
A. Yes, sir.
Q. And I understand you said you weren't sure, but you think Trevon Butler was probably there when you got off at 8:30, 9:00?
A. Yes, sir.
THE COURT: Mr. Weeks?
MR. WEEKS: No further questions.
THE COURT: Ma'am, you may step down.
Next witness, please.
MS. HALL: Gage Moseley.

GAGE MOSELEY

being first duly sworn, testified as follows:
THE WITNESS: Yes, ma'am.
THE CLERK: Have a seat in the witness box, state your full name for the court and spell your last.
THE WITNESS: Gage Moseley, M-O-S-E-L-E-Y.

DIRECT EXAMINATION

BY MS. HALL:
Q. Gage, where are you from?
A. Aiken, South Carolina.
Q. Is that where you currently live?
A. Yes, ma'am.
Q. Are you working anywhere?

A. At a family business.
Q. Where is that?
A. S & R Auto Sales. It's where I live at.
Q. Where is that located?
A. [redacted] Wagener Road.
Q. Do you remember the night of May 28th, 2013?
A. Yes, ma'am.
Q. Where were you that night?
A. I was at Shane's.
Q. Where is that? Do you know the address or the street?
A. Aldrich Street.
Q. In Crosland Park?
A. Yes, ma'am.
Q. That's where Shane lived?
A. Yes, ma'am.
Q. Do you know who else lived there with him?
A. Heather.
Q. How did you know Shane?
A. From school.
Q. About how long had you known him?
A. Three, four years.
Q. Do you remember what time you went to Shane's house on the 28th?
A. Not exactly. I'd say from 3:00 to -- or 6:00

to 7:00.
Q. Okay. What was going on that night? Why were you there?
A. I had called him and he wanted me to come over. We were just sitting down.
Q. Just hanging out?
A. Yeah.
Q. Do you remember about how many people were there that night?
A. Probably seven people.
THE COURT: How many?
THE WITNESS: About seven.
BY MS. HALL:
Q. Can you give me names of people you remember were there?
A. I don't know the rest of them names except Shane, Heather, Trevon, Akeem.
Q. And when you say Trevon, is that Trevon Butler?
A. Trevon Butler, yes.
Q. And Akeem Coston?
A. Yes.
Q. And Heather who just was up there?
A. Yes.
Q. Why do you remember May 28th, 2013? What happened that night?

A. Because one of my friends got murdered.
Q. How did that happen?
A. We were sitting down, Shane was in the kitchen right in front of the refrigerator, and somebody had kicked open the door with a long rifle, put it in his face. Shane had tried grabbing the barrel and another person came out behind the first person that came in and shot him through the chest. I seen the bullet come out the back of him.
Q. How many people did you see at the door?
A. That came in?
Q. Yes.
A. Two.
Q. Two. Could you see their faces?
A. No; nothing but their eyes.
Q. Why couldn't you see their faces?
A. They had masks on, camouflage, black.
Q. Now, where were you sitting when all of this happened?
A. I was sitting at the table, right there at the dining room table.
Q. Okay.
MS. HALL: Permission to approach the witness, Your Honor?
THE COURT: Yes, ma'am.

BY MS. HALL:

Q. Gage, I'm showing you what's been previously entered as State's Exhibit 49. Do you recognize this?

A. Yes, ma'am.

Q. What is this?

A. This is a diagram of the house, layout.

Q. Shane's house?

A. Yes, ma'am.

Q. Can you point out where you were sitting when the guys came in?

A. Here.

Q. Around the dining room table?

A. Uh-huh.

Q. So you could see inside the kitchen?

A. Yes, clearly.

Q. And where was Shane?

A. From when they -- they kicked the door in, he was right here and moved in front of the refrigerator. The first person that walked in was here, put the gun in his face, and another person came up behind him.

Q. What door did the guys come in with the guns?

A. Right here.

Q. What kind of guns did you see?

A. Long rifle. I had thought it was a shotgun, but apparently it's a .22. And the person that shot had a pistol. I don't know what kind it was.
Q. Okay. And you were sitting in the dining room to where you could see into the kitchen. Did you see anybody let those guys in?
A. No.
Q. They just came in with the guns?
A. Yeah.
Q. You heard the gunshots. What happened after you heard the gunshots?
A. Well, I seen Shane get shot the first time. And the dude with the rifle was pointing it at me. It was so much commotion, I really couldn't hear anything. I got up, I ran out --
Q. What door did you run out?
A. The side door.
Q. Not the door that the guys with the guns came in?
A. No. They were pointing it at me the whole time I was running out. The side door was locked, so I struggled getting it unlocked. Ran down the road to a nearby school. It was off -- right off the sidewalk almost. You could see it from standing on the sidewalk. Waited there until I heard sirens and

seen ambulances and I ran back.
Q. You went back to the scene?
A. Yes.
Q. You talked to law enforcement there?
A. Yes.
Q. How many gunshots did you hear?
A. Two, to be for sure that I actually heard, yes.
Q. Did you know Trevon Butler that night?
A. Yes.
Q. And he was there?
A. Yes.
Q. Do you know where he was just prior to the shooting?
A. In the bathroom.
Q. He was in the bathroom?
A. Yes.
Q. Okay. While y'all were all hanging out that night, were you aware of some drug use?
A. Yes.
Q. Okay. Several people at the dining room table?
A. There was two, I want to say.
THE COURT: Speak up, I can't hear you.
THE WITNESS: There was two, I'll say.
MS. HALL: I have no further questions for you. Please answer any the defense may have.

THE COURT: Mr. Walsh?

CROSS-EXAMINATION

BY MR. WALSH:

Q. Good afternoon.

A. Hey.

Q. Do you know a gentleman named Steven Moseley?

A. I am Steven Moseley.

Q. Okay. You are Steven Moseley. I'm sorry.

THE COURT: I thought you said your name was Gage Moseley.

THE WITNESS: It is. I've been called Gage my whole life.

THE COURT: Your real name is what?

THE WITNESS: Steven Gage Moseley.

BY MR. WALSH:

Q. I think you just said you had -- that evening, you witnessed drug use by two people. Which two people was that?

A. I don't know what their names were.

Q. So two people there that you did not know?

A. No, sir.

Q. Were there other people there that you did not know?

A. Yes, sir. Like I said, there was about seven

people and the only people that I do know their names is Trevon Butler, Akeem Coston, Heather, and Shane.

Q. Had you been to that house before?

A. Yes.

Q. How many times you think you've been there?

A. I helped him move into the house.

Q. Were you kind of a regular visitor? Were y'all decent friends?

A. Yes, we were good friends.

Q. You were fairly clear that you saw two people come through the door; correct?

A. Yes.

Q. So to follow that, that means you did not see three people come through the door; correct?

A. No.

Q. And one of the people had a long rifle. Do you remember what that person had on their face?

A. They had a camouflaged jacket and either a black mask that had some camouflage in it.

Q. But pretty sure the person with the long gun did not have a white T-shirt mask?

A. No, sir. No.

Q. And the two gunshots you heard, if I asked you --

A. I was in there for the first gunshot and I was running. I was still in the front yard of the house, I heard the second one went off.
Q. Did they appear to sound the same? You know what I mean by that?
A. Yes.
Q. Recognizing you're not an expert, you think the sound of the same pitch?
A. Yes, it was the same gun.
Q. You returned to the house when the police and everybody arrived?
A. Yes.
Q. Of the people you've mentioned, did Mr. Butler run --
A. I didn't run with him.
Q. I gotcha.
A. He was there, yes.
Q. When you came back to speak to the police, did you see Mr. Butler anywhere?
A. He was there. There was already caution tape up, but he was there.
Q. How about Mr. Coston?
A. No. And Butler left. As soon as they put up caution tape, he disappeared.
Q. And the two folks that you are not sure about

who were using drugs, did you see them come back?
A. No, sir.
Q. Had you ever used drugs at that residence?
A. No, sir.
Q. Previous to that night, had you seen people using drugs at that residence?
A. Yes, sir.
Q. Once? More than once?
A. Few times.
Q. Have you ever seen any drug sales at that residence?
A. No, sir.
Q. Never saw anything like that?
A. Huh-uh.
Q. Had you seen -- and if you hadn't, you hadn't. Do you know whether Trevon Butler spent the night there some times?
A. Yes.
Q. You say yes. You know and he did spend the night there?
A. Yes.
Q. Do you know how recently he spent the night there?
A. Prior to that night?
Q. Yes, sir.

A. I would say he probably slept on the couch the week to week and a half before.
Q. For one night? More than one night? Do you know?
A. One night. He could have left and came back.
Q. Okay.
MR. WALSH: May I approach the witness, Your Honor?
THE COURT: Yes, sir.
BY MR. WALSH:
Q. I'll hand you what's been marked State's Exhibit 5. Is this the table you say you were sitting at?
A. Yes, sir.
Q. Do you know what chair you were in?
A. This one, the stool.
Q. This one?
A. The stool.
Q. The stool?
A. Yes, sir.
Q. All right. Do you know what the white powder is on the table?
A. Yeah.
Q. What do you believe that to be?
A. Cocaine.

Q. All right. But that had nothing to do with you?

A. No, sir.

MR. WALSH: Nothing further, Your Honor. Thank you.

REDIRECT EXAMINATION

BY MS. HALL:

Q. Gage, you said you saw the two guys come in through the side door. Do you know if that door was locked?

A. It stays always locked. They didn't have trouble getting in the door.

Q. Okay. And you said you saw the two guys come in the door and you heard the shots. Did you stick around to see anything else or did you get out?

A. After I had seen Shane get shot, that was the first shot and everybody was scrambling around inside the house. The first man in with the rifle pointed it at me and I turned around and ran.

Q. You ran. So you didn't stick around to see if there was anybody else coming?

A. No, ma'am.

MS. HALL: No further questions.

THE COURT: You may step down.

Next witness, please.

MR. WEEKS: Can we have a sidebar, Judge?

THE COURT: Certainly.

(Sidebar conference.)

THE COURT: All right. Madam forelady, ladies and gentlemen of the jury, we're moving a little faster than they anticipated. We've got a couple legal matters to take up before the next witness, which will take us to about 5:00. So we're going to knock off early today, as they say, stop early.

We'll have you some hot coffee and some fruit in the morning. We'll have you some menus for tomorrow to order lunch with. I suspect we'll finish testimony tomorrow. We should get way down the road tomorrow.

So let's do this couple things: Leave your notepads in the chairs and your pencils. We'll collect those. Ms. Jimmy will get those and they'll be under lock and key tonight. Please don't discuss the case with anyone, do not let anyone discuss it with you. No independent research. Have a pleasant evening. 9:30 in the morning. If you want your fruit, be here a little earlier. I can't let y'all bring it out in the courtroom.

Y'all have a pleasant evening and I look forward to being with you tomorrow. Thank you for

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paying so close attention. Everyone else remain seated.

(Jury excused for the evening at 4:39 PM.)

THE COURT: All right. Mr. Weeks, anything on behalf of the State before we break for the evening?

MR. WEEKS: Not aware of anything, Judge.

THE COURT: Gentlemen?

MR. BECK: Nothing, Your Honor.

THE COURT: Mr. Walsh?

MR. WALSH: No, Your Honor.

THE COURT: All right. We'll start at 9:30 in the morning. Please have the defendant here earlier than that so he can confer with his lawyers. And we'll break for the evening. I'll be here a little after 9:00, so if y'all need me for anything, I'll be back in chambers. Everyone have a pleasant evening.

(The following proceedings were held January 6, 2016.

THE COURT: Bring the defendant out, please.

THE DEPUTY: Yes, sir.

Good morning, Mr. East.

THE DEFENDANT: Good morning. How are you?

THE COURT: I'm fine. Thanks for asking.

Mr. Weeks, anything for the record before we

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start?

MR. WEEKS: No, Your Honor. We're ready to start with witnesses. At some point, we'll need to take a break and get something straight about the video and redaction and all that stuff that was brought to my attention this morning. I've got probably an hour's worth of testimony before we have to break, just to confer with them a little bit.

THE COURT: I thought y'all had already redacted it.

MR. WEEKS: We had, but the defense has brought a couple things to my attention this morning that we might need to look at.

THE COURT: No problem.

Anything by the defendant other than that?

MR. BECK: Other than that, Judge, that's it.

THE COURT: Bring the jury in, please.

(Jury enters the courtroom at 9:33 AM.)

THE COURT: Good morning.

THE JURY: Good morning.

THE COURT: How was your fruit?

THE JURY: Awesome. Thank you.

THE COURT: I'm used to getting a sausage biscuit. I hope you had a wonderful evening, a pleasant evening. We're going to get started with

testimony right now and we'll move along. At the first break, we'll give you menus and give you some choices of where to order from. They've got a new place on there. All they sell is fruit, so...

Mr. Weeks, you may call your next witness.

MR. WEEKS: Your Honor, the State would call Vicky Edwards.

VICKY EDWARDS

being first duly sworn, testified as follows:

THE WITNESS: Yes.

THE CLERK: Have a seat in the witness box, state your name for the Court and spell your last.

THE COURT: Now, is this Vicky Hallman that was on the list?

MR. WEEKS: It is, Your Honor. Everybody might want to congratulate her. She just got married.

THE COURT: Congratulations.

THE WITNESS: Thank you.

THE COURT: How long have you been married?

THE WITNESS: Not quite a month. Vicky Edwards, E-D-W-A-R-D-S.

DIRECT EXAMINATION

BY MR. WEEKS:

Q. Ms. Edwards, where are you employed?

A. I'm a senior agent with the South Carolina Law

Enforcement Division.
Q. Can you kind of give me a little background and history of your employment with SLED and how long you've been in law enforcement?
A. I've actually been in law enforcement since 1991. I started as a road patrol officer at the Lexington County Sheriff's Office. In 2000, I was promoted to investigator and worked in the crime scene unit at Lexington County from 2000 till 2004.
And in 2004, I was hired at the South Carolina Law Enforcement Division as a special agent in the crime scene latent prints unit.
Q. Can you tell me what your duties were comprised of that in unit?
A. The crime scene unit at SLED is basically set up -- SLED, as a whole, is an assisting agency. The crime scene unit is usually called by local agencies, be they state -- we do state cases, we do county cases, and municipal cases. We are usually requested to assist in processing crime scenes and evidence from those crime scenes.
Q. From 2004 until 2000, what were you in that unit at SLED?
A. I transferred out in September of 2014.
Q. So in May of 2013, you were still in that unit?

A. Yes, sir, I was.
Q. And were you called to assist the Aiken Department of Public Safety in a crime scene on the night or early morning hours of May 28th, May 29th, 2013?
A. Yes.
Q. And tell me what you did from there, Vicky.
A. Usually, the call will come in, especially after hours, to our operations desk. Whoever is on call for crime scene at that time -- which, in this case, it was myself and Agent Haley Quam -- we get the call, we're given a contact name and phone number.

I made contact -- I believe my contact at that time was David Savage. I made contact with him just to get some basic information before we responded in case we needed some equipment that we don't normally carry in our vehicles. We responded to the scene. We were given a little bit more information that had developed before we arrived at that point in time.

When we arrive on a scene, we do a walkthrough with the investigating agency because they've had a chance to look at everything, they kind of know more about what's going on than we do. So we basically walk through the scene. We'll start taking notes at

that time just of observations; if there's anything overturned or if there's anything that looks out of place.

We'll document the scene with photographs. We do that at the very beginning so that we can show, in this case, you or anybody else who needs to look at it, what the scene looked like when we arrived.

At that point, we do those photographs. We continue note-taking and photographs throughout the entire process. We look for evidence, photograph those. We usually put markers down on those evidence. They're little yellow triangle-shaped little tents, kind of, that have numbers on them so that you can go back and see where the evidence was located. That evidence is usually then collected and sent to an appropriate department at SLED for processing.

Q. Okay. And in this case, did you do all those things?

A. Yes, sir, we did.

Q. You mentioned Haley. Were you working in tandem with her? She was side by side with you?

A. Yes. We processed the scene together. She might have done some tasks, I might have done some tasks, but we were both always aware of what the

other person was doing.
Q. So her testimony would essentially be the same as what yours is going to be?
A. Yes, sir.
Q. Now, do you make crime scene sketches?
A. Yes, sir, we do.
Q. And you take photographs, hundreds of photographs sometimes, but dozens of photographs, at least?
A. Yes.
Q. When you arrived at this particular crime scene, do your records reflect where that was? Was it in the City of Aiken?
A. Yes, sir. I believe it was [redacted] Aldrich Street in Aiken.
Q. And have you reviewed the photographs, really, the voluminous number of photographs that y'all took that night?
A. Yes, sir, I have.
Q. And we've shown you some photographs that we picked out of that large number of photographs?
A. Yes, you have.
Q. Are all of those photographs true and accurate copies of what they purport to show?
A. Yes.

Q. I'm going to hand you a number of photographs, Vicky, and ask if you can identify what they are. The first batch I'm going to hand you is already in evidence.
A. Okay.
Q. But I'm going to call them out just for the record. State's 1, 2, 3, 4, 5, 6, 16, 22, 28, 30, 31, and 32. They've gotten a little mixed up. But if you can identify what each one of those photographs is, just yes or no, and then at some point we're going to raise this monster here and put them up on the TV.
A. Yes, sir, I do.
Q. Okay. Let me have that stack back. Photographs 7, 8, 9 --
THE COURT: All new ones now?
MR. WEEKS: Your Honor, I think these are all new ones that we haven't put in evidence yet.
THE COURT: 7, 8 --
MR. WEEKS: 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, and 29.
BY MR. WEEKS:
Q. I hand you all of these, Vicky, and ask you just to flip through those and see if you can identify those.

A. Yes, sir, I do.
Q. Are they true and accurate copies of what they purport to show?
A. Yes.
Q. And are all of these photographs that I handed you photographs that you or Haley took that night?
A. Yes, sir.
MR. WEEKS: Your Honor, I'm showing defense counsel the second batch of photographs. We move to introduce those into evidence.
THE COURT: Any objection to those, Mr. Beck?
BY MR. WEEKS:
Q. Vicky, they were taken at the crime scene?
A. Yes, sir they were.
MR. BECK: I would object to one, Your Honor, number 8.
THE COURT: Number 8. Let's have a sidebar and let me look at it.
(Sidebar conference.)
THE COURT: We've had a sidebar. I'm going to overrule your objection. You'll be given ample opportunity to cross-examine on the one picture that you have some question about.
Mr. Beck, please remind me when we take a break, you can put your exact wording of your

objection on the record.

MR. BECK: Thank you.

(State's Exhibit Nos. 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 29 admitted into evidence.)

BY MR. WEEKS:

Q. Vicky, I'm going to hand you what's marked State's Exhibit No. 49 that's in evidence. Do you recognize what's depicted in that exhibit?

A. Yes, sir, I do.

Q. What is that?

A. This is a blown-up version of the sketch that we created of this crime scene.

Q. We being?

A. Myself and Agent Quam.

Q. Okay.

THE COURT: What you need?

MR. WEEKS: Norwood. If I press a button on this thing, the whole courthouse will blow up.

THE COURT: That's not exactly true, ladies and gentlemen. It probably wouldn't work.

BY MR. WEEKS:

Q. Vicky, while I'm waiting on my assistant to operate this TV, can you tell me did you collect some evidence at the scene and what evidence that

was and what did you do with it?
A. We collected numerous items of evidence. We had some cartridges, which most people would know as an unfired bullet. We had some cartridge cases, which were basically just the shell that was left that had been fired. There were several areas that had what appeared to be blood, so we collected samples of that. And there was actually some footwear impressions also, and we collected those.
And they would have been taken to the SLED laboratory. The firearms evidence would have gone to the firearms department for analysis and the blood would have gone to the DNA department.
Q. I'm going to hand you what's been marked State's 51. I'll ask you if you can identify the items contained in that envelope.
A. Yes, sir, I can.
Q. Can you describe what they are?
A. Each little box, when we recover any type of firearms evidence, we usually stick it in these little matchboxes. So each one of these would either be a cartridge, a cartridge case, or an actual bullet that we recovered from the crime scene.
Q. And those were collected and what did you do

with those?
A. We would have collected these at the initial crime scene. I believe we swabbed some of them for DNA. Those swabs would have been sent to the DNA department. And then these items would have been forwarded to the firearms department, specifically in this case, Special Agent Dan DeFreese, who conducted the firearms examination.
Q. And you would have delivered those personally to Dan?
A. Yes. In this case, I did deliver them personally to him in the sealed container.
Q. Did you damage or manipulate or do anything to injure these items while they were in your possession?
A. No, sir, I did not.
MR. WEEKS: Your Honor, if it's okay now, I'm going to publish the photographs that we've previously introduced and currently introduced into evidence.
THE COURT: Is this something new that's showing on both sides now?
MR. WEEKS: Judge, I'm always on the cutting edge, as you know. But, yes, showing on both sides.
THE COURT: It's showing on my side. Is it

showing on the jury's side?

MR. WEEKS: I hope so.

THE COURT: I always have to get down and stand over there. Now they've got it so I can look.

MR. WEEKS: Yesterday it wasn't showing on anybody's side. I think we have it showing the actual same picture.

BY MR. WEEKS:

Q. Vicky, can you describe what's depicted in State's Exhibit No. 1?

A. This would be a photograph of the outside of the residence as we arrived on the scene. They did have the scene surrounded with the yellow crime scene tape. And it just kind of shows at least part of all of the vehicles that were parked in the yard.

Q. Is there a door depicted in that particular photograph to the residence?

A. On the left-hand side near that pickup truck, there's actually a door that's on the end of the residence, and that's where we made entry into the crime scene.

Q. All right. State's Exhibit No. 2, can you describe that scene?

A. This is the back of that residence. The -- where the -- on my side where the little arrow is,

is actually the door that leads into the kitchen that's right beside the utility boxes. And that's where it appeared that possibly the suspects may have made entry into the residence.

Q. And the photograph of the window just to the left of that doorway, where would that window have gone into?

A. That would actually be in the kitchen area. And, if I'm not mistaken, just inside there was a microwave sitting on a table right underneath that.

Q. And the window to the left of that, do you know where that went into?

A. That would be in the dining room area, I believe.

Q. Going the other way, the other left, back this way?

A. The little small kind of window would actually be in the bathroom.

Q. State's Exhibit No. 3?

A. That's basically as we walked into the residence. The first room we actually entered when we went in that side door is just a big open area. Right at the edge of the photograph where you can just see that partial folding chair, we came in that doorway. And as we looked to the left, you could

see that dining room table, and then to the right was more of a living room area.

Q. State's Exhibit No. 4?

A. That's just a little bit more close-up photograph of that dining room area with the dining room table. If you look back -- on the right-hand side in your photograph, you can see that microwave is kind of turned catty-corner on the table. And that back door that leads into the kitchen is also depicted in that photograph.

Q. And State's Exhibit No. 5?

A. As we walked in that door from the side, this is just a picture of the dining room with more of what's up against the opposite wall of the kitchen.

Q. State's Exhibit 6?

A. Behind that stool from the photograph you just saw, there appeared to be a bullet hole just above the baseboard. That was documented with photographs and there's actually another series of photographs with that.

Q. State's No. 9?

A. The dining room table that you saw earlier in some of the previous photographs, you can see the dining room chair. This is the floor into the kitchen area with an overturned trash can. You can

actually see part of the victim sitting on the floor. And this is close to the back door. The table legs that you see is where the microwave is actually sitting.

Q. State's Exhibit 10?

A. This photograph, also the kitchen area. They're not marked yet because these are general photographs, but there's actually two cartridge cases, I believe, and a cartridge, which is an unfired bullet, that are depicted in that photograph, along with the left arm of the victim.

Q. State's Exhibit 11?

A. This is one of the markers that I was telling you about earlier. This is near the mop, which is underneath the microwave stand. That's actually what we'd call a cartridge, which means it's the bullet and the cartridge case together. So it's an unfired round.

Q. State's Exhibit 12?

A. The -- not the last photograph, but the one before where you saw the left arm of the victim and the kitchen floor, this is one of the cartridge cases that was located near the body. This one has been fired, so it's just basically the shell that's left on the floor.

Q. State's Exhibit 13?
A. Same thing, just a different item number. This one is closer to the cabinet close to where the victim was sitting.
Q. It's a separate cartridge case?
A. Yes, sir, it is, because it's actually marked with Marker No. 2.
Q. State's Exhibit 14?
A. This is Marker 3. This one, just like the item that was Marker 13, it is one that has not been fired. It's actually under the ledge of the cabinets up against the wall. And this one would have been on the left-hand side of the victim.
Q. State's Exhibit 15?
A. This -- what you see in the background is actually the corner of that kitchen door that leads to the outside in the backyard. We found a white-handled, what appeared to be like a kitchen knife that appeared to have blood on the blade. We marked that with Marker 4 and collected it for processing.
Q. Skipping to 17. State's Exhibit 17, Vicky?
A. That is a bullet strike into the refrigerator. It -- the refrigerator in this house had the freezer on the top that you open separately and then the

refrigerator door. This is in the refrigerator door close to the handle.

Q. 18?

A. As that bullet traveled through the refrigerator, it actually ended up in that little compartment underneath it, a lot of people would put, like, meats in. It actually broke into that and the bullet was actually recovered inside the tray -- or inside that drawer.

Q. 19?

A. That's just a little bit close-up photograph of where the bullet entered into that drawer.

Q. Vicky, we don't have to go back to the photograph, but the photograph showing the front of the refrigerator and the bullet hole --

A. Yes, sir.

Q. -- the white particle-looking stuff that's in the hole there, is that something y'all put in there or was it part of the refrigerator?

A. That's part of the refrigerator.

Q. Is it insulation-type suff?

A. It appeared to be something like Styrofoam. But, yes, it was an insulation.

Q. State's 20?

A. That's the actual bullet that we recovered in

that drawer after it went through the refrigerator.
Q. State's 21?
A. That's the interior or the inside of that back door in the kitchen. On the twist lock, you can actually see that there appeared to be blood. So we collected a sample of that for analysis at the laboratory.
Q. Do you recall whether that lock is in a locked or unlocked position?
A. I believe it's in a locked position.
Q. State's Exhibit 23?
A. This is some of the kitchen cabinets. If you were standing in that back door that goes into the kitchen and facing straight ahead, that would be one of the cabinets that's close to the stove. It appeared to be some type of fairly fresh damage, possibly where a bullet may have entered the cabinet.
Q. Was there a splinter on the floor approximately the same length as the slice in that cabinet?
A. Yes, sir. It's actually located close to the victim.
Q. And the refrigerator would have been to the right of this cabinet?
A. Yes, sir, if you're facing it.

Q. State's Exhibit 24?
A. That picture would have been taken before the previous one with the marker. It just shows the placement of the knife in relation to the back door and the mop.
Q. State's Exhibit 25?
A. That's a photograph of the victim as we found him.
Q. 26?
A. The other -- the previous photograph showed more of his upper body. This photograph depicts his lower body and the blood stains that were around him on the floor.
Q. 27?
A. In that particular photograph, the focus -- there's a plastic knife that was in that blood. That just seemed out of place to us, so we made sure that we documented that with photographs.
Q. Vicky, can you describe what's in 28?
A. After you come back out of that kitchen area, you can turn to the left and go down a hallway where the bedrooms are located. This would be the first bedroom on the right-hand side. It's just a general photograph from the doorway showing you the bed and some other items that are in that bedroom.

Q. 29?
A. In that particular bedroom, we found some paperwork. At the time, we weren't sure who actually owned that residence. This is just paperwork showing who was paying the electric bill. And I believe -- I don't remember if the other one was like a water bill. But, basically, showing names with that address to try to figure out who was living in that residence or possibly who owned that residence.
Q. And the name of Shane Jones appears on two of them?
A. Yes, sir, it does.
Q. Thank you.
State's No. 30?
A. As you continue down that hallway, the bathroom is going to be on your left-hand side. And this is just a photograph into the bathroom from the doorway of the hall.
Q. 31?
A. Once you get inside the bathroom, the tub is basically straight across or almost straight across. There appeared to be a blood stain on the shower curtain and also in the bottom of the tub along with some footwear impressions. So, basically, that's a

general photograph showing what we saw in that bathroom on the shower curtain and tub.

Q. Right above that tub is the blood located there that you described earlier?

A. Yes, sir, it is.

Q. Vicky, on State's Exhibit 7, I believe you have described a similar photograph earlier, but what does that photograph depict?

A. It appeared to be a bullet hole in the dining room area behind one of the stools. And the area behind that wall would actually lead into a small closet.

Q. State's Exhibit No. 8, what does that depict?

A. One of the ways that we try to help to determine where a bullet may have been located or be located or the path that it's traveled is by using these wooden dowel rods. We kind of stick them through the hole and sometimes it will help us try to locate where it went to, or if we're trying to show the trajectory of the bullet, those can assist in doing that. In this case, we used the dowel rod to try to locate the bullet inside the closet. That's just a photograph with the dowel rod in that particular hole.

Q. And there's a wall there, I'm assuming?

A. Yes, sir. And on the other side of that wall is actually like a closet.
Q. And were you able to find any projectile on the other side of the wall?
A. No, sir, we were unable to locate any.
Q. What did you do to try to locate that?
A. There were numerous items piled in the bottom of that closet. We took each item out and examined it to see if there was a bullet or a bullet hole in it. We even lifted the carpet up and got down to where the padding was located and were unable to locate any kind of bullet fragments or any bullets.
Q. State's 22?
A. That's basically just a -- on the upper part of the wall where the back door into the kitchen is located. That's just a photograph basically showing the door itself. You can see there's an overturned cup on the microwave. It appears to be at an odd angle. And you can actually see the top of the victim's head leaning up against that back cabinet.
Q. The back door into the residence that you've described?
A. Yes, sir, that leads into the kitchen area.
Q. Vicky, I didn't take you through all of the markers that you've indicated that you put on

State's Exhibit 49, but the ones we've shown pictures of to you, are they depicted on State's Exhibit 49?

A. Yes, sir, they are.

Q. Vicky, when you get to a crime scene, you don't always know who did the crime, do you?

A. No, sir.

Q. And you're kind of working in a cold environment most of the time, aren't you?

A. Yes, sir. We're trying to collect any type of evidence that we see, be it evidence that's good for what turns out to be a defendant or against the victim. We're there to collect anything that we find that appears to be illegal or out of place.

Q. Did you dust the back door for fingerprints, try to find fingerprints inside the house?

A. Yes, sir, we did, especially the back door.

Q. Were you able to get anything of significance?

A. No, sir.

Q. Vicky, you collected, if I remember correctly, a bunch of photographs of footprints or footwear impressions when you did this?

A. Yes, sir, we did.

Q. Were you able to connect that to anybody in particular?

A. No, sir, we were not.
Q. That's all the questions I have for you. Answer any questions the defense may have.
THE COURT: Gentlemen?

CROSS-EXAMINATION

BY MR. BECK:
Q. Good morning, Ms. Edwards.
A. Good morning.
Q. I just have a few questions for you. Were -- where Mr. Jones was found, there were two casings; correct?
A. There were -- yes.
Q. Excuse me. Let me rephrase that. Two fired casings?
A. Yes, sir.
Q. And there were two unfired bullets; is that right?
A. There were two unfired. One was in the same general area where the two cartridge cases were located, which were markers -- I believe all three of those together are Marker 1, 2, and 3. If you were facing the victim, they would have been on the right-hand side. And then there's another unfired or cartridge that's located near that microwave stand.

Q. Okay. And inside the refrigerator, there was one projectile?
A. Yes.
Q. And a projectile is a fired bullet?
A. Yes.
Q. And there was only one fired bullet found at the scene?
A. Yes.
Q. And you spoke to Mr. Weeks. You found a few holes in some of the walls?
A. Well, we found a hole in the cabinet in the kitchen and then one in the living room area.
Q. And you examined all of those areas to try to find projectiles?
A. Yes.
Q. And in doing that, you were not able to find any projectiles?
A. Correct.
Q. On the back door, was there any indication that it had been busted in?
A. No.
Q. Okay. And to go back to the doweling rod when you were looking for the bullet in the closet, you guys looked pretty hard to try to find a bullet there?

A. Yes.
Q. You even stated you pulled up the carpet and padding?
A. Yes.
Q. And there was just no bullet in there?
A. Correct.
Q. And where were the footwear analyses you were talking about earlier?
A. There were footwear impressions -- there was actually one in the blood around where the victim was in the kitchen. And if you exited out the back door of the house and went around to the right-hand side of the residence, there were footwear impressions in the sand on the outside of the residence.
Q. And in those analyses, did they show any link to anyone in particular?
A. No. I only had two pair of shoes to compare them to and it didn't belong to either pair of those shoes.
Q. Okay. And just to go back to the cabinet.
A. Okay.
Q. With the -- what appeared to be a bullet hole, there was no bullet in there; correct?
A. Not that we could find, no.

Q. One second. Isn't it true that every piece of firearms evidence found at the scene was connected with a nine-millimeter pistol?
A. I have no -- I didn't do the firearms analysis, so I can't tell you specifically what those items of evidence link back to. I didn't do that examination.
Q. Not any particular -- but they were -- the firearm pieces of evidence that were at the scene, the projectile in the refrigerator, the two fired shell casings, and the unfired bullets found.
A. Okay.
Q. All of those, those were nine-millimeter bullets?
A. I can only go by what's on the head stamps. And I have no way of knowing with the bullet itself that was recovered from the refrigerator because that's not part of what I do. I collect the evidence, somebody else does the analysis.
Q. Were all of the head stamps the same?
A. Yes.
Q. So that would tell you that it was the same type of bullet --
THE COURT: Sir, she's already answered she can't testify to that. You have a witness coming to

testify to that.

MR. BECK: Nothing further. Thank you.

THE COURT: Anything further on redirect?

REDIRECT EXAMINATION

BY MR. WEEKS:

Q. Vicky, I just want to make clear, by the time you get there, you honestly don't know how many people have tramped through that particular area, do you?

A. No.

Q. Is it common to not be able to find projectiles?

A. In some instances, yes. And, also, we go into residences, we know nothing about what the house originally was like even before the crime took place. I mean, I've gone back to houses a second time for another incident and we've had instances where other SLED agents have gone and the scale tape is actually still up on the wall from a previous incident.

So we don't know, when we go in, if the damage was caused at that particular time or if it was previous damage. It just looks out of place to us, so we document it when we see it.

Q. Referring to what appeared to be a bullet

indication on the cabinet, one in the refrigerator, and one in the wall over there, did you find any other indicators that indicated it had been struck by a fired projectile?

A. No.

Q. Thank you.

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

THE WITNESS: Thank you, Your Honor.

THE COURT: Next witness, please.

MR. WEEKS: Your Honor, the State would call Dan DeFreese, formerly of the SLED laboratory.

DAN DEFREESE

being first duly sworn, testified as follows:

THE WITNESS: I do.

THE CLERK: Have a seat in the witness stand and state your name and spell your last.

THE WITNESS: My name is Frank Dan DeFreese, that's capital D-E, capital F-R-E-E-S-E.

DIRECT EXAMINATION

BY MR. WEEKS:

Q. Dan, where are you employed -- or formerly employed, I might say?

A. I was formerly employed with the South Carolina Law Enforcement Division in the forensic services

laboratory in Columbia.
Q. And how long had you been there?
A. I was in my 49th year of service when I retired this past September.
Q. I would have guessed 48, but I'm just saying. Are you retired now?
A. I am.
Q. And are you working anywhere else?
A. No, sir.
Q. In May of 2013, were you working with SLED?
A. I was. I was in the forensic services laboratory in the firearms department at that time.
Q. And have you been in firearms ever since you began at SLED?
A. Most of the time -- most of my employment, I was either in the laboratory or the firearms department of the laboratory.
Q. Specifically, if you recall, how many years were you in firearms?
A. Really, from the very start, from the time I was employed, which started in 1967, with the exception of a few years I was doing administrative work, the whole rest of the time was with firearms identification.
Q. Can you describe to me what firearms

identification is about?
A. Generally speaking, our biggest concern in the field of firearms identification is identifying fired ammunition components either with each other or back to the firearms in which they were fired. That is to identify a fired cartridge case or fired shotgun shell as having been fired by a specific weapon or a fired bullet as having been fired in a specific gun barrel.
We also do some other studies about safety, reliability, bullet path studies, and distance determinations. But the bread and butter of it is the identification of firearms to the -- firearms ammunition components back to the gun which they were fired.
Q. How about comparison of the components to each other?
A. It's so often we get cases where there is not a firearm recovered. And the principals of the identification are essentially the same. When we identify a specific firearm, we do it through having test-fired a bullet in a cartridge case in that firearm and then we identify the test-fired bullet or cartridge case with the evidence bullet or cartridge case. And it's a side-by-side microscopic

comparison of the marks that are put on the bullet or cartridge case by the firearm during the firing sequence.

Q. And do you have any estimation of how many type firearms analyses you have done over the years?

A. Not really. Thousands of identifications and comparisons.

Q. How many times have you done -- or have you testified in court as an expert witness?

A. I did not track my testimonies during the greater part of my career, but I estimate I've probably testified 6- to 700 times.

Q. And I kind of ran two questions into one. Have you been qualified as an expert in this state to testify as to firearms analysis and identification?

A. Yes, sir, I have.

Q. And each of those 6- or 700 times you've testified, were you qualified as an expert?

A. Yes.

MR. WEEKS: Your Honor, I would move to qualify former SLED Agent Dan DeFreese as an expert in firearms identification and analysis.

MR. WALSH: Without objection, Your Honor.

THE COURT: Madam Forelady, ladies and gentlemen, this witness will be allowed to testify

and give opinions in the area of firearm analysis. And I'll explain to you about expert opinion testimony at the conclusion of the case.

BY MR. WEEKS:

Q. Dan, were you submitted anything in the case we're here for today from Aiken Department of Public Safety for analysis in your field?

A. Yes, sir.

Q. Can you describe what you were submitted?

A. I received two fired nine-millimeter Luger caliber cartridge cases, two unfired nine-millimeter Luger caliber cartridges, and one fired bullet. I received all of those directly from Vicky Hallman.

Q. Vicky Hallman Edwards?

A. Right. It was Vicky Hallman at the time.

Q. State's Exhibit No. 51, can you identify that?

A. That's the entire contents of the -- yes, sir, I can identify the contents of Item 51.

Q. And just generally describe the contents of Item 51.

A. Item 51 contains two fired nine-millimeter Luger cartridge cases. It's what a lot of people call a shell case. It has no bullet in it and its primer has been struck and all the powder been burned in it. I denoted one of these as my Item 7

and the other as my Item 8. And I recognize these by the markings that I engraved on them at the time just prior to my analysis.

There are also two unfired nine-millimeter Luger cartridges. These are complete rounds of ammunition containing the bullet, the cartridge case, primer, and propellant powder. That's Sellier & Bellot -- that's S-E-L-L-I-E-R and B-E-L-L-O-T -- brand. It's a brand of cartridge made in Czechoslovakia or now the Czech Republic. And they're nine-millimeter Luger head stamps that are the same as the head stamps on the fired cartridge cases.

Q. Just for clarification, a head stamp is what?

A. A head stamp is a mark that's placed on the base of the cartridge case, usually to -- it's an identifying marking. And in this case, it carries the trademark of the manufacturer, the initials S and B, which is about all you can get of their name on it, and then the caliber and, in this case, the year of production, which was 2010.

Q. And those type of bullets are sold in the United States?

A. They are. And the last item, Item 11, is a fired bullet; a fired bullet, which I later

determined to be a nine-millimeter Luger caliber bullet. It's a full-metal-jacketed lead-cored bullet. And it's consistent in its construction with the bullets that were in the two unfired cartridges.

Q. Describe that full-metal-jacketed lead-core construction.

A. It's a type of bullet -- it's known generally as full-metal case or full-metal jacket. And it consists of an outer cup made out of a copper alloy, and then inside there's a core that's made of lead. If you sort of think about, like, a sewing thimble, that's just a cup. If you were to take it and fill the base of it with lead and crimp it together, you would have the equivalent of a full-metal-jacketed bullet.

Q. Dan, were you submitted anything else from the Aiken Department of Public Safety for analysis in this case?

A. I was.

Q. I'll hand you what's marked State's Exhibit No. 50 and ask if you can identify this item. And just for the record, Dan, is that item secure?

A. Yes, sir. It has a cable tie run through the magazine well, so it's not capable of firing in its

present condition. This is the nine-millimeter Luger caliber Norinco pistol that was submitted to me for analysis in this case together with one magazine.

THE COURT: You said Luger what?

THE WITNESS: It's a Norinco -- N-O-R-I-N-C-O -- is the brand. It's a Norinco Model 213. And it's marked 9x19 millimeter, which is the same thing as nine-millimeter Ruger, the cartridge we know is nine-millimeter Ruger.

BY MR. WEEKS:

Q. And that is the principal type of bullet that that weapon can fire?

A. That's the kind of cartridge it's intended to fire, which is the same as the unfired cartridges in State's Exhibit 51.

Q. That was kind of my next question. Were you able to compare that pistol with the items in State's Exhibit 51?

A. I compared test bullets and cartridge cases fired by the Norinco pistol with the fired bullet and the two fired cartridge cases in State's Exhibit 51. I found matching breach face markings on the cartridge cases from which I determined that the two fired cartridge cases in State's Exhibit 51 were

fired by this pistol.

And I found the same general rifling characteristics and matching individual striated marks on test bullets and on the fired nine-millimeter Ruger bullet in State's Exhibit 51, from which I also concluded that that bullet was fired by this pistol.

Q. Give me a little bit of background about how you look at a fired bullet and make a determination it was fired from that gun.

A. Well, backing up one step, the bullet, when it's fired in a gun barrel, is gripped by the interior surface of the gun barrel, what we call the bore. Within the bore of a rifled firearm, there are grooves that are placed there in order to impart a spin on the bullet.

Because the bullet is conical shaped and just like a football, if you didn't put a spin on a football, it would tumble and would not fly straight in the air. So the conical bullet, it's spun to enhance its accuracy. So rifling is put there to make the gun more accurate in actual use.

But we found, by looking at fired bullets, that the machine marks that are left over from manufacture together with whatever use and abuse

that occurs to the gun barrel over its life results in a signature being left on bullets by gun barrels. And where the bullets are recovered in sufficiently undamaged condition, that is where there are marks that remain that we can see. We can identify, in some cases, a particular bullet as having been fired by a particular gun barrel.

In this case, as I said before, we test-fired the gun to get bullets that we know that it has fired, first comparing the test bullets with each other to see if the gun is consistent and reproducible in its marking, and then taking one test bullet and comparing it with the questioned evidence bullet to see if the same general rifling characteristics; that is the number of lands and grooves, the direction of twists, what have you, are the same, which they were, and beyond that to see if there are individual striated marks that that gun barrel leaves on bullets that are sufficient and identifiable.

In this case, I found sufficient and identifiable individual marks, marks that would be peculiar to this firearm as opposed to the next one made in the same factory on the same day. So that's the basis of the identification. That's what I

found. And my conclusion was that the fired bullet in State's Exhibit 51 was fired by this pistol.

Q. Just to be clear, you use some ammunition that SLED has available to fire through the gun?

A. Yes, sir.

Q. You didn't fire the two cartridges that were submitted unfired?

A. No, sir.

Q. And it's only in a rare case that you would do that?

A. In some cases we do where there's an adequate quantity of ammunition. In most cases, we first attempt to test-fire a given firearm with ammunition we provide that's the closest thing we can find to it. And in some cases, we get what we want with that and others when there's submitted ammunition, we will sometimes shoot it.

Q. For example, if the clip had been submitted to you full of spare ammunition, you might have used one of those if it was a rare --

A. I might have if I had not gotten good markings on our provided ammunition. But in this case, I did.

Q. And to be clear, it's your opinion that the cartridge cases that were submitted to you were

cycled and fired through that gun?
A. Yes, sir, both of them.
Q. Your records reflect you received this weapon from Aiken Department of Public Safety Missy Odenthal?
A. I believe she submitted, yes, sir.
Q. And who brought it up to you to the SLED firearms lab was who?
A. We have an evidence control section in the laboratory, and I went down to where they warehouse incoming evidence and picked it up there.
Q. Do you know the date you did that? Is it marked on the box here?
A. The pistol, which was my Item 27, came into my custody on June 5th, 2013.
Q. And you received it -- you went down and got it?
A. Right, I got it.
Q. Who had possession of it there?
A. Doris Yarborough actually handed the pistol to me.
Q. And the condition she handed it to you, can you describe that condition?
A. That box would have been sealed with the yellow SLED evidence tape. It was in a closed and

evidence-taped sealed container when I received it. And their general procedure is they don't take evidence from the submitting agency without it also being in an evidence-taped sealed container. The evidence moves throughout the laboratory from department to department usually in a sealed condition.

Q. And the pistol you received was in a sealed condition?

A. Yes, sir, it was inside that box.

Q. Of course you have to open up the box.

A. I did. And then I resealed it after I concluded by examination for it to be returned.

MR. WEEKS: The State would move to introduce State's No. 51, Your Honor, and 50.

MR. WALSH: No objection.

(State's Exhibit Nos. 50 and 51 admitted into evidence.)

MR. WEEKS: Dan, answer any questions the defense would have for you.

THE COURT: Mr. Walsh?

CROSS-EXAMINATION

BY MR. WALSH:

Q. Good morning, sir.

A. Good morning.

Q. I'll try to be brief. Do you feel confident or certain that you reviewed all of the firearms evidence that was collected in this case?

A. I only analyzed what was submitted to me. I don't know how much more there is.

Q. To your knowledge, as you sit here, is there any other firearms evidence that you did not analyze?

A. I'm unaware of anything else.

Q. All right. And just to sum it all up, you believe that this gun and those bullets, they're all tied together, whether fired or unfired, they're all tied to that one nine-millimeter gun? Is that an accurate statement?

A. In one fashion or another. Now, the two unfired cartridges are consistent in caliber, brand, and type. But I didn't identify the unfired cartridges with that particular firearm.

Q. Because there's no markings to do that until it's fired; is that fair enough?

A. Well, there are markings or there can be markings. Sometimes if a cartridge is loaded into and extracted and ejected from a firearm, just as this, without being fired, sometimes the gun will mark it and sometimes we can identify an unfired

cartridge as having been in the gun. But I didn't do that in this case because it wasn't requested.
Q. And do you recall if your test cartridge -- is that an ejector mark? Is that a fair term for what you've just described?
A. The extractor marks and ejector marks are usually the marks we would look for if we were to view an unfired cartridge with an eye towards associating it with a firearm. Sometimes there are magazine marks or other internal marks a gun can leave on such a cartridge. But, as I said, I did not do that in this case.
Q. But the unfired cartridges are in every way consistent with the fired ones; yes?
A. The same caliber, same brand, same type of construction, yes. They are consistent.
Q. And the fired ones, you were able to reasonably certainly link to that firearm?
A. Yes, sir.
Q. Did you review any piece of firearms evidence that appeared to be tied to any type of .22 rifle?
A. No, sir.
Q. Although not in evidence, you were qualified as an expert. Would you agree that a semiautomatic .22 rifle, if it fired a shell, a semiautomatic .22

would also eject a shell casing, generally speaking? Isn't that accurate?

A. It's supposed to. If it's in proper working order and in its proper firing sequence, a semiautomatic .22 rifle for each cartridge fired, it will put a bullet down the barrel and extract and eject a cartridge case and reload for the next round, if ammunition is present.

Q. And for a bolt action .22 rifle, in general, is it an accurate statement that, at least to fire a second shot to process that bolt, that would result in an ejected casing in working order?

A. Yes, sir. Any manually operated firearm, such as a lever action or a bolt action, would require the shooter to manipulate the action to prepare it for the next round to be fired. He could, for instance, go and shoot a bolt action rifle one time and not cycle the bolt and walk away with the cartridge case still in the gun.

Q. Right.

A. But if he's to prepare it for the second shot to be fired, he has to open and extract and eject the fired cartridge case.

Q. And I don't think this was you. There was some indication these bullets may have been tested for

fingerprints or DNA. That is not your department?
A. Correct.
Q. Would that have been done before or after they got to you?
A. I hope before because I would have handled them extensively and they would be unsuitable for DNA analysis after I finished with them.
Q. So, to your knowledge, that may have been done, but that's not your area?
A. Correct.
Q. Okay. Thank you. Nothing further.
THE COURT: Mr. Weeks, anything else?
MR. WEEKS: Just one thing, Your Honor.

REDIRECT EXAMINATION

BY MR. WEEKS:
Q. Dan, the weapon, State's Exhibit 50, has a clip with it. Can you tell me how many cartridges that clip would hold or how many rounds that gun could hold?
A. This magazine will hold a maximum of eight cartridges. And if the gun were loaded with one cartridge in the chamber, it could be fired as many as nine times without reloading.
Q. Okay.
A. And it also being a semiautomatic pistol, would

automatically extract and eject the cartridge case for each bullet pulled so long as it was working properly.

Q. If it was working properly?

A. Yes, sir.

Q. And -- well, guns like that, can they jam or stovepipe or fail to work properly?

A. They can. Sometimes you get a situation where the fired cartridge case will not be properly extracted and ejected or it may be extracted and ejected and the next cartridge may fail to properly go in the chamber when the slide closes, which results in a jam.

Q. And to clear a jam, what do you have to do, basically?

A. You take what's known as immediate action, which usually is to withdraw the slide slightly to see if you can get the mis-fed cartridge to fall out of the gun and feed another cartridge in. The police sequence for it generally is to tap the slide closed to see if the slide hasn't fully closed and you can get it fired there, rack it open, if it won't fire at that point, and tap to make sure your magazine is fully seated, which results in a lot of mis-feeds.

Q. And if a bullet doesn't fire, there's some indication there's either something wrong with the bullet or the gun. Can you take that bullet out?
A. If a cartridge doesn't fire that's in the chamber, generally the immediate action is to remove it and put another cartridge in it to see if you can get the next cartridge to fire.
Q. Is there any indication on the bullets in State's Exhibit 51, the unfired cartridges, that they had been cycled or attempted to be fired?
A. I didn't microscopically analyze the unfired cartridges for that purpose.
Q. But the fired cartridges you analyzed each had a clear primer mark on them, didn't they?
A. They did.
Q. The unfired cartridges, do you need to look at them to see whether they had visual unfired primer?
A. There's no obvious firing pin impression on it. No misfire attempt that's visible on it. But, as I say, I didn't microscopically analyze them for other marks that the gun could have made, so I don't know whether those cartridges were ever even in the gun. But they could have been. They could have had a mis-feed and they could have been cycled out of the gun in an attempt to get the gun to work again.

Q. Or they could have dropped out of somebody's pocket?

A. Just as easily.

THE COURT: You may step down. Thank you.

MR. WEEKS: They can be released.

Any objection to them being released?

MR. BECK: No objection.

THE COURT: Mr. DeFreese, enjoy your retirement and good to see you.

THE WITNESS: Thank you.

MS. HALL: The State calls Raven Williams.

RAVEN WILLIAMS

being first duly sworn, testified as follows:

THE WITNESS: Yes, ma'am.

THE CLERK: Have a seat in the witness box, state your name and spell your last.

THE WITNESS: My name is Raven Williams, W-I-L-L-I-A-M-S.

DIRECT EXAMINATION

BY MS. HALL:

Q. Raven, where are you from?

A. Dallas, Texas.

Q. Are you living in Aiken now?

A. Yes, ma'am.

Q. Are you working anywhere?

A. Yes, ma'am. Just got a job at Waffle House.
Q. And when did you start that job?
A. Monday.
Q. All right. Do you have any children?
A. Yes, ma'am.
Q. How many?
A. One.
Q. Boy or girl?
A. Boy.
Q. Do you remember where you were the night of May 28th of 2013?
A. Yes, ma'am.
Q. Where was that?
A. Shane's house.
Q. Shane Jones?
A. Yes, ma'am.
Q. Do you know what street that was on?
A. Aldrich Street.
Q. In Crosland Park?
A. Yes, ma'am.
Q. How did you know Shane Jones?
A. Through a mutual friend.
Q. About how long had you known him at the time of this incident?
A. For a couple of weeks.

Q. Do you remember what time you went over to Shane's house on May 28th?
A. Yes, ma'am; around noon.
Q. What do you remember happening on that day?
A. We was having a little get-together.
Q. And that night, what happened?
A. We was all sitting around at the table, you know, and Shane was in the kitchen. And that's when we -- the man came in and we heard gunshots.
Q. Did you see guns?
A. Just seen one big gun when they first came in.
Q. What did you do after you saw the gun and heard the gunshots?
A. I ran.
MS. HALL: Permission to approach the witness, Your Honor?
THE COURT: Yes, ma'am.
BY MS. HALL:
Q. Ms. Williams, I'm showing you what's previously been entered into evidence as State's Exhibit 49. Do you recognize this?
A. Yes, ma'am. That's Shane's home, like an outline.
Q. An outline of his house. Can you point out to the jury where you were sitting in the house when

the men with the guns came in?
A. In this area.
Q. So you were looking into the kitchen?
A. Yes, ma'am.
Q. Where was Shane?
A. Standing by the -- if this is the refrigerator, by the refrigerator.
Q. Okay. And where did you run once you heard the gunshot?
A. Towards the back because my boyfriend had grabbed my hand.
Q. This way?
A. Yes, ma'am.
Q. Where did you run into?
A. The bathroom.
Q. This bathroom right here?
A. Yes, ma'am.
Q. Okay. Did you see anybody let those guys in the door?
A. No, ma'am.
Q. They just came in with guns?
A. Yes, ma'am.
Q. Could you see their faces at all?
A. No, ma'am. At that time, I had blacked out.
Q. Nervous?

A. Uh-huh.
Q. From anxiety? Did you see Shane get shot?
A. No, ma'am.
Q. You didn't?
A. I just heard shots.
Q. Okay. You stated you ran to the bathroom with your boyfriend. Who was that?
A. Carl Taylor.
Q. And what happened when y'all got to the bathroom?
A. I don't know if the door was locked or somebody was on it, but we had to shove to get it.
Q. So you couldn't just open the door and get in?
A. No, ma'am.
Q. Was anybody else in that bathroom?
A. Yes, ma'am.
Q. Who was in there?
A. Worm.
Q. What's his real name?
A. Trevon.
Q. Is that a nickname you have for him?
A. Yeah.
Q. Once you were in that bathroom, what was going on? Could you hear what was going on outside?
A. It was just a lot of men outside, like,

running, walking, whatever, because when we was fixing to go out the window, it was either two or three men in a car sitting out there.

Q. Okay. Hold on just a second. You were going to try and go out the bathroom window?

A. Yes, ma'am.

Q. And you looked out that window and what did you see?

A. Like two to three men in a car sitting out there.

Q. Okay. Could you tell if they were in masks? What they were wearing? Did they have guns?

A. They had guns, but I don't know if they had masks or anything. It was really dark.

Q. Once you saw the men outside the window and realized you couldn't go out that way, what did you do?

A. I squatted down in the tub.

Q. What did you realize at that point?

A. That I was shot.

Q. Where did you get shot?

A. In my right leg through my tattoo. It went straight through.

Q. It went straight through, so you didn't have a bullet in your leg?

A. No, ma'am.
Q. How is your leg doing now?
A. It's fine, it's just pain.
Q. Just pain? But it healed up all right?
A. Yes, ma'am.
Q. Do you have trouble standing on it sometimes?
A. Sometimes. After, like, eight hours, I can't stand on it.
Q. At what point did you leave the bathroom?
A. When my boyfriend and Trevon left out the bathroom.
Q. What made them decide to leave the bathroom at that point?
A. I'm not sure if it was tapping on the outside or inside, I just know I heard tapping. Trevon went and then that's when my boyfriend went out.
Q. What happened after that?
A. Trevon and my boyfriend seen Shane shot. And I know my boyfriend called the police -- well, he told me --
MR. WALSH: Objection, Your Honor.
THE COURT: Ma'am, you can't testify about what somebody told you. Just tell us what you did.
THE WITNESS: Okay. I'm sorry.
Well, my boyfriend came back and told us not to

come up there. I came up there --

BY MS. HALL:

Q. Told you not to come up where?

A. In the kitchen where Shane was at. And we ended up coming up there anyway and we seen him. And then that's when the phone call -- well, Trevon had the phone, he dialed 911, and then he through it -- he tossed the phone to my boyfriend.

Q. Carl Taylor?

A. Yes.

Q. What did he tell them?

A. He told them two people had got shot.

Q. On the phone with 911?

A. Yes, ma'am.

Q. What did you do after Carl told 911 that two people had been shot?

A. I was telling Shane to, like, stay with us and everything. And I was trying to also keep myself under control because I had got shot. And then that's when Heather, she ran out the house, she left.

Q. Who's Heather?

A. Shane's baby mother, girlfriend.

Q. Heather Arthur?

A. Yes, ma'am.
Q. And she ran out the house?
A. Yes, ma'am.
Q. What happened next?
A. And then she came back. And that's when some lady came with her car and we used her car to take me to the hospital.
Q. So you got into another car?
A. Yes, ma'am.
Q. Who took you to the hospital?
A. My boyfriend, Carl Taylor.
Q. Go back to the car and where did y'all go?
A. To my grandmother's house.
Q. Why did you go to your grandma's house?
A. To let her know that I was shot. And also, I'm not from Aiken, I was only out here like a couple of weeks and I don't know my way around, so she had to show us where the hospital was.
Q. So she went to the hospital with you?
A. Yes, ma'am, in a separate car. She was in front of us.
Q. Showing you how to get there?
A. Yes, ma'am.
Q. Once you got to the hospital, did anybody from law enforcement come talk to you?

A. Yes, ma'am.
Q. Did you tell them what happened?
A. Yes, ma'am.
Q. Did anything of yours get taken during this robbery?
A. My phone.
Q. Did you tell law enforcement that?
A. Yes, ma'am.
Q. Did you give law enforcement information about your phone?
A. My number.
Q. Okay. Now, before the shooting actually happened, did you see Trevon Butler just prior to this shooting? Where he was?
A. Yes. He was playing the game on the couch. And then he kept going to the bathroom and then he went in the kitchen and then he went back to the bathroom.
Q. So kitchen and bathroom right before this happened?
A. Yes, ma'am.
Q. Do you remember what time it was when the shooting happened?
A. Not really. I just know it was around, like, 11:00 or 11:30 when I made it to the hospital.

Q. Okay. But it was dark outside?
A. Yes, ma'am.
Q. Okay.
MS. HALL: Beg the Court's indulgence.
BY MS. HALL:
Q. Raven, you stated that your boyfriend, Carl, called 911. What phone did he use?
A. It was a flip phone.
Q. Who did he get that phone from?
A. Trevon.
Q. It was a phone Trevon had?
A. Yes, ma'am.
Q. And he had that in the bathroom with him?
A. Yes, ma'am.
Q. Now, Raven, since this shooting incident, were you arrested in 2015 for unlawful neglect of a child?
A. Yes, ma'am.
Q. And is that charge still pending?
A. Yes, ma'am. I'll be finished with my DSS in March.
Q. So that's being taken care of?
A. Yes, ma'am.
Q. And have I or anyone else from my office promised you anything to testify today?

A. No, ma'am. I'm just here by subpoena.
Q. And at the time that you were arrested, were you also arrested for giving false information to police?
A. Yes, ma'am.
Q. And have you since pled guilty to that charge?
A. Yes, ma'am.
Q. When law enforcement came to the hospital, did they ask you about your phone?
A. Yes, ma'am. They asked me was anything tooken and then they asked what it looked like. And then after that, when I made it home, they came with numerous phones, but none of them were mine.
Q. So they showed you some phones?
A. Yes, ma'am.
Q. But none of them were yours?
A. Yes, ma'am.
Q. Did law enforcement ever recover your phone?
A. No, ma'am.
Q. Raven, where was your phone inside the house? Where did you last leave it?
A. On the table.
Q. On the dining room table where you were sitting?
A. Yes, ma'am.

Q. I no further questions. Please answer any from defense counsel.

THE COURT: Mr. Walsh or Beck?

CROSS-EXAMINATION

BY MR. WALSH:

Q. Good morning.

A. Good morning.

Q. How are you?

A. Good.

Q. Ms. Williams, just to be clear, you said you pled guilty, so you have been recently, in 2015, convicted of giving false information to police officers?

A. Yes.

Q. That wasn't in this case, but yet something else?

A. Yes.

Q. Did you ever give a written statement to the police in this case?

A. No.

Q. Did they ask you for one?

A. Oh, yes, I did.

Q. You did give a written statement?

A. Yes.

Q. Okay. Was it true or false?

A. Yes, it was true.
Q. You indicated you'd been there since about noon, I think.
A. Uh-huh.
Q. Had the get-together been going that whole time?
A. No. We was planning it. It didn't start 'til about like 6:00 or 7:00.
Q. Do you remember if Trevon Butler was there for most of the day, some of the day? What do you recall about him?
A. It was like in between really because we showed up -- me and my boyfriend showed up around noon. He didn't come 'til about 3:00 or 4:00.
Q. How long do you think he stayed that time, if you remember?
A. The whole time.
Q. So from 3:00 or 4:00 until all of this happens?
A. Yes.
Q. Did you notice him throughout the day? Did he appear to be on his phone texting somebody, doing something on his phone?
A. No.
Q. You never saw that? You indicated you were over there by means of a mutual friend. Who's the

mutual friend?
A. His name is Sammy.
Q. That's all you know about him?
A. Uh-huh.
Q. No last name? Was he still there when this all happened?
A. No. He was locked up at the time when it happened.
Q. I gotcha. So you met him at some point before?
A. Yeah. And then I just started going over there because they was cool and -- you know.
Q. I gotcha. You indicated you have one child. Was he born after this? Before this?
A. Afterwards.
Q. After. Okay. And after you went into the bathroom, did anyone -- I know you said you were in there with Trevon and your boyfriend. Did anybody else try to come into that bathroom?
A. No, sir.
Q. So you didn't -- well, that's fine.
And you said you didn't see or just can't quite recall seeing them as they came in?
A. Yes, sir.
Q. You said you were sitting at the table. Were you in a place where you could have seen that door?

A. Yes. I was facing towards the kitchen.
Q. Just not able to come back to you now?
A. No. I really didn't see their face. It was, like, so dramatic and I never been in a situation like that, so I blacked out and I just went wherever.
Q. At that point, are you able to say how many times you think you had hung out over at that house?
A. Numerous times.
Q. More than five?
A. Yeah.
Q. More than ten?
A. Yeah. I done stayed the night over there before.
Q. So pretty regular place that you and your boyfriend would spend time?
A. Well, not necessarily my boyfriend because I met him around the same time because I was only with my boyfriend, like, four to five days at that time.
Q. You were friends more with the people in the house and kind of brought him in?
A. Yeah.
Q. Okay. You said you saw some men out the window. That's the bathroom window?
A. Yes, sir.

Q. Do you remember what kind of car it was?
A. No, sir.
Q. But you said car, you didn't say truck. You pretty sure it was a car?
A. I just know it was a vehicle. I just used car.
Q. Can you describe it at all?
A. Not really.
Q. Hand you what's been marked and admitted State's Exhibit 5. Is this the table where you were -- you said you were sitting?
A. Yes.
Q. Can you -- can you tell us -- can you show the jury which seat you were in, if you recall?
A. I was sitting right here. So I guess the seat move back or whatever, but I know I was sitting right here.
Q. You think you were in this chair against the wall?
A. No. I was sitting at the table -- oh, yeah, yeah.
Q. Do you know what this white powder is all over that table?
A. Probably drugs.
Q. Probably cocaine, specifically?
A. Yeah.

Q. Is that where people were using cocaine that day while you were there?
A. Yeah.
Q. Had you seen that kind of activity on your previous visits?
A. Not really.
Q. That's the first time you ever seen anybody do cocaine there?
A. Yeah.
Q. And was that going on since 3:00 or 4:00 in the afternoon throughout the get-together?
A. Oh, no. The get-together didn't start at 3:00. No. It started at 6:00 or 7:00.
Q. Was that going on since 6:00 or 7:00?
A. Nah.
Q. Okay. At some point after that -- and that's -- looks like Crown Royal bottles, et cetera. That's the rest of what I'm seeing on that table?
A. Yeah. We was drinking beer and liquor and whatnot.
Q. Okay. You said you visited a number of times. And remember, you're under oath. Had you ever seen anyone sell any drugs at that location?
A. No, sir.
Q. Never saw anything like that?

A. No, sir.
Q. Just to be very clear, you say you did see Trevon walk in the kitchen pretty much right before they entered?
A. Yes, sir.
Q. But you're not sure what he did in there?
A. No, sir.
Q. And you said Trevon's nickname is Worm?
A. Uh-huh.
Q. Okay. Would anybody call you anything other than Raven? Do you have a nickname that applies to this?
A. Yeah. I go by Tia sometimes.
Q. Tia?
A. T-I-A.
Q. And I don't know if -- if somebody is talking about Tia in a statement or anything, that's probably you? Nobody else you think named Tia?
A. Well, I have a best friend named Tia too. But --
Q. But not at the party?
A. No.
Q. Okay. Do you know how many shots you heard?
A. Three.
Q. All at one time?

A. Not necessarily. I heard two, like, at the same time, and then I heard another one.
Q. Do you recall whether they sounded the same to you?
A. I do not know anything about guns.
Q. Really don't know?
A. Huh-uh.
Q. Okay. Except for Shane's house, did you know Trevon separately?
A. Huh-uh.
Q. How about your boyfriend? Did he know Trevon?
A. Huh-uh.
Q. Just circumstances kind of brought y'all together --
A. Yeah.
Q. -- at that moment?
Okay. Do you recall -- and you may have said, and I'm sorry if you did. Do you recall whether it was Trevon or Carl who decided to call 911?
A. No. Trevon had the phone and he tossed it to my boyfriend.
Q. Okay. Did he -- so just to be clear, Trevon is calling 911 on the phone but doesn't speak to the person on the other end, he gives it to somebody else to speak?

A. Then he ran out the house. Yeah.
Q. Then he ran out. Okay. Did you meet a guy that had been allegedly at this party named Akeem or do you know him?
A. Uh-huh.
Q. Did you know him before that?
A. Before the party? Yeah.
Q. So he was somebody you knew?
A. Yeah. I met them all through Sammy.
Q. Do you know where Akeem is today?
A. Huh-uh.
Q. All right. Thank you. Nothing further.
THE COURT: Ms. Hall, any more questions?
MS. HALL: Just briefly, Your Honor.

REDIRECT EXAMINATION

BY MS. HALL:
Q. Raven, you mentioned that you realized you had gotten shot when you were in the bathroom. Did you actually get shot in the bathroom?
A. No. I got shot on the way to the bathroom, I guess, because the way it's going, it seems like I was running when I got shot.
MS. HALL: No further questions.
THE COURT: Okay. Thank you. You may step down.

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Madam Forelady, ladies and gentlemen, we're going to take our morning break. Please don't discuss the case, don't deliberate. Leave your pads turned down in your chair, and we'll come back and go 'til lunch.

(The jury exits the courtroom at 11:07 AM.)

THE COURT: Mr. Weeks, anything for the record before we break?

MR. WEEKS: No, Your Honor.

THE COURT: Mr. Walsh?

MR. WALSH: No, Your Honor.

THE COURT: All right. Gentlemen, logistics. Do we have any logistical problems?

MR. WEEKS: I'm not sure.

THE COURT: Well, y'all look at that redacted -- I think they've redacted it.

MR. BECK: Yes, sir. I was just about to take a look at it.

THE COURT: Okay. Well, take a look at it so we don't have to take a lot of time doing that.

What time is Dr. Ross going to be here?

MR. WEEKS: She's going to be here at 12:00, Your Honor. She's got a very narrow window. She's supposed to be in Allendale at 1:00.

THE COURT: When she gets here, we might stop

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what we're doing and let her testify.

MR. WEEKS: I told her we would probably do that. Yes, sir.

THE COURT: You've got left, what, Mr. Weeks, Dr. Ross?

MR. WEEKS: Statement, couple of statements, and a couple of police officers to --

THE COURT: We'll finish y'all today?

MR. WEEKS: Oh, absolutely.

THE COURT: Okay. We'll stand at ease for a few minutes.

(Brief recess.)

THE COURT: Mr. Weeks, anything before we start back?

MR. WEEKS: No, Your Honor.

THE COURT: Mr. Walsh?

MR. WALSH: No, Your Honor.

THE COURT: Bring the jury in for me, please.

All right. We discussed in chambers about Dr. Ross. Any objection to trying to work her in when she gets here so she can meet her schedule?

MR. BECK: No, Your Honor.

MR. WEEKS: I think we're good with the timetable we talked about. Dr. Ross is here.

THE COURT: She's here. You want to do her

now?

(The Jury enters the courtroom at 11:39 AM.)

THE COURT: We're waiting on our next witness to come upstairs. She's the pathologist, Dr. Ross. She's scheduled to be here and then in Allendale, so we're trying to go a little bit out of order. She's coming up the stairs now.

(Brief pause in the proceedings.)

(Dr. Janice Ross enters the courtroom.)

THE COURT: Hello, Dr. Ross. If you'll come right here and let her swear you in.

JANICE EDWARDS ROSS, M.D.

being first duly sworn, testified as follows:

THE WITNESS: I do.

THE CLERK: Please state your full name and spell your last.

THE WITNESS: Janice Edwards Ross.

DIRECT EXAMINATION

BY MS. HALL:

Q. Dr. Ross, where are you employed?

A. With Newberry Pathology Associates in Newberry, South Carolina.

Q. And what position do you hold there?

A. I'm a forensic pathologist and hospital pathologist.

Q. What exactly does that mean? What does a forensic pathologist do?

A. Well, let me back up with the education. I have a bachelor's degree from the University of South Carolina, and my M.D., Doctor of Medicine, from Upstate Medical Center in Syracuse, New York. And that's where I did further training in the field of pathology.

In pathology, we learn how to diagnose diseases by using the microscope and using laboratory work. We further learn how to do an autopsy to find the cause of death. A forensic pathologist does further training in doing more specified autopsies, identifying patterns of injury, collecting specimens for the court of law, and documenting injuries to determine a cause of death and a manner of death.

Q. What's the difference in cause of death and manner of death?

A. Cause of death just says what you die from, whether it's a heart attack or gunshot wound or an accident -- or an injury from an accident. Manner of death, there are five of them: One is natural death, like a heart attack; one is suicide, one is homicide, one is accident, and if we don't know, then it's undetermined.

Q. How long have you held your position at Newberry Pathology?
A. Since May of 2000.
Q. Do you know about how many autopsies you perform in a given year?
A. Last year, we did over a thousand.
Q. Have you testified in the courts of South Carolina as an expert witness in the past?
A. Yes, I have.
Q. Do you know about how many times?
A. In South Carolina, about 200.
MS. HALL: Your Honor, at this time, the State would move to have Dr. Ross qualified as an expert in the field of forensic pathology.
THE COURT: Any cross-examination of her qualifications?
MR. BECK: No objection.
THE COURT: She is so designated and she'll be an expert in that field and can render opinion testimony.
BY MS. HALL:
Q. Dr. Ross, while at Newberry Pathology, did you perform an autopsy on Shane Jones?
A. Yes, I did.
Q. What was the date and time of your examination?

A. It was May 29th, 2013, at 8:30 a.m., is when we started the autopsy.

Q. Where was that autopsy performed?

A. In the morgue at Newberry County Memorial Hospital.

Q. How did you receive Mr. Jones' body?

A. He was received in a body bag and with clothing on, so we did photographs externally.

Q. And did you perform an autopsy as you ordinarily do in the course of your work?

A. Yes.

Q. Did you reach a conclusion to a reasonable degree of medical certainty as to manner of death of Mr. Jones?

A. Yes.

Q. And what was that?

A. Homicide.

Q. Did you come to a conclusion, based on a reasonable degree of medical certainty, as to his cause of death?

A. Yes. That was exsanguination, which means to bleed out, due to laceration of the lung due to a gunshot wound to the chest.

Q. And can you describe approximately where that gunshot wound was on Mr. Jones' chest?

A. It was -- I can give you measurements. It was below -- actually, it was just below the left nipple in the middle of the left chest.
Q. What other injuries did Mr. Jones sustain that you observed?
A. He had two other gunshot wounds, which were superficial, they didn't go into the body cavities. And they went in the left front of the body. One went in the left abdomen, came out the back, and one went in the left upper thigh and came out of the left buttock.
Q. Did you find any projectiles or bullets in your examination?
A. No.
Q. And why not? Can you describe these gunshot wounds?
A. They were through and through, they went in the front and came out the back. One was what we call intermediate range. It had evidence of what we call stippling, which is caused by powder that comes out of the gun, but the powder only goes a certain distance. It doesn't go as far as the bullet. So if you see stippling, then we call it intermediate range gunshot wound, which means that the barrel of the gun was a little bit closer to the skin, maybe

within a couple of inches.
Q. Which gunshot wound had the stippling?
A. The chest wound, the fatal wound.
Q. You stated that these were through-and-through gunshot wounds. Can you describe how you can tell the difference between the entry and exit of a bullet wound?
A. It can be difficult at times. The entrance wounds, when the bullet goes into the skin, it pushes the skin in, and so it obviously causes a hole in the skin. But around the hole is what we call abrasion; as the bullet goes in, it abrades the skin, the exit wound pushes the skin out. And you don't have that abrasion.
Q. You stated that the gunshot wound to Mr. Jones' chest was fatal. What about the other two gunshot wounds?
A. The other two were nonfatal.
Q. And, in your opinion, after Mr. Jones sustained these three gunshot wounds, how long did he have to live?
A. A few minutes, up to five minutes maybe. He was otherwise in good health.
Q. Okay. And after you completed your autopsy, what did you do with Mr. Jones' clothing?

A. That was taken -- let's see. Taken by Investigator William Royster.
Q. Aiken Department of Public Safety?
A. Yes.
MS. HALL: Beg the Court's indulgence.
Dr. Ross, I have no further questions for you. Please answer any the defense may have.
THE COURT: Any questions?

CROSS-EXAMINATION

BY MR. BECK:
Q. Just a few questions, Dr. Ross. You stated the chest wound was intermediate range.
A. Yes.
Q. How far is intermediate range again?
A. Well, it depends on the caliber, the type of weapon, the length of barrel, et cetera. But, generally, it could be two to three inches away from the skin.
Q. Okay.
MR. BECK: That's all I have.
THE COURT: Anything on redirect?
MS. HALL: No, Your Honor. We ask that Dr. Ross be excused.
THE COURT: Dr. Ross, thank you. And be safe going to Allendale.

THE WITNESS: Thank you very much.

THE COURT: Next witness, please.

MS. HALL: The State calls Carl Taylor.

CARL TAYLOR

being first duly sworn, testified as follows:

THE WITNESS: Yes.

THE CLERK: Have a seat in the witness box, stating your full name and spelling your last.

THE WITNESS: My name is Carl Taylor, T-A-Y-L-O-R.

DIRECT EXAMINATION

BY MS. HALL:

Q. Mr. Taylor, where are you from?

A. Atlanta, Georgia.

Q. Are you currently living in Aiken?

A. Back and forth.

Q. Okay. Are you working anywhere?

A. Yeah. Starting at Dustin Depot, car wash on Richland.

Q. Do you have any children?

A. Two.

Q. Okay. What are their ages?

A. Four and one.

Q. Did you know Shane Jones?

A. At the time, yeah, kind of. You know, I ain't

known him that long, but yeah.
Q. Did you know him through your girlfriend?
A. Yes.
Q. Raven Williams?
A. Yes, ma'am.
Q. Were you at Shane Jones' house on the night of May 28th, 2013?
A. Yes, ma'am.
Q. Okay. All right. I'm going to fast-forward to May of 2015, just recently. Did you get arrested for receiving stolen goods?
A. Yes, ma'am.
Q. Have you since pled guilty to that charge?
A. Yes, ma'am.
Q. Has the State or anybody in my office, myself, promised you anything to get you to testify today?
A. No, ma'am.
Q. So on the night of the 28th, you were at Mr. Jones' house. Do you know what street that is?
A. Aldrich Street.
Q. In Crosland Park?
A. Yes, ma'am.
Q. Do you know who lived there with Mr. Jones?
A. Just his younger brother.
Q. Okay. Do you remember what time you went over

to Shane's house that night or that afternoon?
A. Yeah. It's -- I believe it was around, I'll say, about 3:30, 4:00.
Q. Why were you at Shane's? What were y'all doing over there?
A. Well, I was getting off work early that morning. My fiancee, Raven, told me they were having a kickback later on.
Q. What's a kickback? Hanging out?
A. A group, yeah, beer, smoking weed.
THE COURT: Beer and what?
THE WITNESS: Beer and smoking weed.
THE COURT: Smoking weed?
THE WITNESS: Yes, sir.
THE COURT: That's a kickback?
THE WITNESS: Yeah, that's a kickback, you know, playing music, guitar.
THE COURT: No, sir, I don't know quite what you mean, but you can tell us.
THE WITNESS: It's just a group of individuals, you know, young kids, just having fun, you know, cracking jokes, having a good time, drinking beer. I didn't smoke or drink then, you know, that was the first time me drinking, that night. So...
BY MS. HALL:

Q. Okay. Do you remember about how many people were over there that night?
A. Yeah. It was a lot of people coming in and out the house, about 10 -- 10 or 12.
Q. And your girlfriend was there, Raven?
A. Yes, ma'am.
Q. Can you tell me what makes that night memorable to you? What happened that night?
A. Just the gunshots. That's what makes it memorable. I was --
Q. Where were you at when you heard the gunshots?
A. In the living room.
MS. HALL: Permission to approach the witness, Your Honor?
THE COURT: Yes, ma'am.
BY MS. HALL:
Q. Mr. Taylor, I'm showing you what has previously been placed into evidence as State's Exhibit 49. Can you please point out to the jury where you were sitting in the house when you heard the gunshot?
A. Right here.
Q. On the couch in the living room?
A. Yeah.
Q. What did you do after hearing the gunshot?
A. Well, I was buzzing off of the beer I drunk, so

I jumped after I heard a gunshot. So I jumped over the couch and I looked and seen everybody running to the front door, so I grabbed Raven and ran to the bathroom.

Q. Back here to the bathroom?

A. Yeah, back that way.

Q. You both went into the bathroom?

A. Yes, ma'am.

Q. Did you have any trouble getting into the bathroom?

A. Yes. Tried to get in there, the door was locked, so I kicked the door.

Q. Who was in the bathroom?

A. I didn't know his name, but I call him Fat Boy. But everybody else says his name Trevon, so I guess that's --

Q. Trevon Butler?

A. Yeah.

Q. Before you heard the gunshots, was anybody acting strange? Was there any behavior that you noticed?

A. Yeah. When I was in the living room, you know, playing the game, drinking beer, just constant in and out the bathroom.

Q. Who was?

A. Fat Boy.
Q. Trevon Butler?
A. Trevon, yeah.
Q. He was in and out of the bathroom?
A. Yeah.
Q. Do you remember what time you heard the gunshot, how late it was?
A. Yeah, close to 11:00.
Q. Okay. Once you're inside the bathroom, who all was in the bathroom with you?
A. Me, Raven, and Trevon.
Q. What did you do once you got inside the bathroom?
A. Well, I set her in the tub and he -- I had to tell him to shut up a couple times because he acted like he didn't know what was going on, like he didn't hear the gunshots or something. He was like, what's going on? Other than that, I just set her in the tub. And I lift up the window, you know what I'm saying, trying to get out of there, but I seen people in the backyard. So I slammed the --
Q. You saw people in the backyard?
A. Yeah.
Q. Men? Women?
A. About three men.

Q. Three men outside the window?
A. Yeah.
Q. Okay. Could you hear what was going on outside the house?
A. Yeah. Mostly just running through the house, you know, banging on the doors and talking about open up these mother-effing doors. Other than that, that's about it. It didn't last that long though.
Q. Did anybody try and come into the bathroom?
A. No, didn't touch the bathroom.
Q. At what point did you leave the bathroom?
A. After Trevon ran out the bathroom. You know, I wasn't fixing to leave out the bathroom because, you know, I just -- you know, because I felt I was safe at the time, we was safe. He went and said they were gone, then he started yelling. So I ran out the bathroom, went up there, and seen Shane was shot.
Q. Where was Shane?
A. In the kitchen. In the kitchen with his back against the cabinet.
Q. By the back kitchen door?
A. Yes, ma'am.
Q. What did you do after you saw Shane?
A. I ran back to the first bedroom on the right to

tell his baby's mother that he just got shot or whatever and told her to calm down.

Q. Was that Heather Arthur?

A. Yeah. She wasn't hearing that.

Q. She was upset?

A. Yeah, more than -- yeah, very upset.

Q. What did you do after you let Heather know what was going on?

A. I ran up to the bathroom to check on Raven. She came out the bathroom limping.

Q. What was wrong with Raven?

A. She got shot in the leg. I told her she got shot, but she didn't believe me.

Q. Was there any blood?

A. Yeah, in the tub.

Q. You saw the blood in the tub?

A. Uh-huh.

Q. That came from Raven?

A. Yes, ma'am.

Q. Okay. So what happened after you told Heather what was going on? You're in the kitchen with Shane. What happened?

A. I was trying to tell her to take her to the hospital.

Q. Take who to the hospital?

A. Raven. Tell Heather to take her to the hospital because everybody left. It was just us in there, me and her and Trevon. She was the only one with a car at the time.

Q. Who is she?

A. Heather.

Q. Okay. She was the only one with a car?

A. Yeah.

Q. What did Heather do?

A. She left.

Q. Okay. And so it's you, Raven, and Trevon in the house and Shane at that point?

A. Yes, ma'am.

Q. Did y'all make any calls?

A. No. Just -- basically -- the main thing is we was mainly in Shane's face trying to tell him to keep breathing. But it looked like he was in shock of what just happened, so he really wasn't responding back. And she was -- she was going in and out like she wanted to fall asleep saying she --

Q. Who is she?

A. Raven. Like she's getting tired. I'm telling her to stay up. So I'm fixing to get ready to take her, walk, you know, anywhere I can to --

Q. To get help?

A. Yeah.
Q. Did anybody call 911 that night?
A. Yeah, I did.
Q. Whose phone did you use?
A. I knew it wasn't his phone though.
Q. Who?
A. Trevon. Because he told me he didn't have no phone, but that night --
Q. So you got a phone from Trevon Butler to call 911?
A. Yeah. I told him to call the police. He dialed the number and gave the phone to me and started walking down the street. I asked him where he was going, but he went on about his business. I just called the police.
Q. That was the last time you saw him?
A. Yeah.
Q. So what did you do after that, after you called 911?
A. Well, I told them, you know, two people just got shot, gave them an address. I hung up the phone and ran back in the house to check on Shane and Raven.
Q. Okay. When did you leave?
A. Talking about from the house?

Q. Yes, sir.
A. Well, I left -- I don't know if -- a female named Sydney, she pulled up in a Pontiac, and I told her what happened. I said, Shane just got shot. She was like, my brother? I'm like, yeah.
Q. That was Shane's sister?
A. I'm guessing. So I just told her to take Raven to the hospital and she was like, no, I can't leave my brother. So she gave me the car and said you take her, just bring the car back. And as I was pulling out the driveway, the police was pulling up. They was like, everybody get back.
I'm thinking they was going to maintain the whole area and get everybody, but they didn't. They told everybody to back up. So I'm like -- I went on about my business. I took her to her granny's house.
Q. Why did you take her to her granny's house?
A. That was the closest -- right cross the street, the closest place I can go to, you know, to get some information about going to the hospital because I didn't even know where that was.
Q. You weren't familiar where the hospital was?
A. No. I was just coming from Atlanta at the time. I only been out here for a couple days.

Q. When this happened, you had only been in Aiken a few days?
A. Yeah.
Q. So did her grand -- did Raven Williams' grandmother go with you to the hospital?
A. She drove her car and I followed her to the hospital.
Q. Did she stay with Raven at the hospital?
A. Yes, ma'am.
Q. What did you do after Raven got to the hospital?
A. I grabbed the wheelchair, pulled it to the passenger's side of the door, opened the door, put her in there. Granny had her information and stuff, so I told them I'd be back, you know, I was going to park the car while they gone in and handle their business. But I didn't come back.
Q. She was treated and her grandma stayed with her?
A. Yes, ma'am.
Q. One moment, please.

I don't have any further questions for you, Mr. Taylor. Please answer any the defense has.

THE COURT: Mr. Walsh?

BY MR. WALSH:

Q. Mr. Taylor, when is the last time you smoked weed? This morning?

A. No.

Q. You sure about that?

A. Yeah.

Q. Yesterday?

A. No, not yesterday. Actually, about a few days ago.

Q. You were asked a moment ago if in 2015 you were arrested for stealing stolen goods and you said yes. But that's not actually true. That's not what you were arrested for, is it? That's what you pled to, isn't it?

A. I mean, I was arrested for that charge there also.

Q. You were arrested for burglary, weren't you?

A. Yeah, that also.

Q. All right. You said you've got a four-year-old and a one-year-old. So in 2013, you just had the one child?

A. Yes, sir.

Q. Was that little boy or little girl?

A. Little girl.

Q. You didn't take her to the kickback, did you?

A. Nah, man.
Q. How did you -- outside of through Raven, did you know Shane at all?
A. No.
Q. Outside of Raven, did you know Trevon Butler at all?
A. No.
Q. Outside of Raven, did you know Akeem Coston at all?
A. No.
Q. By the time this happened, how many times had you met Akeem Coston?
A. I'd say about four or five times.
Q. Had that always been over at Shane's?
A. That's it.
Q. How about Mr. Butler? Fat Boy, you call him, but I'm going to call him Mr. Butler. How many times you meet him?
A. I think twice -- two times over there.
Q. All right. Had Mr. Butler been there most or all of the times you had been there?
A. No. I only saw him twice as long as I been to the house.
Q. And you saw him there the night before; correct?

A. Yeah.
Q. And by the night before, I mean the night before this happened. So May the 27th, I guess.
A. Yes.
Q. And that night, Mr. Coston had also been there as well and some other folks?
A. Yeah, he was there.
Q. All right. So there was a lot of people coming out. Do you remember at one point during this investigation you spoke to the investigator with glasses who's sitting behind the prosecutors there, Investigator Owens? You remember him?
A. Yes, sir.
Q. And, of course, you told him the truth, didn't you?
A. Yes, sir.
Q. You remember telling him when this all happened, you think there was about 10 people inside the residence when it started?
A. Yes, sir.
Q. How many of those 10 can you name? And take your time. This is important. How many can you recall by name, nickname, description? What can you tell me about this? I'll help you. First person, Mr. Jones. Correct?

A. Yes.
Q. Of course yourself and Ms. Williams, I believe, three?
A. Uh-huh.
Q. Ms. Arthur, four?
A. Uh-huh.
Q. Mr. Butler, five; Akeem, six. I think you said Akeem had -- and some unknown, I think you called them, white boys. But some other people that you thought were Akeem's friends?
A. Yeah.
Q. Do you know how many of them there were?
A. There was a lot of white people there.
Q. Not as many as here probably though?
A. No.
Q. I'm sorry. Go ahead. How many -- but you're pretty sure it was about 10?
A. Yeah.
Q. I mean, could have been nine or 11?
A. Maybe more than that.
Q. Maybe more than 10?
A. Yeah, because they was in and out the house like that.
Q. I gotcha. And at some point, certainly, do you recall what time -- on the day we're talking about,

do you recall what time Mr. Butler got over there, exactly, roughly, best you can do? Do you think he was there most of the day?

A. Yeah.

Q. And you were there off and on most of the day?

A. Yeah. I was talking to him the whole time about music and a lot of things.

Q. Do you remember telling Investigator Owen that Mr. Butler made you nervous because you'd been in some home invasion robbery situations in the past?

A. Uh-huh.

Q. What -- I don't want to put words in your mouth. But were you telling him that Mr. Butler was acting in a way that made you think something like that was about to happen?

A. That's like a step towards it. You know, so --

Q. Sure.

A. Like you said, I been through it so many times. When I see people on their phone back and forth to the bathroom, I get uncomfortable.

Q. So you saw him. He was in his phone throughout the day?

A. Yeah.

Q. And I think you said nobody else seemed to be. But, specifically, do you remember telling

Investigator Owen the reason you didn't worry about it was because he seemed to be friends with Mr. Coston and Mr. Coston didn't seem concerned about it?

A. Yeah. That's his house --

Q. It's not Akeem's house, was it?

A. I thought they was brothers, you know, they were that close. So that wasn't my position to tell them what's going on in their house. They known him longer than I have.

Q. But he made you nervous?

A. Yeah.

Q. And then -- I'm jumping forward -- do you remember telling the investigator you think you heard two gunshots?

A. I heard boom, pop, pop. That's all I heard. And I jumped up.

Q. You hear that, you're going to try to get away from it; fair enough?

A. You got to.

Q. Did most of the people run out a side door or some door --

A. Front door.

Q. Was there no way for you to get to the front door or how did that go down?

A. I was the closest, actually, but they was running so fast to that front door, by the time I jumped over the couch, I'd probably be the last person out the house. And I didn't want to get shot in the back of the head or the back, so I grabbed my fiancee and we ran to the bathroom.

Q. So y'all headed to the bathroom, which turned out to be the room that none of the guys -- none of the guys tried to go in that room?

A. No. They didn't go in that --

Q. That turned out to be the safe room?

A. Yeah. They went everywhere except for that one.

Q. And that bathroom that turned out to be the safe room, that's the room that Mr. Butler chose to go in?

A. Uh-huh.

Q. And none of these guys -- you said you saw two guys come in -- how many guys came in, if you know?

A. I don't know. I was in the living room. I didn't see nobody.

Q. So you went over the couch into the bathroom?

A. That's it.

Q. Out the bathroom window, you said, you saw two guys?

A. Yeah.
Q. All right. Do you remember telling -- after the shooting, before you called 911, Mr. Butler, Trevon, was he saying anything?
A. Yeah. When he got shot, you know --
Q. Mr. Butler didn't get shot, did he?
A. No. When Shane got shot, he was yelling, you know, no, no, no, you know, basically this ain't supposed to happen.
Q. All right. That's specifically -- you remember him saying, this ain't supposed to happen?
A. Uh-huh.
Q. All right. Now, the men you saw out the window, were they in a car? Were they standing on the porch? What do you recall seeing out that window?
A. I didn't scrutinize the situation.
Q. I understand. And I know it's been a couple of years, but best as you can remember sitting here today, do your best.
A. When I got in the bathroom, first thing on my mind is to escape, get out, you know. Lift up, see two, nah, shut it back down like that, said we ain't going nowhere.
Q. Did you see guys in a car?

A. No.
Q. Did you think it was -- did you think anything about the fact that Mr. Butler wanted you to talk to 911 after he dialed it? Did that seem strange to you at the time?
A. Yeah.
Q. Does it seem strange still today?
A. Yeah. You know, it's like a -- I don't know whether he was scared. I'm like, okay, he's scared, give me the phone.
Q. And then you said at some point pretty much after that, he's gone?
A. Yeah.
Q. And then I guess the -- people are coming in, Mr. Jones is shot. And then at some point, you went to drive away -- and I just want to be clear. You said as you were driving away, you saw police coming in?
A. Uh-huh. Yeah. They told us to get out, you know, back away from the crime scene. So I just backed up out the driveway and took off.
Q. And I want to ask you a question now that has to do with as you're thinking about it today. As you're thinking about it today, with your girlfriend being shot, don't you think the cops could have

gotten her to the hospital faster than driving somewhere else down the street?
A. They took a minute to show up.
Q. I mean, as you're leaving, they were coming; right?
A. Yeah.
Q. You didn't say, hey, my girlfriend's in this car, she's been shot?
A. I got there before they did.
Q. Isn't it possible you weren't trying to talk to the police?
A. I was trying to get her to the hospital.
Q. As you sit here today, you don't think the cops could have done that faster than you?
A. No.
Q. After you -- all right. So you leave, you're confident that Ms. Williams is at the hospital. At that point, you don't go back looking to tell the police what you saw, do you?
A. No. I was going to go back to Atlanta.
Q. You sure were.
THE COURT: All right, ladies and gentlemen.
BY MR. WALSH:
Q. You're telling us today though -- I mean, you're sitting here, you've been called as a witness

by the State because you saw things, you heard things, you knew things about this case. You saw it, didn't you?

A. Uh-huh.

Q. But you weren't trying to talk to the police, were you?

A. No.

Q. All right. Just to be real clear, you sure you weren't nervous there was going to be a home invasion because you knew there was going to be a home invasion?

A. No.

Q. And are you sure you didn't pick the bathroom because you knew that was the safe room to go, you and Mr. Butler? You sure about that?

A. Yeah, I'm sure about that.

Q. All right. I'll hand you a picture that's been previously marked as State's Exhibit 5. Were you sitting at that table at any point during the evening?

A. No. I was in the living room the whole time.

Q. You never did sit at the table?

A. Yeah, because, you know, they drank and they smoked. I didn't drink or smoke.

Q. You talking about smoking. You talking about

smoking weed; correct?
A. Yeah.
Q. And that's not your thing?
A. No.
Q. Not even at the kickback?
A. No.
Q. How about this white powder on the table? You know anything about that at all?
A. The cocaine?
Q. Yes.
A. Don't do that either.
Q. I understand. You're not doing it, but did you see people doing it that day, that night?
A. Yeah.
Q. Okay. How many people that you recall that you think you saw doing some cocaine that day?
A. I don't know their name.
Q. Just how many?
A. About a good three.
Q. So Mr. Butler?
A. No. He was in the living room with me.
Q. How about Mr. Coston?
A. Don't know.
Q. Don't know?
A. No. Three white boys. I don't know who they

are. I don't know their names.
Q. On the day that you were there, did you see anybody selling drugs at that location?
A. No.
Q. On your previous visits, had you ever seen anybody selling drugs at that location?
A. No, sir.
Q. In your time with him, did you know Mr. Jones to have any kind of job?
A. Never asked. They always ask me. You know, Akeem, he asked me, hey, man, you got a job, you working? But anybody else say no, he say, all right, man, cool, I'll give you $20 to wash the dishes.
Q. Did Mr. Butler ever ask you to help him get him a job?
A. Who? Butler?
Q. Yes.
A. No.
Q. How about Mr. Coston?
A. Nah.
MR. WALSH: Beg the Court's indulgence. Nothing further. Thank you.
THE COURT: Redirect?

REDIRECT EXAMINATION

BY MS. HALL:

Q. Mr. Taylor, when you left the hospital, what did you do with the car you had borrowed?

A. I took it to Glendale Terrace, back to her granny's house. And that's when the owner of the car pulled up in the truck and she got her car back.

Q. You gave it back to the owner. And then where did you walk?

A. I went back to Crosland.

Q. Back to the crime scene?

A. Yeah.

MS. HALL: No further questions.

THE COURT: All right. You may step down.

Next witness, please.

MS. HALL: Your Honor, may Mr. Taylor and Ms. Williams be excused from their subpoenas?

MR. WALSH: No objection.

THE COURT: They may leave.

MR. WEEKS: Your Honor, the State would call Jeremy Hembree.

JEREMY HEMBREE

being first duly sworn, testified as follows:

THE WITNESS: I do.

THE CLERK: Have a seat in the witness stand.

State your full name, spelling your last.

THE WITNESS: Jeremy Hembree, H-E-M-B-R-E-E.

DIRECT EXAMINATION

BY MR. WEEKS:

Q. Jeremy, where are you employed?

A. The Aiken Department of Public Safety.

Q. How long you been there?

A. Since 1998 in the fire department and then --

Q. Kind of give me a little progression of your career there.

A. I started in the fire department in 1998. In 2001, I was hired as a public safety officer to the patrol division until 2007. From 2007 to 2013, I was in the community services division handling community patrol, fugitive tracking, bike patrol, special events, VIP security. And then in 2013, I was promoted to detective.

Q. Are you still currently in that position?

A. Yes, sir.

Q. On May the 28th, early morning hours of May 29th, were you working at public safety? Were you on duty or --

A. I was actually home in the bed.

Q. Were you given a call in the middle of the night?

A. I was.
Q. Did you respond to the crime scene at [redacted] Aldrich?
A. Yes.
Q. Tell me, were you also promoted to investigator that same day?
A. Yes, sir.
Q. Congratulations.
A. Thank you.
Q. When you got there, what was your role? How did you develop your role?
A. I was assigned to Crosland Park neighborhood under the community services division at the time. So when I was made aware of the murder that night is when I got called to come in.

And so once I got there, I met up with Captain Sawyer and Lieutenant Savage, and I partnered up with Lieutenant Savage for us to begin tracking down any leads that we were developing.
Q. And, initially, were some of those leads involving tracking a cell phone?
A. Yes.
Q. Tell me how you do that -- or how y'all did that that evening.
A. Detective Miano asked for an exigent order

through the telephone company, I believe, of Ms. Williams due to her phone being taken. And the telephone company can actually provide GPS locations of the device. They can ping it every certain amount of time, and they will send us a GPS location of that device at the time. And then we'll take that GPS location and put it into Google Maps and it will give us an approximate area of where that is.

Q. As a result of having a conversation with Ms. Williams or somebody having a conversation with her at the hospital, y'all had a phone number?

A. That's correct.

Q. So, physically, what are you doing when you're pinging these phones? What are you doing when you get a ping?

A. We get the GPS location and then we drive to that area to try to see if we can get anything to follow up on.

Q. Is that what you were doing that night?

A. Yes.

Q. Did it lead you to some areas in Aiken and outside of Aiken?

A. Yes, it did.

Q. What did you do physically?

A. Initially, the -- one of the initial pings came

back to an area on Cherokee Street, which is off of South Boundary, in between South Boundary and Park Avenue. So as we were heading to that area from the crime scene, we got an additional location of Carver Terrace, the 600 block. So we diverted going to Cherokee Street and went to Carver Street where we observed a gold-colored Mazda pickup truck parked out by the road.

It seemed odd the way it was parked because it was on the side of the road crooked versus actually into the driveway. So we made note of the tag and waited until we would get the next ping to see where it changed from there.

Q. And where did that lead you?

A. The next one started taking us out Highway 1 towards the interstate -- or, excuse me, Columbia Highway.

Q. And did you get another one while you were heading in that direction?

A. Yes. It just continually progressed out towards the interstate, so we were going to that area. And then it took one of the dirt roads there that led over towards Wire Road, so we kind of were just a handful of minutes behind each ping.

Q. So going north on Highway 1 and Wire Road goes,

essentially, north?
A. Yes, sir.
Q. Parallel to one another?
A. Yes, sir.
Q. Y'all cut over at some place. What was that road?
A. I believe it's Old Kimball Trail. It's a dirt road there just past the airport.
Q. You cut over to get over on Wire road, you get pinged again. Where did that take you?
A. Wire Road, the 1400 block of Wire Road.
Q. And what did y'all do when you got to that location?
A. We waited to see the next ping. They come in pretty frequent intervals, usually about five, 10, 15 minutes, depending on the carrier. So we waited until we got the next ping and it stayed in that area.
Q. Was Steve Miano with you also?
A. Not at that time, no.
Q. Did you go to a location off of Wire Road?
A. We did. It was [redacted] Wire Road.
Q. And what did you find at that location?
A. The residence sat a little ways off the road, so I actually got out of the car we were in and

walked down the driveway just to see what I saw. And I observed the same gold-colored pickup truck in the driveway there.

Q. That you seen earlier at --

A. Carver Terrace.

Q. -- Carver Terrace?

A. Yes, sir.

Q. And what did y'all elect to do at that point?

A. We backed out and watched the driveway until we got some additional units there because, at that time, it was only two of us.

Q. Okay. And when you got the additional units, what did you do?

A. We went to that residence. And, at that time, the homeowner actually came out the side door and asked us who we were and what we were doing. We identified ourselves and he gave us permission to go inside his residence to search it.

Q. And when you went inside the residence, what happened?

A. We located another male individual.

Q. Who was that?

A. Brian Morton.

Q. Ultimately, was he one of the people that was arrested in this crime?

A. Yes, sir.
Q. What did you find when you got in there when you were searching the house with consent?
A. We found a .22 caliber rifle with a camouflage bag and some Xanax bars.
Q. What do you mean by Xanax bars?
A. It's Xanax, but it's made into a bar shape instead of a pill.
Q. What did you do with Mr. Morton when you found those bars?
A. He was placed under arrest by the Aiken County Sheriff's Office and we interviewed him at the Aiken Department of Public Safety related to the home invasion and murder.
Q. Jeremy, I'm going to hand you what's marked as State's Exhibit No. 52 for identification and ask if you can identify what's contained in that case.
A. I can.
Q. What is it?
A. It is the black .22 caliber rifle with the camouflage bag that was located at the Wire Road residence.
Q. Okay.
MR. WEEKS: Your Honor, the State moves to introduce State's Exhibit No. 52 without objection.

THE COURT: Okay.

(State's Exhibit No. 52 admitted into evidence.)

BY MR. WEEKS:

Q. At the time you were out there, Jeremy, did you know the significance of that weapon?

A. Not initially, no.

Q. And what did you do after clearing from the residence where that was located? What was your role then?

A. I, along with Lieutenant Savage, went back to public safety headquarters where an interview was conducted with Mr. Morton.

Q. Okay. Do you know approximately what time that was?

A. The sun had come up. Probably 7:00-ish, 7:30 maybe.

Q. Did you also participate in any other interviews with subjects in this case?

A. I briefly spoke with Mr. East during the end of his interview.

Q. How about any of the other people arrested in this case?

A. I did speak with Mr. Morton approximately six months ago, also Mr. Simmons. I participated in

just about all of the interviews except for the initial couple.

Q. Now, this crime scene -- I think we've already said it, but just to make sure for the record -- was located in the City of Aiken?

A. Yes, sir.

Q. Now, after -- or at some point, did you have some contact with Mr. East?

A. I did.

Q. And that was at the conclusion of the interview?

A. Yes, sir.

Q. And did you physically have any interaction with him after the interview?

A. No.

Q. Did you go anywhere with him?

A. I'm sorry. Yes, I did. I was actually the transporting officer to the detention center.

Q. Did y'all go anywhere?

A. We did. He advised us during the interview that some items had been thrown out on the side of the road of Osbon Drive, which actually runs parallel to Wire Road on the way to the detention center. So we rode that area. I had him take me to where he thought the items were thrown out for us to

walk and see if we could locate any additional evidence.

Q. Who was present and participating in that?

A. Initially, it was myself and, I believe, a patrol officer also came out to that area. And right as soon as we were getting there, once I advised them, Captain Sawyer and Chief Barranco also arrived.

Q. Chief Charles Barranco?

A. Yes, sir.

Q. Were you able to locate anything?

A. We were. We located a camo-colored face netting that you would use for hunting.

Q. Okay. And the reason y'all were looking in that area was for items of clothing that had been described by Mr. East?

A. Yes. During the interview, he had described one of the individuals having on the netting and also throwing out burned clothes on the side of the road.

Q. Were you able to find any of those?

A. We found the netting.

Q. No other burned clothes?

A. No.

Q. Do you know approximately where you found this

in relation to Osbon Drive?
A. It was on the side of the road adjacent to, I believe, [redacted] Osbon Drive.
Q. Do you know, in reference to State's Exhibit 48, where that is?
A. Let me get my bearings. The green part is the incident location. It was just past -- right around the second or third house here on the side of the road.
Q. Okay. And I would be marking that with a circle if that agrees with you.
A. Yes, sir.
Q. I'll hand you what's marked for identification as State's Exhibit 54 and ask if you can identify what's contained in that? You're going to have to probably open it.
A. That's the evidence bag I used to seal the camo-colored netting. That gives the case number, where I found it, the items contained, and the date and time that I found it.
Q. And, if you can, identify what's contained in the bag you described in State's 54.
A. That is the camo-colored netting that I recovered from the side of the road.
Q. Okay. I'll ask you to identify, if you can,

State's 42.
A. That's the picture taken of where it laid on the side of the road as we found it.
Q. Is it a true and accurate depiction of what it purports to show?
A. Yes.
MR. WEEKS: State moves to introduce State's Exhibit 42 and 54, Your Honor, without objection.
(State's Exhibit Nos. 42 and 54 admitted into evidence.)
BY MR. WEEKS:
Q. Jeremy, I'm going to hand you State's Exhibit for identification 39, 40, 41, and 43 and ask you if you can identify those exhibits.
A. I can. I recognize them.
Q. And are those photographs true and accurate copies of what they purport to show?
A. That's correct.
MR. WEEKS: I move to introduce those exhibits without objection.
(State's Exhibit Nos. 39, 40, 41, and 43 admitted into evidence.)
BY MR. WEEKS:
Q. Please tell me what's contained in those exhibits. And identify the exhibit when you

describe it, Jeremy.

A. No. 43 is the gold-colored pickup truck that was parked in the driveway on Wire Road and also the same truck and tag number that matched on Carver Terrace; 39 is inside the residence of Wire Road is myself holding up a couch in the living room where it was told to us that Mr. Morton was sleeping at the time when we arrived that morning. It's me holding up the sofa while the picture was taken. And underneath the sofa was two rifle cases and within the camouflaged one was the black rifle that was shown earlier.

Q. And you only got one physical rifle --

A. Correct.

Q. -- from behind the sofa? But there were two cases back there?

A. Two cases, one rifle.

Q. Jeremy, did you receive back from autopsy physical items taken off the body of Shane Jones? Did Public Safety receive those back?

A. We did.

Q. Did you make photographs of any of those items?

A. We did.

Q. And I'm going to hand you what's marked as State's 33, 34, 35, 36, 37, and 38 and ask if you

can identify those items, yes or no.
A. I can.
Q. And are they true and accurate copies of what they purport to show?
A. Yes.
Q. What do they purport to show?
A. They are the victim's shirt with markers showing location of bullet holes in the clothing.
Q. Okay. And these are photographs that you were present when they were being taken for presentation in court?
A. That's correct.
Q. In the shirt, how many bullet holes were there?
A. Three.
MR. WEEKS: I move to introduce those previously mentioned numbers into evidence without objection.
(State's Exhibit Nos. 33 through 38 admitted into evidence.)
BY MR. WEEKS:
Q. Jeremy, did you participate in recovering any more weapons?
A. I did.
Q. Where were they?
A. We went to a residence back at [redacted] Carver

Terrace where we were initially and located an additional rifle.

Q. Okay. I'll hand you what's marked State's Exhibit No. 53. Can you identify what's included in this exhibit?

A. Again, it is a brown-in-color rifle that was located behind the residence under a tree at [redacted] Carver Terrace.

Q. Okay. And that same [redacted] address, Carver Terrace, is where you first observed the gold pickup truck?

A. Correct.

Q. Okay. And y'all were -- went to this residence at some point after you got some information from some witnesses?

A. That's correct.

Q. Jeremy, I'm going to hand you State's Exhibit 45, 46, and 47 and ask if you can identify the scene depicted in those photographs?

A. I can.

Q. What is it?

A. That is the tree behind the house adjacent just a little bit to the left of [redacted] Carver Terrace where the other rifle was found underneath it in a bag.

Q. And are these pictures true and accurate copies

of what they purport to show?
A. They are.
MR. WEEKS: Your Honor, I move to introduce 44 through 47, and I believe without objection.
(State's Exhibit Nos. 44 through 47 admitted into evidence.)
BY MR. WEEKS:
Q. Now, Jeremy, I understand, because you were being promoted that day, they sent you home to get some sleep.
A. Yes, sir.
Q. Is that what you did with regards to the rest of the 29th?
A. That's correct.
Q. Thank you. Answer any questions they may have.

CROSS-EXAMINATION

BY MR. WALSH:
Q. Good afternoon.
A. Good afternoon.
Q. Had you been -- had you been promoted earlier in the day or kind of a battle field promotion as you got there?
A. I guess we'll call it battle field promotion.
Q. Fair enough. I'll jump around some. I hope you'll excuse me.

A. Sure.
Q. The first place the pings take you is over on Cherokee Street?
A. That's correct.
Q. Did you later connect that residence with any individuals?
A. We did.
Q. Who were those individuals?
A. Trevon Butler.
Q. And that was, perhaps, where he lived or stayed at times?
A. Correct.
Q. The gold Mazda, did y'all ever run that tag?
A. We did.
Q. Who did it come back to?
A. I believe either Mr. Morton or a relative of his.
Q. But you believe that to be Morton's truck; correct?
A. That's correct.
Q. Okay. And then as you got to Morton's residence and do all of these things, in fact, you recovered the Xanax bars, you believed those to be the ones that were alleged to have been taken?
A. That's correct.

Q. Did he have any other proceeds of the robbery?
A. Not to my knowledge.
Q. Okay. And at some point, you -- did you discover or do you believe that at one point those two rifle cases held two rifles?
A. Yes, sir.
Q. And those you believe to be the two rifles involved in this scenario?
A. That's correct.
Q. And one you find in the case and one you find later?
A. That's correct.
Q. All right. And did Mr. Morton, in fact, tell you that he had given that rifle to another person to get rid of?
A. Without looking back at the interview, I wouldn't recall the direct statement.
Q. All right. If somebody references Smoke, is that Mr. Morton?
A. That's correct.
Q. It's interchangeable, but if they're talking about Smoke, they're talking about Morton?
A. That's correct.
Q. And I've not heard. Had you heard Mr. Butler called Fat Boy during the investigation?

A. Not 'til recently.
Q. Okay. Was anybody else during your investigation ever called Fat Boy?
A. Not to my knowledge.
Q. Not that you recall? Okay. At either location where you located the rifles, did you locate any bullets for those rifles?
A. Without referencing the property sheet, I don't recall it right off.
Q. But as you sit here, you certainly don't remember any bullets?
A. No. And if there's none on the property sheets, then there's none.
Q. And don't you think if you found some bullets with those, you'd probably remember? Isn't that safe to say?
A. Safe to say.
Q. Because they'd probably be pretty significant?
A. Sure.
Q. Sure. The initial interview, you testified that -- is Morton kind of the first person y'all end up -- well, the first subject that you end up talking to in this case?
A. That's correct.
Q. Did that interview -- aside from the items you

found at his house, was that interview helpful to you? Was Mr. Morton helpful?
A. It had some false statements in it, but it gave us some information related to Carver Terrace.
Q. Okay. But safe to say that a significant number of things you were told that day didn't match up with what you discovered later?
A. Right.
Q. Is that safe to say?
A. Yes, sir.
Q. He lied to you some?
A. Sure.
Q. Okay. The information that you got a little bit later -- I know you said you came in at the end of Mr. East's interview. But the information that he gave you, that's all turned out to be essentially reliable, hasn't it, to your knowledge?
A. Yes.
Q. Recognize that even as we sit here today, there's been some details that are different. But you don't believe that he gave you any significantly false statements in that first interview, do you?
A. Not to my knowledge.
Q. He even took you to --
A. Yes. He even took us to where the netting area

would be.
Q. And is it your belief, from the investigation, that that camouflage face netting is also linked to Mr. Morton, Smoke, from what you believe?
A. Yes, sir.
Q. That's not one source, that's pretty consistent --
A. Through the entire process.
Q. Okay. And Mr. Morton, your belief, entered that residence armed with one of the two .22s?
A. Yes, sir.
Q. Your belief is that Mr. East had the other one, the other .22?
A. Yes, sir.
Q. Okay. Were you able -- well, did you attempt to -- I guess, is there a way to test those .22 rifles to see if they had recently been fired?
A. Not within our agency. Any tests would have to come by the State Law Enforcement Division.
Q. Okay. So if they -- to your knowledge, if they didn't testify to testing any of those .22 rifles, you're not aware of any separate testing of those rifles?
A. That's correct.
Q. Based on what you just said, is it your

belief that they were not so tested?
A. That's correct.
Q. Probably a clumsy question. You don't think they tested those to see if they had been fired; right?
A. That's correct.
Q. Okay. As to the .22 rifle found in the backyard there on Carver Terrace, based on your investigation, is it your belief that that weapon was concealed by an individual, last name Griffin?
A. Yes.
Q. And that's your belief, knowing you weren't there, believed Morton gave that rifle to Griffin. Is that probably how that happens?
A. It's very possible.
Q. And then, based on your investigation, probable that he did that when you first see that car -- first see that truck parked on Carver Terrace, Mr. Griffin is at that location -- he ties to that location; correct?
A. That's correct.
Q. Did he also dispose of -- is there any other weapons disposed of there? Did he get rid of the pistol there too?
A. Not to my knowledge.

Q. Not to your knowledge. All right. So your investigation does not lead you to believe that Mr. East disposed of or concealed that second .22 rifle; fair enough?

A. I don't have anything to show that.

Q. But there is something to show that probably Mr. Griffin did?

A. That was the central location of all the individuals afterwards, so it's very possible it could have been Mr. Griffin.

Q. And, also, Mr. Griffin was charged with his poor cooperation with y'all; is that a fair statement?

A. Yes, sir.

Q. Because he also lied to you?

A. Yes.

Q. Am I mischaracterizing if I say that you -- is Detective Savage sort of the lead investigator on this case and you're number-two guy?

A. Yes.

Q. Is that fair enough?

A. Yes.

Q. So in that role, you know all the evidence and you know the case?

A. Right.

Q. Probably better than me, huh?
A. Yeah.
Q. Fair enough. Based on your investigation, if I say that there's no fingerprint evidence that ties to Mr. East, is that safe?
A. That's correct.
Q. If I say there's no DNA evidence that ties to Mr. East, is that safe?
A. Yes.
Q. If I say that you didn't discover any kind of firearm evidence, bullets, casings, cartridges, cartridge shells -- we've heard lots of terms, none of that evidence -- outside of the existence of the rifle, none of the bullets or anything tie to Mr. East?
A. Correct.
Q. Although, I guess, it's been referenced there may be some suspicion, you're not asserting there's any evidence that Mr. East ever fired the .22 rifle he was carrying?
A. No.
Q. In fact, there's no evidence that either of the .22 rifles was fired; correct?
A. We don't have any.
Q. You probably didn't think the lady misstated

earlier when she said they looked pretty hard for some additional projectiles. And that's always what you do; right?

A. Right.

Q. Not just in this case. You're going to try to find that?

A. Right.

Q. Of course. So the cell phone tracking and pinging of the -- and that's so -- if I say the phone is stolen from -- I'm sorry. I can't think of her name, the lady that lived in the house. Her phone takes you to Morton's house; correct?

A. I don't remember which -- I believe it was actually Ms. Williams' phone we were tracking.

Q. Okay. One of the phones?

A. Yes.

Q. The one you were tracking takes you to Morton's house?

A. Correct.

Q. And the gold Mazda, do you also believe that's the vehicle they drove to do this act?

A. Yes.

Q. And they leave in it?

A. And leave in it.

Q. Correct. And that's Mr. Morton's truck?

A. Correct.
Q. And the rifles are Mr. Morton's. And then the pistol that's been discussed, it's not up here yet, but that also doesn't directly tie to Mr. East, based on your investigation, does it?
A. Correct.
Q. In fact, you believe Mr. Simmons had that weapon?
A. The handgun?
Q. Yes.
A. Yes, Mr. Simmons had that handgun.
Q. And we believe that he actually got that from Mr. Isaac who you believe to be the driver. Am I still safe?
A. Yes, sir.
Q. And there's no evidence Mr. East is involved in those transactions?
A. No.
Q. Okay. At the time you spoke with Mr. East, I think, is it true, you had spoken with Morton. Had y'all also spoken with maybe Isaac or just Griffin? Do you remember?
A. The initial interview with Mr. East?
Q. Yes, sir.
A. That's correct. We had spoken with Mr. Morton

and also spoken with Mr. Griffin.
Q. So if I say that Mr. East was the first subject to be honest with y'all, am I mischaracterizing?
A. No, sir.
Q. And you believe that he has subsequently and consistently been honest?
A. Yes, sir.
Q. Okay. In the course of your investigation, ultimately did you recover and review text message evidence?
A. We did.
Q. You did. And if I say that took some doing, am I still telling the truth?
A. Oh, yeah.
Q. And even as a part of doing that, is it true that you and, I think, Miano got some additional training in that area?
A. Correct.
Q. And, ultimately, is it true that you were able to recover text messages from two phones, those two phones that belonged to the subjects?
A. Yes.
Q. And one of those phones you believe to be Mr. Simmons'?
A. Correct.

Q. And the other one, if I said you believe it to be Mr. Morton's phone but that Mr. Butler was using that day, is that still true?
A. Yes, sir.
Q. So your belief is that the messages you have are messages that are between Simmons and Butler on Morton's phone?
A. Yes, sir.
Q. And those messages are during the time -- there's been some testimony Mr. Butler is inside the subject location throughout the day.
A. Yes.
Q. That match up with what you -- okay.
A. Yes, sir.
Q. So, essentially, you think those two are texting each other throughout the day?
A. Correct.
Q. And you think those two are texting each other. Do you have an idea as to what the purpose of those texts were?
A. I believe giving intelligence or information related to the inside of the residence.
Q. They discuss whether anybody in there is going to be armed?
A. Correct.

Q. And they discuss whether they need to be armed?
A. They do.
Q. All right. I'm going to hand you a three-page document that says extraction report and says some other things. If you would take a look at that and -- we've been talking about extracting texts. Tell me if this is what we've been talking about.
A. Okay. It is.
Q. All right. This is one of the reports. But, ultimately, you pulled reports from both phones?
A. We did.
Q. And are they similar in that they're messages between the two people?
A. Correct.
Q. All right.
MR. WALSH: Mark that Defendant's 1.
THE COURT: You're going to put that in evidence?
MR. WALSH: Yes, sir.
MR. WEEKS: No objection.
(Defendant's Exhibit No. 1 marked for identification and admitted into evidence.)
BY MR. WALSH:
Q. Turning now to the third page of what's now been marked and introduced as Defendant's Exhibit 1,

the third page is a message that has some symbols and ends with BOQ. Take a look at it and tell me if you can --

A. I do.

Q. All right. And I know you don't have your notes. Are you able to tell from looking at that who that's a text to and from, which way that goes? Take your time.

A. I can -- it came from a Samsung SGHT 679, which is the model number of the phone. I can reference that with my notes. I can tell you whose phone I believe that to be.

Q. That's probably the Butler-Morton phone to Simmons?

A. In looking and reading the messages around it, I believe it's the phone used by Trevon Butler that belonged to Brian Morton to send a message to how it's stored in the phone as Five.

Q. And do you believe Five to be Simmons?

A. Correct.

Q. And he's also maybe Little Man? Maybe?

A. I haven't heard that one.

Q. He's also maybe Bro?

A. He is Bro.

Q. So he's definitely Bro and Five?

A. Correct.
Q. So that's all Simmons?
A. Yes.
Q. So I know it's in sort of text language, but what is that -- what does that one say?
A. Yes or yeah, make sure you make the one with the white shirt and black pants.
Q. And that's -- looking at the time, when is that sent?
A. 11:39 p.m.
Q. All right. So probably just a little bit before this takes place?
A. Yes, sir.
Q. So that's -- and you would agree that that clothing description matches the deceased?
A. Yes, sir.
Q. We don't know what make means, I guess, but he's telling them to be sure and make the one like that.
A. That's correct.
Q. All right. Is there any similar evidence or any evidence whatsoever that has Mr. East texting or communicating or doing any planning by phone prior to the circumstance?
A. Not to my knowledge.

Q. All right.

Turning to the second page of the same exhibit, second and third page, the language is a little bit colloquial. But if I say it looks like they're discussing how many people they're going to need for this robbery and talk about -- and I'll let you read it -- well, first thing, the last message on page 2 --

THE COURT: Mr. Walsh, please ask a question.

BY MR. WALSH:

Q. Would you agree the last message on page 2, they're setting up how many guns and how many people they're going to need for this robbery? Is that fair?

A. Yes.

Q. All right. And --

MR. WALSH: Thank you. Nothing further.

THE COURT: Anything on redirect?

REDIRECT EXAMINATION

BY MR. WEEKS:

Q. Jeremy, by the time y'all got these phone records and the development of this case, Mr. East has given statements?

A. Correct.

Q. Mr. Isaac has given statements?

A. Yes.
Q. Mr. Morton has given statements?
A. Yes.
Q. And Mr. Simmons has given statements?
A. Correct.
Q. And all four of those individuals admit to committing this crime, don't they?
A. That's correct.
Q. And, in fact, three of them have been disposed of?
A. Yes, sir.

MR. WEEKS: No further questions.

THE COURT: You may step down.

All right. Madam Forelady, ladies and gentlemen, we're going to take our lunch break. The box lunches should be here shortly. You're welcome to eat them in chambers, I don't know how cold it is outside, or take them outside or do whatever you want to. All I ask is that you don't discuss the case, don't deliberate, and we'll start back at 2:15.

Mr. Weeks, is that enough time for everybody to get their lunch and organized?

MR. WEEKS: Yes, sir.

THE COURT: We'll start back at 2:15. So if

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you eat your lunch in here and want to go out and get some fresh air, you're on your own until 2:15. Don't discuss the case, don't deliberate.

Everybody else remain seated, please.

(The jury exits the courtroom at 1:02 PM.)

THE COURT: Mr. Weeks, anything for the record before we break for lunch?

MR. WEEKS: No, Your Honor.

THE COURT: Gentlemen?

MR. WALSH: No, Your Honor.

THE COURT: All right. We'll stand at ease until 2:15.

(Luncheon recess 1:03 PM - 2:13 PM.)

THE COURT: Where's your co-counsel?

MR. WALSH: Your Honor, he's in the restroom. He had a bit of an upset stomach.

THE COURT: Mr. Walsh, do you want to go check on him?

MR. WALSH: Could I have a minute before we take that step?

(Brief pause in the proceedings.)

MR. WEEKS: Just a couple things, Your Honor. We've reached an agreement on the transcript that we're going to be dealing with and the redactions have been done and have been done at their request

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and to their agreement. I just wanted to make that a part of the record.

And I was a little confused at the end of the last witness whether I had introduced the two rifles. I think they were State's Exhibit No. 52 and 53.

THE COURT: I think you did, per my notes.

MR. WEEKS: I couldn't remember. I just wanted to make sure the record --

THE COURT: 53 was the brown one under the oak tree and 52 was the one located on Wire Road.

MR. WEEKS: That's correct.

THE COURT: Any objection, gentlemen?

MR. BECK: None, Yours Honor.

If I could see just one thing on the transcript. Thank you.

(State's Exhibit No. 53 admitted into evidence.)

THE COURT: All right. We're good to go on the redaction of the transcript and the tape itself; is that correct?

MR. WEEKS: Yes, Your Honor.

MR. BECK: Yes, sir.

THE COURT: Anything else we can do before we bring the jury in, Mr. Weeks, Ms. Hall?

MR. WEEKS: I'm ready, Your Honor.

THE COURT: Gentlemen?

MR. BECK: Yes, sir.

(The jury enters the courtroom at 2:22 PM.)

THE COURT: Is everybody ready?

MR. WEEKS: Your Honor, the State would call Lieutenant David Savage.

DAVID SAVAGE

being first duly sworn, testified as follows:

THE WITNESS: Yes, ma'am.

THE CLERK: Have a seat in the witness stand, stating your name and spelling your last.

THE WITNESS: My name is David E. Savage, S-A-V-A-G-E.

DIRECT EXAMINATION

BY MR. WEEKS:

Q. David, where are you employed?

A. With Aiken Department of Public Safety.

Q. And how long have you been employed there?

A. Twenty-five and a half years.

Q. Does that span the entire career in law enforcement that you have?

A. I did four years of military police prior.

Q. And you are currently employed there?

A. Yes, sir.

Q. And you were employed there in May of 2013?
A. I was.
Q. Tell me how you became involved in the case we've been dealing with.
A. May 29th of 2013, I received a phone call at home. It was a command staff page for the lieutenants and captains that we had a homicide on Aldrich Street, and I responded to that area.
Q. And prior to doing that, let me get a little more background from you. How long you been in investigations?
A. I was promoted to detective in 1999, so 17 years.
Q. Okay. So May the 28th of 2013, you get the page in the middle of the night to go somewhere; is that correct?
A. That is correct.
Q. And where did you respond to?
A. [redacted] Aldrich Street in Crosland Park within the city limits of Aiken.
Q. And you've heard the testimony throughout the trial?
A. I have.
Q. And were you kind of reassigned to do something or were you put in control of a bunch of different

moving parts?
A. Captain Sawyer assigned me as the lead investigator on the homicide.
Q. And in that capacity were you on the scene or off the scene? What were you doing?
A. When I arrived on the scene, I did a brief walkthrough of the residence because I like to get a feel of what's happening. Went in there a couple of minutes, did a brief walkthrough. And a few minutes later, Captain Sawyer and I were outside, and that's when we started pinging the phone. And I took Detective Hembree with me and we started following those leads.
Q. You were kind of following the pings?
A. Yes, sir.
Q. And you've seen the rifles introduced into evidence and the pistol that was introduced earlier into evidence. Were you a part of getting all that collected?
A. Yes, sir.
Q. Where did the pistol come from?
A. The last person I interviewed and arrested on the homicide was a gentleman named Rashawn Issac. Mr. Issac told me about his part in the homicide. And at the very end of the interview, I asked him

about the nine-millimeter that was used and he told me that his brother had the nine-millimeter at the residence on Columbia Avenue in Aiken.

So I let Rashawn use the phone, he called his brother, and the brother said, well, tell them to come and get it. So I sent the ATF task force down Columbia Avenue to retrieve the weapon.

Q. The weapon that we've introduced into evidence, the nine-millimeter Ruger pistol, is that the weapon that you recovered?

A. Yes, it is.

Q. David, did you interview suspects, witnesses involved in this case?

A. I did.

Q. And calling your attention to May 29th, did you have opportunity to interview Markese East?

A. I did.

Q. Tell me how that was set up and what y'all do in the process of doing some of the interviews.

A. I was interviewing Aaron Griffin in the interview room, and when I was done interviewing him, I was told that Mr. Timothy East was up in the front lobby and wanted to see me. He was the uncle of Markese.

Q. As a result of that, did you interview Markese?

A. I did.
Q. And is that interview completely encompassed on a DVD?
A. It is.
Q. Have you watched that DVD?
A. I have.
Q. Is it a true and accurate copy of the interview that you conducted with Markese East on May 29th of 2013?
A. It is.
MR. WEEKS: And for the record, Your Honor, I'm handing him what's marked State's 57.
BY MR. WEEKS:
Q. Have you reviewed State's 57?
A. Yes, sir. It's a copy of the interview.
Q. That you did with Markese East on that day?
A. Yes.
Q. David, as part of the preinterview process for somebody, is there anything you do?
A. Yes; I read Miranda warnings.
Q. And Miranda warnings are -- what are they?
A. You have the right to remain silent.
Q. Same thing we hear on TV every night; right?
A. Absolutely.
Q. Do you use a form?

A. I do.
Q. And did you do so with Mr. East on that date?
A. I did.
Q. I'll hand you what's marked State's Exhibit 55 and ask you if you could identify that document.
A. Yes, sir. This is the Miranda form that I read to Markese East that he initialed.
Q. And he also signed it?
A. He did.
Q. And you witnessed it?
A. That's correct.
Q. Do you do this prior to questioning him?
A. I do.
Q. And did you do that on that day?
A. I did.
MR. BECK: No objection.
MR. WEEKS: Your Honor, we move to introduce State's 55 and 57.
THE COURT: Without objection.
(State's Exhibit Nos. 55 and 57 admitted into evidence.)
BY MR. WEEKS:
Q. David, at the time that you interviewed Markese East, had arrest warrants been issued for Mr. East?
A. They had not.

Q. Was he in custody?
A. He was not.
Q. Had y'all determined the players involved in the home invasion, armed robbery, burglary, murder of Shane Jones at that point in time?
A. We had gotten the names and we were trying to tie it all together at that time.
MR. WEEKS: Your Honor, I move to publish the contents of the interview that's depicted on State's 50-something.
THE COURT: 57?
MR. WEEKS: That's correct.
MR. BECK: We renew our objection.
THE COURT: You're talking about the Jackson v. Denno?
MR. BECK: Yes, sir.
THE COURT: Y'all are protected.
MR. BECK: Thank you.
MR. WEEKS: Your Honor, I had a couple of CDs here. And I indicated 57, but, actually, the one I need to publish is 58.
THE COURT: 58 is the one agreed upon by all parties?
MR. WEEKS: Yes, sir.
THE COURT: Subject to their objection.

Is that correct, gentlemen?

MR. BECK: Yes, sir.

MR. WEEKS: Your Honor, before I actually start that, I had prepared transcripts to the best of our abilities of the interview that he's conducted. And I've just found it's helpful for the jury to follow along with a written document. And I move to be able to allow to have the jury to have these written transcripts in their possession.

THE COURT: We'll have to have one as an exhibit, which is exhibit what?

MR. WEEKS: 59.

(State's Exhibit No. 59 marked for identification.)

THE COURT: Now, as I understand, we've had some discussions about this, y'all have done all of the corrections, et cetera, that was brought to everyone's attention.

Is that correct, Mr. Walsh?

MR. WALSH: Yes, sir, that's correct.

THE COURT: Any objection to the transcript, other than subject to your other objection?

MR. WALSH: Subject to the general objection. No specific objection, Your Honor.

MR. WEEKS: Your Honor, I do not anticipate

these to be in evidence, just for purposes of --

THE COURT: What they're going to do is play a video. Mr. Weeks has prepared a transcript of what's said on the video. You can use that to read along with. Might be a little easier than trying to --

BY MR. WEEKS:

Q. David, while we're waiting for the computer to catch up with me, the person that's depicted on the videotape in here is you and who?

A. Markese East, the defendant.

Q. And, unlike me, apparently, you've lost a bunch of weight since that videotape was taken?

A. I was a lot heavier in that video.

(State's Exhibit 58 played for his Honor and the jury.)

MR. WEEKS: A few technical difficulties. I apologize.

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

(Sidebar conference.)

THE COURT: How about y'all just follow along in the transcript instead of trying to read ahead, that way y'all will pay attention and watch.

(State's Exhibit 58 resumed for His Honor and

the jury.)

THE COURT: Are you replaying it or what?

MR. WEEKS: No, sir. We're not intending to replay part of it. There's another segment on it that I need to find.

THE COURT: Madam Forelady, ladies and gentlemen of the jury, let us get this cleared up. Just leave your transcript and your notes in your chair. Step out just a second so we can get this cleared up.

(The jury exits the courtroom at 3:10 PM.)

THE COURT: All right. Mr. Weeks, we ready to go?

MR. WEEKS: Good Lord willing, Judge.

THE COURT: All right. We're going to give it a shot.

MR. WEEKS: Your Honor, we've connected it to the front screen and bypassed all the --

THE COURT: So I won't get to see it on my side?

MR. WEEKS: You will not.

THE COURT: I've got a transcript.

(The jury enters the courtroom at 3:40 PM.)

THE COURT: Okay. I hope we got it ready to go.

Page 44 is where we're starting.

(Video resumed for his Honor and the jury.)

BY MR. WEEKS:

Q. David, was that your entire interview with Mr. East that day?

A. Yes, sir, it was.

Q. And the black and brown guns that were discussed and the other pistol that were discussed, are those the guns that we have in evidence today?

A. They are.

Q. Answer any questions the defense has for you?

A. Yes, sir.

THE COURT: Mr. Walsh? Mr. Beck?

CROSS-EXAMINATION

BY MR. BECK:

Q. Good afternoon, Detective Savage. Take it back a little bit. When -- who was it who brought Markese up there that day?

A. His uncle Tim East.

Q. And did you speak with Tim prior to speaking with Markese?

A. I did.

Q. Did -- and where did this talk take place at the police station?

A. It took place in my office in the

investigations division.
Q. Did you make any sort of statement to him in regards to Markese providing information?
A. I did.
Q. What was the nature of that?
A. I told Mr. East that he knew how the system works and that, you know, usually the first one that cooperates, it goes a long way with our attorneys down the road.
Q. And were the words maybe you'd look out for him? Were those used? Something to that effect?
A. Maybe.
Q. But how long was the discussion between the two of you?
A. Tim and I probably talked 15 or 20 minutes.
Q. And Markese wasn't there when this went on?
A. He was not.
Q. But after that, Markese -- Tim went and got Markese; is that correct?
A. It was about 20 minutes later, they called me back up to the front lobby of public safety and Markese was there.
Q. And change up the pace a little bit here a spot. You were speaking earlier about where the pistol came from, the nine-millimeter, that you

retrieved that from Rashawn Isaac's brothers; is that right?
A. I did not retrieve it from his brother.
Q. Well, he informed you that that's where it was?
A. He did.
Q. Do you know who retrieved it from Isaac's brother?
A. Captain Sawyer and I sent the ATF task force, which is comprised of Agent Moreland, Detective Miano, Detective Seigler and, I believe, Detective Glover to the residence on Columbia Avenue to retrieve the weapon.
Q. And that was that day, right?
A. That was that day on May 29th.
Q. Were you present when Leon Simmons was arrested?
A. No. Again, Captain Sawyer and I sent the ATF task force, the same guys, out to Aiken High School where Leon was sitting in class to be arrested.
Q. Let me change that. Sorry. Did you attempt to conduct an interview on Simmons?
A. I did try to interview Mr. Simmons.
Q. But he refused to speak at that time?
A. He asked for an attorney.
Q. And he was searched -- there was a search

subsequent to his arrest; is that correct?
A. Yes. They searched him before they brought him to me.
Q. And on his person were five one-dollar bills?
A. Yes, there was.
Q. And you spoke earlier. You had spoken to an individual named Aaron Griffin prior to speaking to Tim East; is that correct?
A. Yes, I spoke to Aaron Griffin.
Q. And he informed you -- did -- it was after speaking with him that you were able to retrieve one of the .22 rifles?
A. That is correct. Detective Hembree retrieved it.
Q. And that .22 -- is it true that Morton had given Griffin that .22 rifle?
A. When I interviewed Brian Morton, he did say that he gave one of the .22s to Aaron Griffin.
Q. And Morton and Aaron Griffin, they are related? Do you recall?
A. I don't know.
Q. Okay. And just to be clear in this, the interview recorded statement we just watched, Markese stated in that statement that there were not bullets in his gun. Is that a fair assessment?

A. It did. He said there was none.
Q. Just one second.
A. Yes, sir.
Q. And you had mentioned at the beginning that you had interviewed Rashawn Isaac?
A. I did interview him.
Q. And you've reviewed the transcript from that interview?
A. From Rashawn?
Q. Yes.
A. Not for this trial.
Q. Do you recall stating: I need that gun. He don't want me beating down his door for that gun. Bring it to me. There's no problem. Because your brother don't know, he does, but I'm not going to charge him?
A. I don't recall without looking at --
MR. BECK: May I approach the witness, Your Honor?
THE COURT: You may.
BY MR. BECK:
Q. Do you recognize this? I know it's --
A. Looks like the transcript for Rashawn Isaac.
Q. Okay.
A. Okay. Yes, sir.

Q. So you did state that?
A. I did.
Q. I was just refreshing your memory.
A. Yes, sir.
Q. Now, this individual that the nine-millimeter was recovered from, in the course of your investigation, did you learn he had a nickname?
A. Rashawn's brother or Rashawn?
Q. Rashawn's brother, the individual you got the -- or that the -- the individual who -- well, I'll withdraw that.

Well, let's step back here for a second. You did go through the crime scene at Aldrich Street?
A. I did.
Q. Were there any guns?
A. I did not look in-depth in the house. I did a general walkthrough.
Q. General walkthrough. Okay. And were any .22 bullets found at Aldrich Street?
A. I don't recall seeing any.
Q. And were -- either of the .22 rifles in this case, were they ever test-fired, to your knowledge?
A. Not to my knowledge.
Q. Because it's a true theory that a .22 was never fired in this case?

A. That's correct.
Q. And do you recall if Raven Williams ever gave a statement?
A. I never spoke to Raven Williams.
Q. And Carl Taylor?
THE COURT: What was that?
Q. Carl Taylor, was there ever a statement given by him?
A. I never spoke to him either.
MR. BECK: That's all the questions I've got.
MR. WEEKS: No further questions, Your Honor.
THE COURT: All right. You may step down.
Next witness, please.
MR. WEEKS: Your Honor, the State would call Investigator Kirk Owen.

KIRK OWEN

being first duly sworn, testified as follows:
THE WITNESS: Yes, ma'am.
THE CLERK: Have a seat in the witness box, state your name, spelling your last.
THE COURT: Kirkland Lewis Owen, O-W-E-N.

DIRECT EXAMINATION

BY MR. WEEKS:
Q. Investigator Owen, who do you work for?
A. Second Circuit Solicitor's Office, Strom

Thurmond.
Q. Mr. Thurmond?
A. Yes, sir.
Q. Could you tell the jury what your law enforcement background is.
A. I've been a police officer since 1978 at the Aiken County Sheriff's Office, the City of Aiken for a few years. I left the City, went to Savannah River Site, and worked for the security contractor, was a commissioned police officer there. Left there, came back to the City in 1989 and stayed until my requirement in 2013. I went to work for SLED for about 11 months and then returned to Aiken to work at the Solicitor's Office in February of '14, I think it was.
Q. Okay. Once you got to the Solicitor's Office in '14, did you become familiar with the case against Markese East?
A. I did.
Q. And did you assist in the investigation, location of witnesses, interviewing of witnesses in this case?
A. Yes, sir.
Q. Sometime in the fall of 2015, did you have the opportunity to interview Mr. Markese East?

A. Yes, sir, I did, along with you, Mr. East, and his counselor, Mr. Beck.
Q. Where did this interview take place at?
A. The Aiken County Detention Center. For purposes of space, we did it in the medical facility at the detention center.
Q. Okay. Was Mr. East promised anything or threatened in any way to get him to talk to us at that time?
A. Not at all.
Q. And prior to talking to him, had you reviewed his previous statement to law enforcement as well as the statements of the other individuals that had been given up to that point in time?
A. Yes, sir.
Q. And what was the purpose of us going to talk to him at the jail?
A. It was my understanding that his decision was to plead to the charges and he was to assist in the prosecution of his co-defendants.
Q. And did we interview him in the presence of his lawyer at the jail that day?
A. Yes, sir.
Q. Did he change, substantially, the version of what -- the version he had given to law enforcement

on May the 29th?
A. No, sir.
Q. Did we tape him or Mirandize him or take really good notes?
A. No, sir.
Q. During this entire interview, was his attorney present?
A. Yes, sir, he was.
Q. When I say substantially the same, were there differences? Did we go through a written-out question process? How did we talk to him?
A. It was more along the lines of a conversation about what had happened. He was articulate. He understood the proceedings. My impression was he was trying to gain assistance in the charges that he faced.
Q. Okay. And in that regard, did you hear me promise him or his attorney anything --
A. No, sir.
Q. -- in exchange for talking to us?
A. No, sir.
Q. How long did this process take, Kirk?
A. Hour, give or take a few minutes.
Q. Okay. And this was in the fall of 2015?
A. Yes, sir.

Q. And the tape that I was referring to or the interview was the one that's in evidence marked as State's Exhibit 57?
A. That's Detective Savage's, yes, sir.
Q. And the other interviews that you had reviewed prior to going over there, did they involve the other co-defendants to this crime?
A. Yes, sir.
MR. WEEKS: Okay. Answer any questions the defense has for you.

CROSS-EXAMINATION

BY MR. BECK:

Q. Let's see. Just a few questions for you. Isn't it true that you interviewed Leon Simmons in this case at the jail -- or excuse me. Isn't it true that you interviewed Leon Simmons at the public safety?
A. I assisted in a couple of other interviews of the other defendants. I don't recall right off the top of my head without reviewing the case jacket whether it was at the jail or the police department.
Q. But you did interview Leon Simmons; true?
A. Again, I'd have to look at the case file. But I believe that is correct, yes, sir. The names kind of ran together a little bit.

Q. Isn't it true that you interviewed a Brian Morton?
A. Yes, sir. I think the same caveats, that I'd have to review the case file to tell you whether it was at the jail or the police department.
Q. Both of those interviews were recorded, yes or no?
A. They were recorded if they were at the police department.
Q. Okay. And -- but you were present and they were recorded; is that correct?
A. That's right.
Q. And were -- and in this second interview you spoke of, just to confirm, it was not vide recorded?
A. Which one are you talking about?
Q. With Markese?
A. It was not video recorded. There was no capability to do that at the jail.
Q. And it was substantially the same story; correct?
A. As his first interview?
THE COURT: Substantially what?
Q. Isn't it true that it was substantially the same story as the first one? Is that your testimony earlier?

A. It is substantially the same interview and responses as Detective Savage's interview.
Q. Just to confirm, it was consistent?
A. Yes, sir.
Q. All right. Nothing further.

REDIRECT EXAMINATION

BY MR. WEEKS:

Q. Did he mention standing over the dying man and talking to him?
A. Yes, sir, he did.
Q. And did he mention the location of that conversation?
A. In the kitchen of Mr. Shane Jones, the deceased's house.
Q. Did he also mention at what point the Xan bars and the cash was taken from the deceased?
A. In that same kitchen from Mr. Jones.
Q. And did he mention whether or not he participated in that?
A. Yes, sir. It's my understanding, as I recall, that he gave them to him.
Q. The participation of Mr. Morton, a/k/a Smoke, was the testimony to us or conversation to us maybe a little bit more intricate than the original statement of what all took place right there at the

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door with Mr. Jones?

A. Yes, sir, it seems it was. I don't recall all those details, but, yes, sir.

MR. WEEKS: That's all I have.

THE COURT: All right. You may step down.

Next witness, please.

MR. WEEKS: Your Honor, the State rests.

THE COURT: Mr. Walsh, let me see y'all up here.

(Sidebar conference.)

THE COURT: All right. We always seem to get caught right here at 4:15. The State has completed their case and the defendant is -- may or may not have some witnesses. There's some things I have to do at the conclusion of the State's case, go over some things with them, which will take about 30 or 45 minutes. I think we're going to break this afternoon and let y'all go. We're going to stay and finish that so we can get started ASAP in the morning.

There's a couple things that could happen when we get back in the morning: There could be just a few short witnesses and then we'll get right into the final arguments and charge. I have to go over some things with them at the conclusion of the case,

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but I'll do that tonight so we'll have that done and won't hold y'all up tomorrow.

9:30, is that --

MR. WEEKS: That's okay with the State, Your Honor.

THE COURT: All right. We'll start right at 9:30. I'll have everything out of the way. We'll do all the things that we normally do at the close of the case. We'll have that already done so I won't have to send y'all back out and do that tomorrow. We'll stay and do that tonight.

What you got in the morning, Mr. Whittle? What would y'all like tomorrow? The choices are fruit, sausage biscuits, or doughnuts. That's about as good as we can do.

We have some fruit left over, don't we?

THE BAILIFF: Yeah, we have a lot of fruit left over.

THE COURT: We'll have sausage biscuits and things, hot coffee. If you want to partake in that, please be here a little early because I can't let you bring it out here. We'll get moving along early in the morning and I anticipate finishing all of the testimony midmorning. We'll probably order lunch so y'all will have that and won't have to go out and

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you can deliberate straight through. Unless something happens, we should finish it up tomorrow. Y'all have been wonderful, have paid close attention. I've enjoyed working with you. Have a wonderful evening.

We have the newspaper here. They have the absolute right to be here. And I suspect there will be something in the paper in the morning. I will ask that you not read it. You can read it when it's all said and done. Y'all have heard the whole thing, y'all don't need to get somebody else's take on it because y'all have got to decide it based what was here in the courtroom. So do not read the newspaper in the morning, just save it until tomorrow night. Don't do any independent research and have a very, very pleasant evening.

Everybody got rides? Everybody okay? I'll see you at 9:30 in the morning. Leave your notepads in your chairs along with your transcript. We'll take the transcript and leave your pads and we'll put them under lock and key.

(Jury excused for the evening at 4:20 PM.)

THE COURT: Mr. Whittle, if you would gather up those transcript copies and give those back to the Solicitor's Office, and then please gather up the

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notepads and put those under safekeeping for the evening.

All right. Any motion on behalf of the State at the conclusion of the case?

MR. WEEKS: No motions by the State, Your Honor.

THE COURT: By the defendant?

MR. WALSH: Thank you, Your Honor. May it please the Court. At this time, we do not have a motion as to armed robbery charge. At this time, we do have a motion as to the burglary first charge, a motion for a directed verdict. The grounds for this being there was significant testimony that Mr. Butler --

THE COURT: Someone other than your client?

MR. WALSH: Yes, sir. Butler was regularly at the incident location but, in fact, regularly staying there. In fact, Ms. Arthur, I believe, testified he might have stayed there the night before.

THE COURT: Mr. Who?

MR. WALSH: Mr. Butler, Trevon Butler, the alleged inside man, Your Honor.

THE COURT: Trevon? The guy who was allegedly texting?

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MR. WALSH: That's right.

THE COURT: There's been no testimony that he was, but go ahead.

MR. WALSH: That he stayed there as recently as the night before, that he regularly stayed there. The theory is that he, in fact, had unlocked that door for them. Although, certainly, it's a number of crimes, Your Honor, and whether it fits the facts of which case, but to commit a burglary, you do have to enter without consent.

If that man lived there and opened the door and let them in, it may be armed robbery, but I don't think they entered without consent at that point and I don't think there's any evidence that really contradicts that. The door was not damaged. He had just left the kitchen right before they entered. I believe Detective Hembree testified that was the theory, that he had unlocked that door. That is the prosecution's theory that these people were let in --

THE COURT: Let in by a co-defendant.

MR. WALSH: Yes, sir, a part-time resident of that house.

THE COURT: The only testimony that he resided -- there's no testimony that he resided

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there. There was testimony he'd been over there some and, perhaps, had spent a night or two. But, you know, if I visit you on a regular basis and spend the night at your house, that doesn't mean I reside there.

Mr. Weeks?

MR. WEEKS: Your Honor, the one piece of evidence that they're talking about ignores the evidence in the case that these four people conspired to home invade the residence of Shane Jones armed with three different weapons and did so --

THE COURT: And took stuff and killed him.

MR. WEEKS: And took stuff. They committed burglary in the first degree, the elements of dwelling, the elements of entering a dwelling that they had no right to be in --

THE COURT: Without consent.

MR. WEEKS: -- without consent, in the nighttime. All the elements for burglary in the first degree are present in the case in chief.

THE COURT: Well, even if you could construe the evidence like you're arguing it, Mr. Walsh -- and I certainly appreciate your argument, but it's a jury question as to whether or not they had, number

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one, consent to enter; number two, whether or not Trevon could have given consent if he was not a resident of the home. I mean, that's all a jury question. And I'm going to respectfully deny your motion.

Anything else?

MR. WALSH: Your Honor, we'd also make a motion for a directed verdict as to the murder charge. Testimony that my client's gun was unloaded. Obviously, recognizing you have an accomplice liability case; however, if the murder comes out of a separate and distinct act of individual malice, it does not attach to the other defendants.

And we believe the testimony is that Mr. Simmons went in. Detective Savage believed that he did -- was his opinion that the statements made to him by Mr. East during the interviews were essentially true and accurate. And the testimony that was given was that he -- at any rate, is that the other people, Simmons with Butler, are planning this case when he says he does not know the door is going to be unlocked.

He does not know about this. His gun is unloaded. He's got no way to know. And Mr. Simmons enters, and the witnesses' testimony is the first

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shot, at any rate, is very quick. Upon entering the door, Mr. Simmons did proceed to shoot and ultimately kill the victim.

And, secondly, also, Mr. East says during his interview, towards the end, he's very clear as to what the conspiracy was. The conspiracy was to take the phones, take the money, take the weed. The question, of course, then is whether that death is a probable result.

But if, in fact, Mr. Simmons, in conjunction with the inside man and/or possibly Mr. Morton, if they've got a separate plan they've been working on all day to kill that man and they, 30 minutes before, get a fourth man based on the need to get an extra person who has no part of any knowledge that they intended to kill him when they went in, then that's a distinct malice that doesn't attach under the hand-of-one theory. We think a directed verdict on that matches the evidence presented.

THE COURT: Mr. Weeks?

MR. WEEKS: Your Honor, four people conspired to rob and burglarize a man and his home and, in preparation of doing that, arm themselves with various caliber weapons and do, in fact, commit a murder entering that residence with the victim, the

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owner, or the person that has possession of that residence.

Case law is old as I am, if not older, that that set of facts alone would warrant a charge of murder. But you have his own mouth saying that, okay, me and my boys went in the house. You got his own mouth saying --

THE COURT: What page we on?

MR. WEEKS: I'm looking at the transcript on page 3, line 23. I'm looking at the transcript on page 6, lines 12 through 14. All right. Who went in? Me, Five, and Smoke.

Looking at page 7, line 29, it was: Okay. You're talking about that ran in the house? It was me.

They suited up, he had a gun, all of those are evidence of a murder committed in the commission of burglary first degree and armed robbery, Your Honor. And the guns don't have to be loaded.

THE COURT: Well, you go --

MR. WEEKS: One gun was loaded.

THE COURT: -- to line 15 on page 8: Bro came to me and, you know what I'm saying, he was like, man, suit up and let's go. All right. What's up? Man, we're fixing to go hit something. I was like,

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all right, you know what I'm saying, so I just suited up, all right, let's ride.

So he's in it thick as the rest of them. And if you believe his testimony, I mean, they arm themselves, they go break into the house and rob people and --

MR. WEEKS: Kill people.

THE COURT: Kill people -- killed one, shot another.

You know, I've been doing this a long time. This is a classic hand-of-one-hand-of-all accomplice liability. Sure, maybe he didn't think anybody was going to get killed, but they did. And the case law supports the theory of hand of one, hand of all. So I'll respectfully deny your motion on directed verdict on that.

Anything else?

MR. WALSH: Nothing from the defense at this time.

THE COURT: Does Mr. East have a record?

MR. WALSH: No, sir.

THE COURT: No record at all?

MR. WALSH: None, Your Honor.

THE COURT: Mr. East, if you would please stand and raise your right hand.

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MARKESE EAST

being first duly sworn, testified as follows:

THE DEFENDANT: Yes, sir.

THE COURT: Mr. East, we have now, obviously, finished the State's case in chief. They have the right to put up any reply testimony, but they've put up the testimony they're going to rely upon to ask the jury to convict you on evidence beyond a reasonable doubt on the three charges.

We're at the stage of the trial now where you can tell your side of the story, you can present your defense. You understand what I'm saying about that?

THE DEFENDANT: Yes, sir.

THE COURT: And you can do that in a number of ways: You can call witnesses to testify on your behalf, you can introduce relevant exhibits, and you can come up and be sworn and take the witness stand and testify.

Now, if you choose to testify, you'll be subject to cross-examination like anybody else is on relevant subjects. They can cross-examine you on the statement you've given and anything contained in that statement and anything relevant to what happened.

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You are also afforded the privileges and rights given to you by Fifth Amendment of the Constitution which says you can't be compelled to give testimony in an action against you. You have the right to remain silent, is what everybody says.

THE DEFENDANT: Yes, sir.

THE COURT: If you exercise that right and don't testify -- because you don't have a thing to prove. The burden is on the State to prove your guilt beyond a reasonable doubt. If you don't testify, when I instruct or charge the jury, I will tell that jury they cannot consider the fact that you didn't testify, they can't infer anything from it that you didn't testify, it's something that can't be considered at all in the jury room when they deliberate your guilt or innocence.

I will tell the foreperson that it is one of her duties that if anybody brings it up, they're to stop immediately, because you have the absolute right to remain silent. And if you exercise that right, you can't be penalized for it, they can't use it against you. I go over that pretty strong with them if you fail to testify or if you don't testify or if you exercise your constitutional right to remain silent. So do you understand what I'm

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saying?

THE DEFENDANT: Yes, sir.

THE COURT: When we get back here tomorrow, it will be time to put up your side of the story and I'll need to know tomorrow whether or not you intend to testify.

THE DEFENDANT: Yes, sir.

THE COURT: You can talk to your lawyers, anyone else, but, you know, in the final analysis, it's your decision. You're the one that has to make that decision. So I'm going to let you ponder over it over the evening and you can tell me in the morning. Is that fair enough?

THE DEFENDANT: Yes, sir.

THE COURT: Any questions you want to ask me?

THE DEFENDANT: No, sir.

THE COURT: You understand what I'm saying?

THE DEFENDANT: Yes, sir.

THE COURT: So if you testify, you can be cross-examined like other witnesses. If you don't testify, I will tell that jury you don't have a thing to prove. You have the absolute right to exercise your constitutional right to remain silent, and they can't use that against you. They can't even consider it when they deliberate your guilt or

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innocence. So you understand all of that?

THE DEFENDANT: Yes, sir.

THE COURT: You can make that decision in the morning and let me know. Fair enough?

THE DEFENDANT: Yes, sir.

THE COURT: Anything else you need?

THE DEFENDANT: No, sir.

THE COURT: Anything else, gentlemen, we need -- let's do this before we break: Let's go ahead and talk about the charge so we won't have to get held up tomorrow. Y'all all know my standard normal charges dealing with presumption of innocence, considering each separate indictment separate and apart from the others.

I said presumption of innocence, reasonable doubt, the kind of doubt that would cause a reasonable person to hesitate to act, and the other part of that reasonable doubt charge I normally give, which you're all familiar with.

MR. WEEKS: Firmly convinced.

THE COURT: Firmly convinced, yeah. Duties of the trial judge and the jury. I don't have the right to comment on the facts. If I've done anything, they can't hold that if I have an opinion about the facts. Credibility of witnesses. Depends

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on whether or not he testifies as to -- I will give a charge if he does not testify, failure to testify charge.

MR. WEEKS: Expert witness charge.

THE COURT: Expert witness charge. And then I'll charge murder, burglary first, armed robbery, and the hand of one is the hand of all. There's certainly no evidence of a voluntary manslaughter lesser included offense. I'll refer to the recent opinion of Justice Beatty. I don't know the name of the case, but it just came out in the last six weeks.

What am I leaving out?

MR. WEEKS: I believe that covers everything.

MR. WALSH: Your Honor, we do intend to request a charge based on the 1989 case of Yates v. Aiken, and going back to the 1939 case of State v. Woods as to an independent malice, which simply is a party is not liable as an accomplice for murder committed by the slayer as an independent act of private malice, is the charge that's been given repeatedly.

The State v. Woods 1939 case is a prison riot guard who's stabbed and killed by one of the prisoners. And that charge was requested in Yates v. Aiken as in accommodating the defendant's defense

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to further charge the jury a party not liable as an accomplice for a murder committed by the slayer as an independent act of private malice.

We believe there is at least some evidence that tends to show one or more of the other defendants had an independent plan to murder the defendant when they entered that door, such that will become a jury question, and we think it will be appropriate.

As a backup position to that, then certainly we think the appropriate charge is the natural and probable consequences flowing. There's a case out there that approved natural without probable. But I think the charge has always been, generally speaking, that natural and probable consequences flowing from the execution of common plan is a question of fact for the jury. So that would be the only two additional charges I believe we'd request.

THE COURT: Mr. Weeks?

MR. WEEKS: Your Honor, there's no evidence in this case of voluntary manslaughter before, after, or during. It's not a voluntary --

THE COURT: That's not a voluntary --

MR. WEEKS: The natural and probable, I'm going back to his first request for a voluntary manslaughter charge.

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THE COURT: No. I said I was not going to charge voluntary manslaughter.

MR. WALSH: We're not asking for that, Your Honor. The natural and probable consequences, that's a charge that goes with the hand of one, hand of all, such that when people join together and that happens as a natural and probable consequence of the common design. The argument, at least, is that it was not one and that it was the independent act of one actor.

MR. WEEKS: There's no evidence at all that it was an independent act of one actor in this case, the entire case, as described by their client as being premeditated and performed. The fact that Mr. Smoke was quicker to the trigger -- or Mr. Simmons was quicker to the trigger than the other two armed men is not a basis for that charge. But I haven't looked at the case.

MR. WALSH: It might be appropriate to reserve that ruling until after the defendant's case, if presented. And at this point, only some portion of the possible evidence has been presented.

THE COURT: What's the name of the case?

MR. WALSH: The case I quoted was --

THE COURT: Do you have a copy?

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MR. WALSH: I don't have the full case, Your Honor. I've got my summary. I can get it quickly.

THE COURT: Do this for me in the next two hours, e-mail it to me and Mr. Weeks.

MR. WALSH: I certainly will.

THE COURT: I'll reserve ruling on that. But normally I would give the hand of one, hand of all charge that the State Supreme Court has set forth on a number of occasions. State vs. Hughey, State vs. Franklin, State vs. Yates, it's just common boilerplate language that we give in all cases.

But I'll look at those two cases and I'll let you know in the morning. But please send them to me ASAP so I can read them on the way home or certainly read them on the way in the morning. I won't read it on my birthday evening night.

All right. Anything else?

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

THE COURT: Verdict form is simple: We find the defendant not guilty, guilty of murder, armed robbery, burglary in the first degree.

MR. WALSH: Yes, sir.

THE COURT: Anything else, gentlemen?

MR. WEEKS: Not that I'm aware of, Judge.

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THE COURT: All right. Send a copy to Mr. Weeks and Ms. Hall.

MR. WEEKS: We need to know whether they want those witnesses from the jail for logistic purposes.

THE COURT: Absolutely. Y'all need to make that decision tonight.

MR. WALSH: We'll make it right now, Judge. Give us a couple minutes to confer, Your Honor.

THE COURT: I tell you what, just get with my jailer over there and you can let her know.

When do you need to know, ma'am, by when?

THE DEPUTY: As long as I know by 8:00 in the morning.

THE COURT: Okay. Is that fair enough?

MR. WALSH: Yes, sir.

THE COURT: 8:00 in the morning.

MR. WALSH: Yes, sir.

THE COURT: Anything else?

MR. WEEKS: That's all, Your Honor.

MR. WALSH: We resolved the question with the jail, they're bringing two out of the five.

THE COURT: What is State vs. Woods? You got a cite on it? What year was it, '39?

MR. WALSH: I'm looking again. I think in that case, they didn't give that charge. They gave it in

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Yates v. Aiken.

THE COURT: Well, send me both of them.

MR. WALSH: If I find another one in an hour, I'll send you that one too. Yates v. Aiken is the one I've been looking at.

THE COURT: All right. We'll start right at 9:30. Y'all be ready to go.

You understand if you put up witnesses -- of course, you've already put in evidence, you may have lost your last argument anyway. But I may be easy on that. But if you put up witnesses, you'll lose your chance for last argument.

MR. WALSH: Do we need to argue that now?

THE COURT: What?

MR. WALSH: Whether the exhibit --

THE COURT: No. I'll wait for you to decide whether you put up witnesses.

MR. WALSH: Yes, sir.

THE COURT: I said I'd be lenient on that.

(The following proceedings were held January 7, 2016.)

THE COURT: Is the State ready to proceed?

MR. WEEKS: State's ready.

THE COURT: Mr. Walsh, what have y'all decided on the presentation of a defense and as to whether

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or not the defendant is going to testify?

MR. WALSH: The defense is going to rest. We're not putting up any case.

THE COURT: No testimony?

MR. WALSH: No testimony. Outside the presence of the jury, I'm not certain, my client may want to have a word with the Court about that, but I'll leave that to him.

THE COURT: Mr. East, good morning.

THE DEFENDANT: Good morning, sir. How are you?

THE COURT: I'm doing well. Thank you very much. You're still under oath from yesterday. We went over your right to testify and your right to remain silent, and I think I explained everything to you. After the evening, have you got any questions about that?

THE DEFENDANT: No, sir.

THE COURT: And you fully understand your right to testify and your right to remain silent?

THE DEFENDANT: Yes, sir.

THE COURT: If you remain silent, I will tell the jury they cannot hold the fact that you did not testify against you in any manner whatsoever. You have nothing to prove. You have the right to

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exercise your right to remain silent and they can't consider that when they deliberate your guilt or innocence. Do you understand all of that?

THE DEFENDANT: Yes, sir.

THE COURT: Do you wish to testify?

THE DEFENDANT: No, sir.

THE COURT: Thank you.

Any other witnesses?

MR. WALSH: No, sir.

THE COURT: So we had three of the co-defendants you had here and some talk yesterday about them testifying.

MR. WALSH: No other witnesses, Your Honor.

THE COURT: Okay. Is the State prepared to open in full?

MR. WEEKS: State waives opening in full, Your Honor.

THE COURT: Y'all ready to go first?

MR. WALSH: Judge, we would request to have the last argument having put up no case in chief.

THE COURT: Mr. Weeks?

MR. WEEKS: Your Honor, the case law is clear as can be that they did put up evidence. Defendant's Exhibit No. 1 was a list of phone calls that came in without objection, but they submitted

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it as evidence. And going back a number of years now, the last case being State v. Pinkard, State v. Rogers, and State v. Gellis all clearly state that it would be error to not give the State closing argument.

THE COURT: And, in fact, yesterday when you got ready to do it, I looked at you and I said are you sure you're going to introduce that and I smiled at you. I assumed you understood what I meant when I said that.

MR. WALSH: Your Honor, I would simply point out that that's -- the State, in their case in chief, they were talking about the importance of cell phones in developing their case and yet, left out a significant fact. Those texts are hugely important, but they are part of cross in that it was necessary for him to confront the witness, which is, of course, a core constitutional right.

THE COURT: I agree with that. You could confront him, but you didn't have to introduce it as evidence knowing that's the -- been the rule as long as I've been doing it, 42 years, that if you introduce evidence, you lose that right to last argument. But I'll look at the case to make sure I'm still correct in my belief. You can look at the

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case.

All right. 2005 case, State v. Pinkard, P-I-N-K-A-R-D, authored by Justice Kittridge, he says exactly what I'm saying: We affirm and hold that the presentation of any evidence by the defendant, whether characterized as testimonial or non-testimonial, forfeits his rights to make the last argument to the jury.

For that case, I was -- it looked like it was showing a tattoo on an arm as evidence. And the trial court ruled correctly that the proposed display would have been evidence and was not entitled in any way to retain his right to final closing argument. Same thing I've been saying.

State v. Earl Rogers, that's a 1977 case, per curium, the solicitor is entitled to the closing arguments to the jury unless the defendant has offered no evidence. The right to open and close is a substantial right, which is reversible.

And State v. Gellis, G-E-L-L-I-S, that's a 1930 case, so it goes back before Mr. Weeks and I started practicing, says the same thing; that one talks about introduction of documents without putting up witnesses. There was no error in refusing to give the defendant the opening in reply argument. The

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State contended that the defendant, by his introduction of the document evidence, has lost his right to open and reply, and the trial judge sustained that position. It is evident from the more recent decisions of this court that the rule is that if a defendant offers any evidence at the trial, the State is not deprived of its general right to the opening concluding arguments.

I'll stand by my ruling on that. You're protected.

MR. WALSH: Ready to proceed, Your Honor.

THE COURT: We also discussed in chambers the hand of one is the hand of all charge. And the defendant has requested that I add language that appeared in Yates v. Aiken, who was a warden at CCI at the time dealing with -- we discussed this in chambers also yesterday afternoon, which sets that a party is not liable as an accomplice for murder committed by the slayer or as an independent act of private malice.

My review of the evidence in this case, it's clear from the -- if you believe the statement given by your client that they were going to do a, quote, lick, unquote, on a kickback, unquote, party. They all decked out in their uniform, so to speak, got

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dressed out, as I think they said, said, let's go do it. All three of them went over armed, one with a handgun, two with a pistol, went in, and immediately upon entering the house in furtherance of the robbery and/or burglary, the owner of the home was killed, shot a couple times, three times, perhaps.

So I don't -- I don't find that there's any evidence of any independent malice by anyone. This was either a common scheme or plan or not. I respectfully deny that. You're protected on the record. You cited to me the cases of Yates v. Warren and also a 1939 case of the State v. Woods. Both of those, I can make those part of the record so you'll be protected on that for appeal, if you need to be.

MR. WALSH: Thank you.

THE COURT: The verdict form, I think we've shared that with everyone. It's simply not guilty or guilty on three indictments: Murder, burglary, first and armed robbery.

MR. WEEKS: Your Honor, just one technical thing. We were redacting and changing and modifying yesterday, but we have a completed redacted CD that should play on a laptop in the jury room or play on this beast if you brought them out for questions or

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whatever. And I'll substitute this for the one we originally had in.

MR. WALSH: I don't have any objection, Judge. We just haven't had a chance to review it.

MR. WEEKS: They haven't, and I want them to.

MR. WALSH: If it's done right, and I don't think it's done wrong, I just --

THE COURT: Well, let's do this: After the final argument and they go to the jury room and start deliberating, they're not going to ask for that straight off the bat. That will give y'all an opportunity to look at it real quick. And if they do ask for it as soon as they go back there --

MR. WALSH: There wasn't any redactions --

THE COURT: -- I'll hold off on it until you've had a chance to review it. Fair enough?

MR. WALSH: Yes, sir.

THE COURT: Anything else before we bring the jury in?

MR. WEEKS: Nothing from the State, Your Honor.

MR. WALSH: Nothing from the defense, Your Honor.

THE COURT: Mr. Walsh, are you doing the final arguments?

MR. WALSH: I am, Your Honor.

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(The jury enters the courtroom at 9:43 AM.)

THE COURT: Madam Forelady, ladies and gentlemen of the jury, good morning. I hope you had a very pleasant evening. We continued to move forward yesterday afternoon, as I told you we would, so we could get started relatively on time this morning. We're not running too far behind.

Where we stand now, the State has rested. They've completed all of their evidence. And the defense, as they have the right to do because they have absolutely nothing to prove, the burden is on the State of South Carolina to prove these indictments to you beyond a reasonable doubt. So the defendant is not going to put up any defense, any evidence, or any testimony.

So we now move to the final stage of the trial, which are the final arguments. And the final arguments is like opening statements, that is not evidence in the case. It's simply how the lawyers will argue to you. Obviously, they're adversaries for their particular sides, so they'll argue the evidence in the light most favorable to their client and what it shows. But that is not evidence in the case. You've heard all the evidence from which you will make your decision, but I ask that you pay

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close attention to the closing arguments.

Because the State has the burden of proof, they are allowed to go first, followed by the defendant, and then the State has the right to rebut to that. Oftentimes, the State will waive their right to opening and the defendant will go first followed by the State. And I think that's what the State has decided to do in this case.

So once we complete the final arguments, then we'll be in a position for me to charge or instruct you on the law and then you will be given the case to start your deliberations. So I ask that you pay close attention to the lawyers while they do their final arguments, and then I'll instruct you and you'll get the case. Thank you very much.

Any objection to my remarks by the State?

MR. WEEKS: No, Your Honor.

THE COURT: By the defendant?

MR. WALSH: No, Your Honor.

THE COURT: Mr. Weeks.

MR. WEEKS: The State waives opening on the law.

THE COURT: Let me remind the audience, once again I want to commend everyone in the courtroom. Obviously, these types of cases are emotionally

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charged. Everyone has conducted themselves with admiration. I appreciate it. Everyone has behaved properly and I ask that you continue to do so today.

Sometimes the final arguments can get a little slanted one way or the other -- not slanted, but they argue in favor of each other. So if you don't think you can handle the arguments, please leave now. I will not tolerate any type of untoward behavior, so please continue to respect the Court as you have done. I commend each of you. Thank you.

Mr. Walsh.

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

THE COURT: Yes, sir.

MR. WALSH: Good morning. First off, let me thank you. I know at the start of this trial, Mr. Beck essentially just asked y'all to do one thing, said just stay with us and pay attention, and I know you've done that. When somebody does something you asked them to do, I know you would have done it anyway, but we thank you for that.

Let me relieve you, perhaps, a little bit and tell you what I'm not about to argue to you, that I know you don't want to hear. I'm not going to argue that these police officers and these investigators

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did a bad job or they did something to hurt this defendant. It's not that kind of a case. We respect what they do. This is court, I'm a defense attorney, they're investigators. We have the dialogue you have to have to get the facts. But I'm not here to tell you the police didn't do a good job in this case. They did. They investigated it.

This is -- and we call it a court of law. And you throw that around on TV or I'll see you in a court of law. That's really very important because of law, the law, it rules in here. And if you're on a jury because of your life experience and what you bring, which you are, then you know from your own experience that what might happen if we just sort of had strictly common sense, may not always be what the law says.

Legislators pass the laws, judges will tell you what the laws are, and we all work under them. But it's not necessarily the same thing as at the very start of society of a jury, it was just the first 12 neighbors they could find and it went that way. This is a court of law. And the law we are here on is accomplice liability or what, in South Carolina, is generally referred to as the hand of one is the hand of all. That is the law.

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And what the law says to you is that when two or more people join together for the purpose of committing a crime -- and I'll share with you now that's really also not what we're here to argue didn't happen because that, essentially, did happen. The hand of one will then tell you what it sounds like; all those people then are equally responsible for the acts of one another. But here's the part: This case, the entire future of this young man who -- at this point, I'm talking to you all primarily about the murder charge. I'm really not talking to you all about the armed robbery charge. You need to draw your own determinations from the law --

THE COURT: Madam Forelady, ladies and gentlemen, I hate to interrupt final argument, but the future of the young man, the sentencing, that's entirely up to the Court. You have no input or output or anything in that. Your sole job as a juror is to determine whether or not the State has proven his guilt to you beyond a reasonable doubt. So don't concern yourself with any sentence that may or may not be forthcoming.

Mr. Walsh.

MR. WALSH: What happens is that someone is

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guilty in this case, three or four words, from the natural and probable consequences thereof, which means -- and the State will have you believe that casts the widest net, which essentially means that anything that happens is a natural and probable consequence. And I would spend my time with you speaking about why, in this case, that's not true.

But, as I stated, the armed robbery is really not what I'm arguing to you. You've heard the facts, you heard the defendant's own statement. The burglary -- the judge is going to tell you the part of a burglary is you can't enter a residence without consent.

You did hear testimony that the inside man, Mr. Butler, who we'll go back to, the State's theory that he unlocked or opened the door that you heard normally stayed shut. And you heard that he stayed there regularly and was, in fact, a friend or even the best friend of the deceased.

In following the law, you may certainly find that although it may be in a sense distasteful for you to find that he did have consent to enter if he entered, that, perhaps, it's not a burglary in the first degree. There's different charges. There's an armed robbery, which has nothing to do with

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whether that door is opened by a person who's regularly in that house who is the best friend and that person opens the best friend's door. And I recognize this isn't for a neighbor coming over, it's for the situation it is. But it's a court of law and these little things are very important. And the terribleness of the situation doesn't make them less important. The law is the law. As I said, I have very little I can say about the armed robbery.

The murder is primarily what I'm talking to you about. That's what this is. I imagine if you mentioned this case to anybody -- and I'm not suggesting you discussed it improperly during this week -- I bet you said I'm on a murder jury. I bet you didn't say, I'm on a burglary first degree jury or armed robbery jury. It's a murder case, so I'm talking about the murder.

And here's what we know about how this man died and why: In fact, his death was not a natural and probable consequence of the conspiracy that Mr. East entered into, but, in fact, was something that was orchestrated by Mr. Simmons, Smoke, Mr. Morton, and this inside man. And this is how the evidence shows you that. Just bear with me.

This day starts, these people are in high

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school. It's May, they're seniors, they're coming up on graduation. One group of them, at one point, the victim, his group of friends, Mr. Butler, in particular, who you heard was his best friend, perhaps, are at the house. His girlfriend has gone to work as she appears to be the only person there who does go to work. She's pregnant, she's off to work at some point during the day. Everybody else is having a kickback. I absolutely at no point mean to be flippant. Take a look at the pictures.

I mean, they're not even sitting there drinking cheap beer and smoking a joint, it's Crown Royal, there's cocaine on the table. Nobody knows anything about the cocaine, nobody did any of it. I guess it's just decoration. That's what's going on in one house.

Meanwhile, Mr. Simmons, Mr. Morton, and Mr. Butler are plotting a robbery. But they're also plotting a killing, a separate plot. This is how you know it. You know it's Simmons because this whole thing is Simmons. He's the one with a loaded gun, he's the shooter, he's through the door, he's texting, he's putting it together, he's in contact with Butler.

Now, why would Butler set his friend up? It's

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a strange question here. It's pretty clear that he did. Why would he do that? That is his best friend. How is he all of a sudden involved in this? Using another guy's phone, Mr. Morton's phone. Phones are key in this case. Who's got the phone when is important. Inside man's holding Morton's phone talking to Simmons. And go through, it starts out, you know -- and then they're all talking about how many -- I won't use the language, you'll read it -- how many people are at the house, how much money is there.

And there it is, 11:39: Yeah, make sho you make the one with the white shirt and the black pants. Make the one. The victim, that's exactly what he's wearing.

You certainly saw -- you didn't hear from Mr. East in here, but you saw his statement. You heard from him plenty. And you heard the officers say, essentially, that they believed that what he told them to be true. So that's what he said happened.

A few minutes before, maybe 30, maybe less, they drive around some, they get an extra person. But meanwhile, throughout the day, Smoke, he's been gathering up rifles from his house. He's plotting.

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They're getting together. Simmons is gathering up the nine-millimeter that ends this. Apparently he's got enough bullets for it. They're gathering up, you know, specialized masks.

You heard from the young man from Atlanta, wasn't necessarily the greatest witness, but he was what he was. Kind of person who didn't want to talk to the police. Apparently there was -- you heard by the time Mr. East got there, he thought there was four people there, but everybody is pretty sure there was more like ten, in and out. Everybody is in and out all day. Nobody is -- they're just hanging out, people just keep coming over. This is a place where nobody works and they got money for Crown Royal.

Simmons and the inside man, again, why is he the inside man? Why would he tell him to make sure you make the one? That's his best friend. I don't know. The young man from Atlanta, you heard he'd been hanging out and, according to him, that's just the culture where he's from. Maybe they'd been talking about it. Maybe Simmons wanted some money for a graduation present for himself. Who knows?

But it's pretty clear the inside man is telling them who to get. They're gathering guns. They're

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gathering a car. That's Mr. Morton's car. Mr. East brings himself to it, he surely does, to go commit an armed robbery. He's admitted to that. And, like I said, we're not arguing that with anybody.

They get in the car, they're driven over. Mr. Simmons has planned this. He does join to go commit a robbery. And this is where you get to natural and probable. It's certainly one way you can look at the evidence, is what the State will tell you happened, is that because the homeowner was naturally moving towards the guy that's coming in that they just reacted and shot him. That's one way it could go. But there's another way it could go. If it could go either way, then it's not beyond a reasonable doubt.

And the way it could also go, you hear the witnesses, people talk about the ones that run away, they hear two shots only. It's because one or two shots come fast, because Mr. Simmons, having been told who to make, who has the only loaded weapon. I understand they all had weapons, but I'm certain Mr. East didn't think he could shoot anybody with an unloaded .22 rifle. I feel certain you'll hear argument that you gather weapons to commit a robbery, because when you go over there, you might

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shoot the people that are there. And I agree with that. But, again, he certainly didn't think he was going to shoot anybody with an unloaded weapon.

Simmons, who, along with Smoke, is handing out weapons, has a loaded weapon that he got from the other defendant, Mr. Isaac, who, in candor, except for going to get that pistol, I would think also might not be involved. But everybody brings something but Mr. East. Mr. Isaac drives and brings the pistol. And you'll see in here, they're adding -- as they decide how many people are at the place, they decide they might need more people and they add Mr. East. And he makes the decision to go along, which is certainly the worst decision he's ever made. I certainly hope it's the worst decision he will ever make.

But what he did, he went to commit a robbery without knowing he had joined a hit conspiracy. He never knows. They give him an unloaded gun. You could certainly believe that the reason they heard two shots so fast is that Simmons goes to the door and shoots the man he's there to shoot. You hear the testimony, this is when Mr. East freezes. He's involved in something, but he's -- and you hear maybe he's standing over the dead man, but you also

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see he's in the door and that's where he's dying. And he probably did have some words with him.

They want you to believe that he somehow shakes him down for these few pills and five dollars. If that's so, why doesn't he have any of them? At the end of this, he doesn't have the pills, he doesn't have the five dollars. Those are, again, shockingly, found with the people whose hit this was who get the rifles, who get the vehicle, who get the masks, who get the victim.

Natural and probable consequence of the conspiracy. It wasn't probable in terms of Mr. East's culpability to go steal weed and money. I make no defense for that. I don't stand here and tell you it's okay to go steal weed and money from somebody with an unloaded gun. It's not. You hear him say on the tape -- I mean, he understands what he's confessed to. He's still the only one who tells the truth.

He goes in -- he's not the first one they talk to, because they find Smoke. They track him by the car, they find him at his house where he's got the gun cases under his bed. Did you try to talk to him? Yes. Did it help you? No. Smoke's still protecting his conspiracy, his hit.

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Next, they talk to Mr. Griffin, who's disposed of the guns. I mean, Mr. Simmons is bringing everybody in on this. Here, get rid of guns for me. Mr. East has not been given anything to get rid of. And I'd suggest to you because Mr. Simmons knows he's not a core part of this, he's not trusted with it. He didn't get the proceeds. He's not getting rid of anything. He thinks and still thinks, maybe, that this is really a robbery gone bad. The State will tell you -- except if you look a little deeper, it's just as possible Mr. Simmons actually knew he was going to shoot that man when he walked through the door, in which case, that's not a probable consequence of the conspiracy entered into by Mr. East.

And, again, there's a man who died. We heard about his house. But he didn't deserve to die for that. I don't suggest that. To point out what's going on at his house is not blaming the victim. You're the judge of the facts, so let's hear the facts about everybody. It's not blaming anybody. I blame the people who put this together. I primarily blame Leon Simmons and Smoke and I especially blame Mr. Butler who sold out his best friend for nothing.

But after that, in descending order, next, I

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blame Mr. East. He's next in responsibility, he is; absolutely, he is. Let's suit up. He thought that was cool. You see it in the video. You know, when he said that, he thought that was a good thing to do. Well, it's not. That's not the facts and law that I'm asking you to look at because we know that. Nobody is arguing that. Was this particular murder a natural and probable result of the conspiracy that Mr. East entered into with his unloaded .22 rifle standing at the door?

I'm talking about how you know that this was some -- Mr. Simmons was bound and determined. Firearms expert comes in, got three bullets entered the deceased. It's not really disputed. There's two shell casings and there's two bullets that are -- of course, they could have fallen out of his pocket or something, but that's probably not what happens. You'll see the weapon. You'll see the brand on it. I suspect that's the first time you'll ever have seen that brand name unless you're a deep, deep hobbyist of cheap pistols.

He comes in, he makes at least the first shot, possibly the two shots. Two casings together, it makes sense. Almost immediately, people run out of the house, all hear two shots. They're running, but

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that's what they hear. That's pretty consistent. Meanwhile, set-up man is in the bathroom, interestingly, possibly coincidence and possibly not. You're the judge of the facts. You decide.

The young man from Atlanta, before he knows his girlfriend was shot, told you that he noticed she was shot later, he heads for the bathroom. That's the only room in the house those other two robbers don't go to. Could be a coincidence he's coming to town. He's got a shot girlfriend, cops are coming down the road. Anybody knows the police can get an EMT faster than you can drive to the hospital, but he's bound and determined not to see the police. They find the bathroom. Mr. East is no part of that conspiracy. And he doesn't know about Trevon. Nobody tells him -- he said right before, they tell him the door is going to be unlocked. He doesn't even know that.

So the State, understandably, is trying to get justice for a dead man. They're going to argue this hand-of-one-hand-of-all is very expansive. But there's people that are running a separate conspiracy here. They've gone here for whatever reason. Perhaps one day Mr. Butler will answer the question, because I think it's his question to

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answer, why he may have set his supposed best friend up to be murdered.

They talk to everybody. They talked to the guy who gets rid of the gun, doesn't tell the truth, gets charged. Other defendants, you heard them, later, they gave them a chance to speak. But Mr. East, he gets up the next day, he doesn't directly immediately head to the police station, but him and his family, pretty quickly, they hear this story, and they go talk to David Savage. It's all he can do at that point.

He says what he knows. What he doesn't know at that point still is about the inside man. No particular reason to think he wouldn't have mentioned that. He was laying it out. He had no lawyer with him. He wasn't giving a statement for trial, he was talking to the detective. And parts of it are not easy to watch. There's a certain lightness that all points -- a certain lightness about undertaking this robbery. And I can't argue my way around it, so I won't pretend it doesn't exist. They're talking about the armed robbery. You're the judges of the facts on that case. So they're talking about armed robbery, about an armed robbery case.

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If you're not certain, firmly convinced, all the things the judge will say about beyond a reasonable doubt -- I don't get to describe it. It is a very strong conviction. If you think probably -- don't get probable confused, please, because I've just said it many times talking about probable consequence. The burden of proof -- if you say, you know, probably that man was defending his home and they charged him and that's just part of the robbery, probably is not beyond a reasonable doubt, that doesn't work for a murder conviction.

You have to be firmly convinced that it was a probable consequence of the combination that Mr. Markese East entered into. And there's a lot of evidence that it was not. Certainly guilty of some unlawful acts and we expect you'll say so, but he's not guilty of murdering this man. He was there, he was part of this robbery, but this wasn't a probable consequence because it was planned out by other people.

And I moved away from it, the bullets on the ground. Picture: Simmons shoots him, he wants to shoot him some more. Shh, shh, bullet, must have tried to shoot him again, can't do it; shh, shh, bullet, can't do it; third time, he's able to do it,

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there's your third shell. Probably jammed again and that's why he stopped shooting. That's why there's not a third casing. Left with it in the pistol, it's ditched somewhere. That's some strong malice.

The man is laying on the floor. You heard one intermediate range shot, I'm guessing as he's walking in, the rest are close up. He's just standing there shooting the man. And that's not the conspiracy Markese East entered into. That's something he set up with the best friend, make sure you make the one. He made him, he did.

I know y'all will follow your oath. I thank you very much for listening to me. Sorry that this is the conversation we had to have. It would have been a lot nicer to meet y'all some other way. Thank you.

THE COURT: Mr. Weeks.

MR. WEEKS: Thank you, Your Honor.

Mr. Walsh, Mr. Beck.

Madam Forelady, members of the jury, I appreciate your patience throughout this trial, particularly with the up and down with the computer here. I hope by this time y'all are seriously thinking why are we here. And I'm going to tell you from the State's perspective. I'm going to bring

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out some of the facts that throughout the up and down with the videotape and with the transcripts, you might have not heard clearly. And I'm going to talk a little more about the law at the end of this.

But what I want to start out by saying is that today is Mr. East's day in court, this week has been his week in court. He's entitled to come in here and have a jury trial, put the State to the burden of proof that the law gives us, and have this trial. It don't mean he's not guilty. It won't be not guilty unless you went back there and ignored all the evidence and found him not guilty. But he's still entitled to ask for it in this country and under our laws. The same laws that he calls on to be here today are the same laws that they want you to ignore in his defense.

Police do an amazing job. They get called out around midnight sometime. Time is not exactly important to a crime scene where there is a deceased person. And the information they're given over the 911 call is that there's two people shot. They get there and it's utter chaos. They do a tremendous job sealing the scene and trying to evaluate what has happened.

They get a call that somebody is at the

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hospital with a gunshot wound. They depart and go to the hospital, start interviewing Ms. Williams. They get information from Ms. Williams that her cell phone was stolen. They haven't really talked to Ms. Arthur yet. At this point in time, she's in shock. But they get Ms. Williams and they get a phone number and they start -- they dial it in and they start pinging it and following it around Aiken because the common sense and what the police officers use every day and what I ask you to use is that somebody stole that phone and don't know how to disengage it or how to cut it off or whatever.

So the police are following up just extremely quickly on this lead. They're trailing that phone around Aiken, which leads them, ultimately, to Carver Terrace and seeing a gold pickup truck. You've got pictures of it. It leads them to out Wire Road, [redacted]-something Wire Road, where Mr. Morton has ultimately got back to. It leads them to question people at that residence, at Carver Terrace. All of this is going on in the middle of the night while everybody in this courtroom is asleep.

They find out the names of some people that have been together, a little gang of people, and

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they start putting two and two together. They ultimately, by daylight, less than 12 hours, you know, less than 15 hours away, have the names of the people that are involved in this. And keep in mind, when they got there, it was utter chaos. It's amazing that the police do this. It's just amazing and you should be proud. But they go through this whole gauntlet through the course of the night and then people start coming in. They start talking to people. Nobody is arrested yet. They don't have evidence to arrest anybody.

Mr. East shows up with his uncle who turned him in. That's a good thing to do. Police officers are not like you see on TV. I get so aggravated at the police officer shows on TV because it's just not like police work in general in this country. But David Savage goes in. There's an interview room set up for just this purpose. Sometimes people do confess. Mr. East walks in and confesses to murder, confesses to armed robbery, and he confesses to burglary.

I don't know that I've ever -- I don't know that I could suggest a nicer way to interview Mr. East than Lieutenant Savage did. Never in that conversation did he threaten him. I think he was in

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awe that they would do such a stupid act. But he's a police officer for 25 and a half years, he's seen his share of stupid acts. But he gives him water, he gives him Kleenex. He's not yelling at him, he's not screaming at him, he's not threatening him. He starts off by, tell me what happened and I'm going to ask you some questions.

And Mr. East tells him a lot of things that are all depicted on the videotape and some of which are -- haven't been harped on yet, but some of which is the inexplicable reason we're standing here trying Mr. East for these crimes. He wants to minimize his involvement even as early as the day of the crime. You know, to some degree, I don't blame him for minimizing it because it was stupid what they started out doing, but it was stupid with an evil intention.

Ladies and gentlemen, if you come to a house, anybody goes to a house, armed with three weapons for purposes of stealing, whether it's drugs that they're going to go smoke or money that they're going to go spend and you come armed, what's the purpose of coming armed? The purpose of coming armed is to defend yourself when the people in the house might not want to give up their possessions.

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And how do you defend yourself with a gun? Use it like a tennis racket? No, you pull the trigger.

I suggest to you and I wouldn't believe for a second that Mr. East's gun was unloaded. That might be the second stupidest thing he did that night was take an unloaded gun to a house where he's supposed to rob anywhere from four to six to ten people, that would be equally stupid. But you will see these guns here, they are .22 rifles. You know, I'm sure the people in that house didn't know they were .22 rifles. You can kill everything from a squirrel to a deer with a .22 rifle and you dadgum sure can kill a man or a woman with a .22 rifle. One of them had a handgun. That's probably the only other gun he had access to on such quick planning that these folks did.

But don't mistake, they planned. They planned. They planned to the extent that they had an inside guy giving them the Intel, how many is in there, who's got money. They keep wanting to go back to make the guy, make the guy with the white shirt and black pants. We don't know how many people were in that house with black pants and white shirts that day, but I suggest to you if you read the entire transcript that was downloaded from the phone by

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public safety, it's suggesting he may have money. He may have -- he might be the one with the money. He's the owner of the house. He is one of the co-defendant's best friends.

But my best friend ain't got the right to ask three armed men into my house. So if they're going to get up here with a straight face and argue that it was consent to go into that house, that's another indication of how ridiculous it is to be here, because that's not consent, ladies and gentlemen. That's not consent.

When you were listening to the confession of Mr. East, the first one, you had a transcript. And I was noting the pages in which he said he went in the house. Well, it was four, six, and seven. Right at the beginning of the interview, he starts talking about how he and Smoke and Five, Simmons, also calls him Bro, went in the house. Those are his statements. Those aren't words we're putting in his mouth, those aren't innuendos that we are saying based on what happened. That come from his mouth the same day this murder occurred. How can you dispute that? How is that not proof beyond a reasonable doubt to burglary, to armed robbery?

The Judge is going to charge you the law on

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armed robbery. He's not going to say that it's not unlawful -- it's not armed robbery to have an unloaded gun. He's not going to say that. You stick an unloaded .22 rifle in my face and, guess what, it's armed robbery. You take stuff from anybody in that house, off the table, from the person, out the bedroom, from the bleeding, dying man at my feet, it's armed robbery. So there's no doubt about armed robbery, there's no doubt about burglary first.

The elements the Judge will charge you: A dwelling. Clearly, this was a dwelling. We put in the phone bill or the city water bill. We put in testimony of Heather Arthur as to who lived there. Trevon Butler did not live there. We put in the fact that it's a dwelling, no consent, happened in the nighttime, all of the elements that you need to find him guilty of burglary in the first degree, one of the elements being that he was armed, they were armed.

As I told you in opening statements, the guy holding the horses out by the road is just as guilty as they are. The guy standing guard over the bleeding dead guy is just as guilty as the two who ran through the house and ransacked it. If you go

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in to rob a bank, you get in the bank, your plan is to go hold up the teller, stick your gun in the face, be a coward, take a gun, knowing by the text messages that nobody there has guns, but you take guns anyway because you're a coward. You go up to the bank teller and the security guard comes out of the back and you kill him. Y'all might not have decided that you were going to kill the security guard, but killing a security guard, shooting a security guard, is a natural and probable consequence of robbing a bank.

Robbing a house is a natural and probable consequence. Why you think Fat Boy is in there? He's to tell them if anybody is sporting a gun. He's to make it easy for these cowards to go in and rob this house. He's doing that for a reason, and that's to keep his brothers safe, his companions safe.

I think there was -- I know there was. There was clear advice to Mr. East that he was being taped, he wasn't being tricked. He came up there with full knowledge of what he had done. And the day after, whatever time, by the time his uncle gets through wrapping his uncle on him, by the time his family says how ashamed they are of him, he's upset.

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But I don't know if you noticed in the transcript when he was saying it. They were asking him what he did after they participated in killing this man. There wasn't we got there and called an ambulance for him; it wasn't we tried to resuscitate him, we tried to stop his bleeding; it wasn't we were devastated. His words were, he was chilling. He was chilling. The investigator, I think, said chilling after a killing. That's how remorseful he was about it. I was just chilling.

You know, the investigators testifying were being nice. They were saying, yeah, we think he was being straight up. First one in the police station, we think he was being pretty straight up. Well, that don't mean that what he told y'all was the truth. As it comes to pass, all these other people have given various statements, but you still go back to what they concede he said. They concede that he didn't tell the complete truth.

If you're paying attention, Mr. Walsh wants to argue two things: One, he's telling the truth. But he's not. He gets suited up, that shows clear intent. He says they take the plan by him, sounds good to him, let's get it. But he's the follower? Doesn't sound like a follower when he's talking to

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Lieutenant Savage the next morning.

He says his gun is unloaded. Well, there is absolutely no way to prove that, and he knows it. You can't prove his gun was loaded that night. His gun is under a bush behind [redacted] Carver Terrace. He didn't say he unloaded the gun, he said the gun was unloaded and given to him. But I've already mentioned what a ludicrous and what ridiculous statement that is. So I don't think that's the truth and I don't think you should think that's the truth.

Anyway, let's get it. He says pop, pop, boom, boom, boom, boom. The guy charges, boom, boom. That's not true. The guy has got three bullet holes in him. Enter and exit. I'm sure he's not kicking back with his friends with a bullet hole in him waiting on somebody to come put two more in him. The man is shot three times. And what they don't want to concede is it's not the truth from their client when he says he only heard two shots. They want to get up there and say that the guy is over there discharging his gun and cleaning it and emptying it and trying to shoot him some more.

But that ain't what their client says that they want you to say is the truth. That's just something

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they're making up trying to explain the extra shell. Very well could be a great explanation, but it ain't what he said. And they want you to take everything he said as the gospel. I suggest you don't do that.

Xanax and five dollars. I think at one point, he laughed about it. The Xanax and five dollars came from the bleeding dying man at his feet. They've made a run through the house. Everybody that's got anything on them has beat him out the door. So he gets from the dying man Xanax and five dollars. Says he identified it as being the Xanax that was taken from the man while he's sitting there armed with his rifle with the man, talking to the man as he's bleeding out on the floor.

You're not going to hear the Judge say that it's okay to rob people who are dealing drugs. No proof of that. Smoking drugs, no proof of that. But there's testimony that that was going on. And common sense, I'm not asking you to leave it. There was a party and young people.

But the same smear they want to put on the victim is the exact same thing they're fixing to do. They're going to take what drugs and money and they're going to chill after a killing. They're going to go back over to Carver Terrace and they're

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going to party with their people. That is not the kind of law that this society needs to promote.

The kind of law that we need to promote is the same that's been in existence since Jesse James was robbing banks. The guy standing at the door is just as guilty of killing the bank guard or the teller as the guy who's pulling the trigger. The guy holding the horses around the building is just as guilty as the fellow who's pulling the trigger in the bank. That's been in existence since we had our constitution and it's still in existence.

There is a reason for it. There's a very good reason for it, because every kind of case where there's more than two people, you'd be hearing defense lawyers saying my client didn't do that, the other guy did it. Well, the client that he represents is armed with a rifle. The client he represents planned it just as they did, just as they did. He disposed of evidence. He says, oh, he didn't do anything, they took the gun from him. That's malarkey. His own statement says he left it in the truck. But he had it the whole way. He was masked, he burned his shirt that he didn't want nobody to get any DNA off of.

I don't know sometimes what's in the mind of a

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criminal. When they become a criminal, what inspires them to do something as crazy and as stupid as this? But they knew, ladies and gentlemen. And they don't deserve any credit for being amateurs at it, because there's a real reason while we're all up here, and it's a little two-year-old. There's a little two-year-old that won't see his father ever, won't know his father ever, didn't have anything to do with this.

But that's the reason that the State prosecutes these cases, that's the reason y'all are called in to be fair and impartial juries. There's a reason y'all take the oath, the same oath that they take when they come up here and testify.

You know, it's a difficult thing that the police have to do to go in cold to a crime scene and come out with the evidence that they came out with and the results they obtained. It's our system that Mr. East can ask for a jury trial of guilty or innocent.

The law of the hand of one is the hand of all is very similar to what your mamas taught you and your daddies taught you when you were kids, that if you hang around the wrong element, you're going to get in trouble. It's even more specific than that.

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And all of the specifics of hand of one hand of all have been proven by the State in this case, and a lot of them were proven out of the mouth of the defendant.

Don't forget the second confession, the second statement was sitting right there with one of his lawyers in the jail cell awaiting court. It's uncontradicted that he told the same story six months ago or the fall of this past year. All of that is important.

This is the weapon that was recovered. I don't want you to think that there's some negligence on the State's part in not having the .22 rifles tested. Every piece of evidence that we had was that they weren't fired, not that they weren't loaded. We didn't have any evidence that they weren't loaded. There's no way to tell that. These guys cleaned up, split up.

The nine-millimeter wasn't loaded. Well, obviously, it had been loaded at some point. The .22 rifles weren't loaded when they were recovered, but that don't mean they weren't loaded. Common sense, ladies and gentlemen. We ask you, you hear about it, they ask you for it, but it truly is the barometer by which your verdict should be guided.

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Aiken Public Safety and the people of Aiken -- or Aiken Public Safety has proved its case beyond a reasonable doubt. The fact that the defendant did a good bit of it from his own mouth is not a cookie for it, it's not a brownie point for it, it's just the way cases are made and the way cases are brought up to you.

Twenty years ago, you'd have had some sergeant up here testifying well, yeah, he confessed to me. You ain't got that up here. You got a videotape of him confessing to you. You got his lawyer sitting with him while he confesses to the State at a later time. Ladies and gentlemen, Mr. East is guilty beyond a reasonable doubt of each one of these crimes. Thank you very much.

THE COURT: Madam Forelady, ladies and gentlemen of the jury, my charge is 15 minutes, give or take a few. Everybody okay? You need a bathroom break before I start?

MR. WALSH: I'm sorry, Your Honor. The defense would like to be heard briefly on something if you're going to give them a break.

THE COURT: They don't want a break, but if you need to be heard, I'll be glad to hear you.

MR. WALSH: Yes, sir.

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THE COURT: Outside the presence of the jury?

MR. WALSH: Yes, sir.

(The jury leaves the courtroom at 10:36 AM.)

THE COURT: Yes, sir.

MR. WALSH: Your Honor, with all due respect, at this point, we'd ask for a curative instruction as to the following: We allege improper arguments by the State. I would like an instruction that there's been no evidence of any gang activity in this case. The solicitor said this gang of people joined together. I understand there's a common dictionary version of that word, but it means something in cases like this and everybody knows that. No evidence whatsoever that this was gang affiliated.

Secondly, and I don't think it's proper argument to say that I make my argument with a straight face. Your Honor, of course, I do. I base it on the argument that I think Mr. Weeks makes his with a straight face too, but I don't comment on that to the jury. I think that was improper.

Thirdly, Mr. Weeks mentioned the rifles being unloaded two times. The second time, I think was proper. He argued maybe they were loaded. The first, he specifically said there's no way to prove

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they were unloaded. And I have nothing to prove. That was, perhaps, the most objectionable part. That's burden shifting. He can't do that. I don't have to prove they're unloaded. In addition, he said they didn't know if they were fired. They did not recover any ammunition close to them. But anyway, there was evidence to support the argument. I have nothing to prove.

The most objectionable is that in talking about the argument, again, that is supported by the evidence. It was suggested that this was something we were making up. That's not proper argument. I didn't make this up. I argued the facts and the law, they didn't object. I didn't make anything up. That and the mocking voice tied to the defense lawyers I also think is objectionable.

Lastly, although it's certainly proper to argue there's a two-year-old left behind, I don't think saying a two-year-old is the reason that they prosecute this case is proper argument. That appeals to the compassion of the jury exceedingly. I very strongly request you give a curative instruction or mistrial based on that argument.

THE COURT: Mr. Weeks, you used gang when you were talking about four people, a gang of guys. You

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never mentioned --

MR. WEEKS: A gang of guys in 1956 or 1974 when I was in high school was a group of guys. I didn't intend it as -- I didn't bring up gang testimony. I concede that because I don't think it was a gang. It was a gang of guys.

THE COURT: It was. You know, we live in today's world, so I'll just tell them that there's no evidence of any gang activity.

How about nothing to prove the rifle?

MR. WEEKS: I think I said we don't have nothing to prove about the rifle.

THE COURT: I think you may have said they didn't prove the rifle was unloaded.

MR. WEEKS: If I said they, I was referring to the police, not the defense.

THE COURT: The two-year-old?

MR. WEEKS: The two-year-old is proper argument, Your Honor.

THE COURT: All right. Anything else?

MR. WALSH: Not from the defense, Your Honor.

THE COURT: All right. Let's everybody take a quick bathroom break so we can get through. Real quick.

(Brief recess.)

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THE COURT: All right. Mr. Walsh, you made a motion for mistrial. I will respectfully deny the same.

MR. WALSH: Yes, sir.

THE COURT: I certainly do not think either your argument or Mr. Weeks' argument strayed from the bounds of what was proper. I will give some type of curative instruction on the gang language. Mr. Weeks absolutely, in my opinion, certainly didn't refer to it as a gang in the context we know of it today. There was no evidence of it.

I can do it and it may just call attention to it, or I can -- if you want me to, I will. But as far as everything else, I will, in my charge, say that absolutely the defendant has nothing to prove, the burden is on the State. I'll cover that there. But if you want me to do the gang...

MR. WALSH: As a single curative, Your Honor, I would not like to draw attention to that word again. Thank you. Withdrawn.

THE COURT: You're protected on the record.

MR. WALSH: Thank you, sir.

(The jury enters the courtroom at 10:48 AM.)

THE COURT: Madam Forelady, ladies and gentlemen of the jury, we're now at the stage of the

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trial where I will charge you the law in the case. Charging simply means instructing you, telling you. And the way we do this is when we go around the state trying criminal cases, the first part of the instruction is sort of a general charge that deals with all types of cases, whether it be a murder case, such as this, or whether it be a shoplifting case. You have some general principles of law that apply to all types of offenses. So let's go through the general principles first, and then once we conclude that, I'll turn our attention to the three indictments, murder, armed robbery and burglary in the first degree. So the first part will be a general-type charge.

Let me, before we get started, remind you, in this case that we have -- as we've all said along, we have three indictments: One for murder, one for armed robbery, and one for burglary in the first degree.

Let me remind you the fact that he has been arrested, charged, and indicted in this case of these three charges, the indictment and the arrest and the charge itself, obviously, is not evidence in the case and cannot be considered by you as evidence in the case, nor does it create any presumption or

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inference of guilt. These documents are simply the formal written instruments which contain the charges made against the defendant. It's the formal document by way this case is brought into the courtroom, and you're not to infer anything from the fact that he was charged, arrested, and indicted.

As I said to you, we have three indictments: Murder, burglary in the first degree, and armed robbery. Each indictment charges a separate and distinct offense. You must decide each indictment separately on the evidence and the law applicable to it uninfluenced by your decision as to any other indictment. He may be convicted or found not guilty on any or all of the offenses charged. You will be asked to write a separate verdict of guilty or not guilty for each indictment. So you consider them separate and, apart even though some of the facts support or not support each indictment. So you'll be asked to render three verdicts on each indictment, separate and apart from the other.

As to all three indictments, the defendant has pled not guilty. And the plea of not guilty puts the burden on the State to prove the defendant guilty beyond a reasonable doubt of each indictment. Please, please remember that a person charged with

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committing a criminal offense in our state is never required to prove himself innocent. He does not have any responsibility on proving anything. The burden of proof is on the State of South Carolina as to each element of each indictment. So he has no responsibility to prove himself not guilty or any other matter in the case.

I charge and instruct you that it is an important constitutional rule of law that a defendant in a criminal trial, no matter how serious the charges may be, will always be, under our constitution, presumed to be innocent of the crimes for which the indictments were issued, unless guilt has been proven to you beyond a reasonable doubt.

Presumption of innocence does not end when you begin your deliberations, but it stays with the defendant throughout the trial until you reach a verdict of guilt based on evidence satisfying you of that guilt beyond a reasonable doubt.

The presumption of innocence is not just a mere legal theory or phrase; it is a substantial constitutional right to which every defendant is entitled unless you, the jury, are satisfied from the evidence of the defendant's guilt beyond a reasonable doubt.

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What is a reasonable doubt? A reasonable doubt has been defined by our appellate courts as the kind of doubt that would cause a reasonable person to hesitate to act. It's the kind of doubt that would cause a reasonable person to hesitate to act. The State has the burden of proving the defendant guilty beyond a reasonable doubt. Proof beyond a reasonable doubt sometimes is said it is the type of proof that leaves you firmly convinced of the defendant's guilt. There are very few things in this world that we know with absolute certainty, and in criminal cases, the law does not require proof that overcomes every possible doubt.

If, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crimes charged, then you must find the defendant guilty. If, on the other hand, you think there's a real possibility that the defendant is not guilty, you must give the defendant the benefit of the doubt and find him not guilty. So it's the kind of proof that leaves you firmly convinced or it's the kind of proof that would cause a reasonable person to hesitate to act.

Now, as we've stated a number of times during the trial of the case, you and I have had certain

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duties to perform. The law makes you the judges of the facts, the law makes me the judge of the law. Separate and distinct responsibilities. So you are required to accept the law as I give it to you, even though you think the law ought to be something else. So, please, accept the law as I have been giving it to you and will give it to you.

My other responsibility is to rule on the admissibility of evidence, as I told you. Once that evidence has been admitted into the trial, then you become the judges of the facts. It is up to you to determine what the true facts are and base your decision on those true facts.

Since you are the judges of the facts, the law does not allow me to have any opinion about the facts. So if at any time during the trial of the case, I maybe raised my eyebrows or frowned or smiled or did anything up here that you think I have an opinion about the facts, please disregard that. The law does not allow me to do so. I hear cases all over the state, week in and week out, and I cannot have any opinion about the facts. That is your sole responsibility. You're the finders of the facts. In carrying out your responsibility, please don't be influenced by anything I may have done or

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not done while sitting up here conducting the trial.

Because you are the finders of the facts or the judges of the facts, obviously you must determine the credibility of the witness who have testified in the case. Credibility simply means believability. It becomes your duty as jurors to analyze and to evaluate the evidence and determine which evidence convinces you of its truth.

In doing this, in determining the believability and credibility of the witnesses who have testified in the case, you have the right to believe one witness over several, several witnesses over one; you can disbelieve everything a witness says, you can believe everything a witness says; you can believe part, disbelieve the other part. In other words, use your common sense.

As I told you earlier, you know how to tell when people are telling the truth. So use that in determining what the true facts are in this case. You may consider whether any witness has exhibited to you any interest, bias, prejudice, or other motive in the case. Also, you can consider the appearance and manner of the witness while on the witness stand.

We had a couple of witnesses who I qualified as

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experts because of their training, experience, and education. Normally our rules of evidence do not permit a witness to testify as to opinions or conclusions. There is an exception to that evidentiary rule which we call the expert witness rule. Therefore, a witness who, by education and experience, has become an expert in some science, art, or profession as to a relevant matter in the case may state an opinion to that relevant matter which he claims to be an expert in and he may also give the reasons for his opinion or conclusion.

You should consider any expert opinion received in evidence in this case and, like any other evidence, give it the weight, if any, you think it deserves. An expert witness' testimony is to be given no greater weight than that of any other witness simply because he or she has been qualified as an expert. Further, you're not required to accept an expert's opinion even though it is not contradicted.

In this case, the defendant did not testify. I instruct you and emphasize that the fact that he did not testify is not, is not, a factor to be considered by you at all or in any way when you deliberate his guilt or innocence. It must not be

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considered by you in any manner whatsoever. A defendant has the constitutional right to remain silent and the assertion of his right to remain silent must not be considered by you in any of your deliberations.

I repeat, under your oath, you are to draw absolutely no conclusion whatsoever from the fact that the defendant in this case did not testify. The fact that he did not testify should not even be discussed in the jury room. The burden of proof, as I have stated to you on a number of occasions, is on the State of South Carolina. The defendant is not required to prove his innocence. The burden of proof remains on the State to prove guilt to you beyond a reasonable doubt.

Now, in this case we had testimony -- or there was a -- introduced a statement by the defendant. A statement alleged to have been made by the defendant has been admitted into evidence in this case. While I have determined that the statement is admissible, I instruct you that you make the ultimate decision of whether or not the defendant actually made the statement.

And if he did make the statement, you must determine whether the statement was made by the

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defendant voluntarily and of his own free will. This means that the statement was not caused by pressure, force, fear, threats, coercion, or intimidation or by any hope or promise or leniency or reward of any kind.

In other words, in determining whether the statement was voluntary, you should consider both the characteristics of the defendant and the details of the questioning, whether or not the defendant was advised of his constitutional rights, including his right to have counsel, his right to remain silent, his right to have a lawyer, if he could not afford one; in other words, his Miranda warnings and that he could stop making his statement at any time. You must carefully consider all of the surrounding circumstances before you give any weight to the alleged statement.

The State still has the burden of proving, beyond a reasonable doubt, that the statement was voluntary. If you determine it was, then you may give the statement any further consideration you deem proper. If you determine it was not the free will or a voluntary statement, you should not consider the statement at all.

Now let's turn to the three indictments. I've

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got to do them in some order, so don't put any significance in the order I do them in. I'll probably do them in alphabetical order because they come up easier that way. Let's talk about armed robbery first. That's codified in section 16-11-330. In this case, the defendant is charged with the offense of armed robbery. In order to prove this, the State must first prove, beyond a reasonable doubt, that the defendant took personal property from the person or presence of another person. Personal property is any type of goods other than real estate. So has to, first of all, prove, beyond a reasonable doubt, that he took the personal property from someone else or in the presence of another person.

Property is in the presence of a person if it is within a person's reach, inspection, observation, or control so that the person could, if not overcome with violence or prevented by fear, could keep possession of the property. So it must, first of all, prove, beyond a reasonable doubt, that he took the personal property.

Secondly, the State must prove, beyond a reasonable doubt, that the defendant carried the property away, intending to permanently deprive the

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owner of the property and to keep the property for his own use. And the taking and carrying away of the property must have been done with violence or putting the owner of the property in fear of violence.

And, finally, the State must prove, beyond a reasonable doubt, that while taking the property on the violence, that the defendant was armed with a deadly weapon during the commission of the robbery. And, of course, our courts have ruled that a deadly weapon is any type of instrument that can cause death or great bodily harm, examples being pistols, shotguns, rifles, et cetera.

So that's the law dealing with armed robbery and what the State must prove to you beyond a reasonable doubt: Taking of property accompanied by violence while armed with a deadly weapon.

Now, one of the other offenses is burglary in the first degree. And that is -- I'm sort of like Mr. Weeks. I have all of this on an iPad, I used to have it in a book. I can't go straight to it, I have to flip to it. But at least I know how to flip it.

The defendant is charged with first degree burglary, codified in 16-11-311. The State must

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first prove to you, beyond a reasonable doubt, that the defendant entered a dwelling without consent, entered a dwelling without consent. Our courts have defined dwelling as any building or portion of a building where a person ordinarily sleeps. Entered a dwelling without consent. In order to prove the defendant entered the dwelling, the State does not have to show that the defendant entered his entire body, but simply any type of intrusion is sufficient. If a person enters a building by using deception, trick, or misrepresentation to get consent to enter, this is entry without consent.

Next, the State must prove, beyond a reasonable doubt, that the defendant intended to commit a crime at the time of the entry. The mere entry into a building without consent is not burglary. If the intent to commit a crime is formed after the entry, it is not burglary. On the other hand, if the defendant intended to commit a crime at the time of the entry, that is sufficient. It does not matter that the intended crime was not completed. Intent to commit a crime may be shown by acts and conduct of the defendant and other circumstances from which you may naturally and reasonably infer intent.

And, finally, the State must prove, beyond a

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reasonable doubt, that any of these following things, while entering and while in the building or the dwelling or when fleeing, the defendant or an accomplice was armed with a deadly weapon or -- and/or when entering -- while in the dwelling or while fleeing, the defendant or an accomplice caused physical injury to anyone in the dwelling or when entering or while in the building, the defendant or an accomplice used or threatened to use a dangerous object or when entering or while fleeing, the defendant or accomplice displayed what was or appeared to be a pistol or rifle or the defendant entered or remained in the dwelling in the nighttime. Nighttime is the period between sunset and sunrise.

So that's the law dealing with burglary in the first degree. It's proved beyond a reasonable doubt that a defendant entered a dwelling without consent and with intent to commit a crime therein. And one of the factors that we just went over was present, that he was armed with a deadly weapon or caused physical harm or threatened someone with a dangerous object or displayed what appeared to be a pistol or rifle, revolver, or it occurred in the nighttime. That's the elements of burglary in the first degree.

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Now, the last indictment alphabetically would be the murder indictment. Let's go over that. The defendant is charged with the offense of murder. The State must prove, beyond a reasonable doubt, that the defendant killed another person with malice aforethought. Malice is defined as hatred, ill-will, or hostility towards another person. It is the intentional doing of a wrongful act without just cause or excuse and with an intent to inflict an injury or under circumstances that the law will infer an evil intent.

Malice aforethought does not require that malice exist for any particular time before the act is committed. Malice must exist in the mind of the defendant just before and at the time of the acts -- at the time the act is committed, therefore, there must be a combination of a previous evil intent and the act.

Malice aforethought may be expressed or inferred. That doesn't mean it's two different types of malice, but merely the manner in which malice may be shown to exist. That is either by direct evidence or by an inference from the facts and circumstances which are proved.

Expressed malice is shown when a person speaks

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words which express hatred or ill-will for another or the person prepared beforehand to do the act which was later accomplished. Malice may also be inferred from conduct showing a total disregard of human life. So the murder requirements are that you prove, beyond a reasonable doubt, that the defendant killed another person with malice aforethought.

Now, ladies and gentlemen of the jury panel, this case, as both lawyers have argued in opening statements and closing statements, deals with the proposition of law that's been acknowledged by our supreme courts for many years. It's called the hand of one is the hand of all. I charge you that it is a well-settled principle of law that if two or more people combine together to commit an unlawful act or a crime and in carrying out or executing that unlawful act or criminal act, a homicide or murder is committed by one of the participants which is a probable or natural consequence of the acts done in pursuance of the unlawful act or crime. All present participating in the unlawful undertaking or crimes are guilty as the one who committed the murder.

The common purpose may not have been to kill or murder, but if it was unlawful -- or if they were doing unlawful acts or committing crimes and in the

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execution of the unlawful acts or crime a murder is committed by one as a probable or natural consequence of the acts done in pursuance of the acts designed, then all present participating in the unlawful acts are as guilty as the person actually pulling the trigger.

It's also stated as follows: If a crime is committed by two or more people who are acting together in committing a crime, the act of one is the act of all. A person who joins with another to commit an unlawful act is criminally responsible for everything done by the other person which happens as a probable or natural consequence of the acts done in carrying out the original common plan and purpose.

And our courts give an example. They say: Two people can be guilty of killing another person when only one of the two had a gun and there was only one bullet and only one of the two fired the shot that caused the death. If two or more people are together, acting together, assisting each other in committing the unlawful act or crimes, the act of one is the act of all, or sometimes is said the hand of one is the hand of all.

Now, ladies and gentlemen, you will have in the

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jury room with you three verdict forms, one for each of the indictments that you have before you. One for murder, burglary in the first degree, and armed robbery. As I told you, you have to consider each one of them separate and apart from the other. Each one of them has two choices, either not guilty or guilty. So consider each one of them separate and apart and address each one of them and mark your decision on each one of them. Your decision has to be unanimous, all 12 of you have to agree as to all three indictments. Okay?

When you go back to your jury room, you'll have all of the evidence with you. Obviously, I've charged you the law. If you need to review any of the interview, we have the CD available that we can put on the computer and bring back there or you can come back out and look at it on the large screen.

If, during your deliberations, you have a question you need to ask me, the procedure is as follows: You write it out on a pad that you have back there and send it to me. Just knock on the door and the bailiffs will bring it to me. Sometimes I can answer, sometimes I can't, just depends on what the question is. But I'll send you back a written response. And sometimes it may

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require y'all to come back out here, but we'll just have to see what the question is.

Obviously, you have no friends to reward or enemies to punish. You have to take a careful deliberation of all the evidence and apply that evidence when you find it to be true with the law and then you'll be able to render a true and just verdict. Verdict means to speak the truth. That's what you're being asked to do as a citizen here in Aiken County.

You've paid wonderful attention. I appreciate all you've done for us. Take your notes with you. Obviously, you can share your notes with your co-jurors. Or like school, some people take better notes than others, but everybody give each one due consideration. Once you've reached a decision, obviously you mark it, you sign it, you knock on the door.

It is 11:15. If you want me to go ahead and order some lunch for you, we probably need to do that first because it takes us about 45 minutes or an hour, or if you think you don't want to order lunch, that's up to you. You just let us know, knock on the door. Make that decision early so we can get that order in.

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I'm going to ask you to step back to your jury room. Please don't start deliberating -- you can talk about lunch -- until I ask the lawyers if I've left anything out or any corrections to my charge. We gather up all of the evidence and send it back to the jury room, along with the verdict forms, and then you can start your deliberations. Let us know about lunch first.

THE FOREWOMAN: Can we get a written copy of the indictments?

THE COURT: No, ma'am. The indictment does not go back, but you get the verdict form.

THE FOREWOMAN: No. What you just read out to us.

THE COURT: Oh, you mean the charge? No, ma'am. But if you have a question about the charge at any time and you want me to reread any of it, I can do that. Thank you.

Separate my two alternates.

(The jury exits the courtroom at 11:19 AM.)

THE COURT: Are there any modifications, deletions, additions, or any objections to the charge by the State?

MR. WEEKS: No, Your Honor.

THE COURT: Mr. Beck or Walsh?

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MR. BECK: We have one, Your Honor, respectfully. The charge on the facts of the hand of one hand of all, it was stated just as guilty as the one who pulled the trigger.

THE COURT: I'm reading that straight from the charges that the Supreme Court gives to all of the judges. I think that has withstood challenge over many years. I read it directly from my charge book.

MR. BECK: Thank you, Judge.

THE COURT: Anything else?

MR. WALSH: In terms of exhibits, I believe the transcript was a Court exhibit.

THE COURT: It is.

MR. WALSH: They can watch it again --

THE COURT: But it won't go back to the jury room.

Come up and make sure we've got all the exhibits, review the verdict form, and we'll send it back to them for their deliberations.

(Brief pause in the proceedings.)

Let the record reflect both the State and defense have reviewed all of the exhibits. They appear to be in order and accounted for. They reviewed the verdict form without objection. They're going to send them back to the jury room at

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11:25 so the jury can commence deliberations.

Is that correct, Ms. Hall?

MS. HALL: Correct, Your Honor.

THE COURT: Mr. Beck, Mr. Walsh?

MR. WALSH: Yes, sir.

THE COURT: All right. Give the exhibits to the bailiff and they can carry it back.

All right. We'll stand at ease.

(The jury begins deliberations at 11:25 AM.)

THE COURT: Bring the jury in, please.

(The jury enters the courtroom at 12:19 PM.)

(Court's Exhibit Nos. 1, 2, 3 marked for identification.)

THE COURT: Let the record reflect we have three questions from the jury panel. Present in the courtroom is all the lawyers involved, as well as the defendant.

First question: We need to review the video again. What I'm going to do on that, if it's okay, is we're going to send the computer back in the jury room with you so you can have it back there so you can stop it whenever you want to and discuss it. And I'll also send the transcripts that you had before so you can read along. I would just ask that you read along with it as it goes, don't read them

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ahead. Use it for that purpose since it's not in evidence.

Is that satisfactory or --

THE FOREWOMAN: No. That's perfect. Of course we'll be able to operate it and stop and discuss it.

THE COURT: I will not send Mr. Weeks to operate it. We'll get somebody back there to set it up for you. We've got an electrical engineer, I'm sure he can do it.

All right. Now we need Judge Early to redefine the hand of one law and to specify whether it only deals with the murder charge.

Hand of one, hand of all applies to any and all charges, all criminal activity. The hand of one hand of all is applicable to not just a murder charge. Most of the time it comes up in a murder case, but it applies to any type of offense.

I will redefine it. If a crime is committed by two or more people who are acting together in committing a crime or unlawful act, the act of one is the act of all. A person who joins with another to commit an unlawful act or criminal activity is responsible for everything done by the other person which happens as a probable or natural consequence of the acts done in carrying out the unlawful act or

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crime and purpose.

The example that our courts have given: Two people can be guilty of killing another person when only one of the two had a gun, there was only one bullet, and only one of the two fired the shot that caused the death. If two or more people are together, acting together, assisting each other in committing the offense, the act of one is the act of all, or as it is sometimes said, the hand of one is the hand of all.

We need clarification on whether the defendant has to take the stolen goods with their own hands. In answering that, if you find it applicable, you can apply the principle of the hand of one is the hand of all.

Does that answer your questions?

THE FOREWOMAN: Yes.

THE COURT: All right. Lunch has been ordered. It should be here in a few minutes. If you have any other questions, you write it out, send it to me, and I will do my best.

How do y'all want to handle that? Who do we have that can do it?

MR. WEEKS: Norwood.

THE COURT: All right. We'll have Norwood from

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the solicitor's office come back and set it up. The protocol is this: When he comes into the jury room, don't discuss anything, don't even talk to him, don't even acknowledge him. You know what I'm saying. He'll set it up and show you how to do it, and then he'll leave and then y'all can start your discussions. Fair enough?

(The jury resumes deliberations at 12:24 PM.)

THE COURT: All right. Any objections to answering those questions by the State?

MR. WEEKS: No objections, Your Honor.

MR. BECK: To the extent necessary, Judge, I'll renew my objection from earlier on the charge of hand of one hand of all.

THE COURT: Mr. Beck, I'm reading it straight from the charges that the Supreme Court gives us.

MR. BECK: Yes, sir, Judge. I'm just renewing it.

THE COURT: I'm not fussing at you, I'm just telling you what I'm doing.

All right. Any more business? Ready to go.

(Court in recess 12:24 PM - 1:28 PM.)

THE COURT: Is the State ready to receive the verdict?

MR. WEEKS: Yes, Your Honor.

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THE COURT: Is the defendant ready?

MR. WALSH: Yes, sir.

THE COURT: Once again, ladies and gentlemen, I commend you again for everyone's behavior. You have been excellent. Obviously the verdict is going to be not guilty or guilty. There's going to be some emotions on both sides. If you do not think you can control yourselves, I'm asking that you leave now. I will not allow for any outburst of emotions or behavior. If you do, you'll be subject to being held in contempt of court. I don't think we'll have that problem. Everybody has been wonderful. If you can't control yourself, I'll ask that you, very respectfully, leave now. Thank you.

(Jury enters the courtroom at 1:29 PM.)

THE COURT: All right. Madam Forelady, have you reached a verdict?

THE FOREWOMAN: Yes, sir, we have.

THE COURT: Will you hand it to my bailiff, please, ma'am. Thank you.

THE CLERK: Your Honor, we have the State of South Carolina vs. Markese Dequam East, Indictment No. 2013-GS-02-01735. As to the offense of armed robbery, we, the jury, find the defendant guilty. Signed by our forelady, Deshonda Mincey, dated

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January 7th, 2016.

State of South Carolina vs. Markese Dequam East, Indictment 2013-GS-02-01736. As to the offense of burglary in the first degree, we, the jury, find the defendant guilty. Signed by forelady, Deshonda Mincey, dated January 7th, 2016.

State of South Carolina vs. Markese Dequam East, Indictment 2013-GS-02-01734. As to the offense of murder, we, the jury, find the defendant guilty. Signed by our forelady, Deshonda Mincey, dated January 7th, 2016.

Ladies and gentlemen, Forelady of the petit jury, if this is your verdict, please indicate by the raising of your right hand.

THE COURT: Let the record reflect everyone raised their hand.

Anything for the jury before I dismiss them?

MR. WALSH: No, sir.

THE COURT: Madam Forelady, ladies and gentlemen, I can't thank you enough on behalf of the citizens of Aiken. You've paid wonderful attention and deliberated well, performed your duties well. It's not a fun job, but it's a very important civic duty. You're sort of the conscience of the community and I appreciate everything you've done

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for us.

I think your lunch is here. You're welcome to eat it back there, you're welcome to take it home with you, however you want to do it. But this will conclude your service this week. If anyone needs a work excuse, just wait in the jury room and someone will be up here in just a few minutes.

What we have left to do now is sentencing. We've got to do some sentence sheets and all that, probably 30 or 45 minutes before we get to that. That will conclude that case and then we'll start again next week. But thank you very much.

If you want to go back and eat your lunch and stay for the sentencing, that's fine, you're welcome to do. You've completed your task and I thank you very much.

Everybody else remain seated, please.

(Jury excused at 1:34 PM.)

THE COURT: I thank my alternates too as well. Thank you very much.

Okay. We'll hold sentencing in abeyance until about 2:00 or 2:15, that way we can get some sentence sheets together and whoever wants to speak on behalf of the defendant and/or the victim's family. We'll do the sentence right at 2:00.

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(Court in recess 1:35 PM - 2:01 PM.)

THE COURT: Mr. Weeks, Ms. Hall?

MR. WEEKS: Your Honor, as brought out in testimony, the defendant doesn't have any prior record. We have two victims who would like to -- two relatives of the victim would like to give their comments at the appropriate time.

THE COURT: Mr. Weeks, I want to make sure I'm certain. We've had three of the co-defendants plead guilty; is that correct?

MR. WEEKS: Correct.

THE COURT: They pled guilty to?

MR. WEEKS: Two of the co-defendants pled guilty to murder, armed robbery, and burglary in the first degree and received a negotiated 30 years.

THE COURT: And the other person?

MR. WEEKS: The other person was the fellow at the car, Isaac. He pled guilty to voluntary manslaughter, armed robbery, and burglary in the first degree and received a negotiated 30 years.

THE COURT: So everyone received a 30-year sentence, one for manslaughter, two for murder?

MR. WEEKS: That's correct.

THE COURT: Thirty on the armed robbery and 30 on the kidnapping?

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MR. WEEKS: Correct.

THE COURT: Including the shooter?

MR. WEEKS: Including the shooter, yes.

THE COURT: Mr. Walsh?

MR. WALSH: I believe Mr. Beck was going to speak on his behalf.

MR. BECK: May it please the Court, Judge. Before you is Markese East. He's 22 years old. I know you're very familiar with the facts of this case. It's very tragic --

THE COURT: Well, there's a fourth young man tragically been before me. The fifth young man, obviously, is dead.

MR. BECK: That's right. One young man has lost his life and four --

THE COURT: Have ruined theirs.

MR. BECK: Ruined theirs.

At the time this happened, Markese was 19 years old. As Solicitor Weeks mentioned, he had no record. He was living with the mother of his child. He was four days from graduating high school. He had plans of going to JUCO College and playing football as a fullback and studying electrical engineering at Louisville, North Carolina.

Given the kind of facts of this case, Judge, as

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you're aware, Markese is the one who came forward the day after and gave it all up. And as a result of his testimony, speaking with Savage, the other three defendants who have pled were thereafter arrested and, ultimately, they pled.

I mean, we are here before you today after finishing this trial and -- but he's here supported by his family --

THE COURT: He has had wonderful family support the whole time.

MR. BECK: Yes, sir.

THE COURT: Makes it even more difficult.

MR. BECK: Absolutely. You met some of them at the Denno hearing the other day. He's got a lot of family support. They love him very much. Given the fact that he did give up his rights in a way or did to remain silent and give that statement to Savage and the -- what happened from there, the other defendants being arrested thereafter, I would ask the Court to consider a sentence that deems appropriate, but that it would consider one that would be close to or on -- the same as the co-defendants that have pled already.

He has -- he has gone to trial and I know that there's usually a reward rather than -- for entering

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a plea rather than going to trial. But, in essence, Judge, Markese here did accept responsibility and plea that day when he went the day after. And I know it's -- we did have this trial. But I think given his young age, no record at all, I would ask that you strongly consider that. And at the --

THE COURT: Well, you know, Mr. Beck, I don't have any choice. But on the murder case, I can't go -- 30 years is the minimum I can do.

MR. BECK: Yes, sir. I realize that. And I know there's not a penalty for --

THE COURT: I don't ever penalize anyone for going to trial.

MR. BECK: I wasn't suggesting that. But I think this is one of the unique situations that I would beg your indulgence to consider it.

THE COURT: Sure. That's a proper plea.

MR. BECK: And at the appropriate time, one of his family members would like to address the Court.

THE COURT: Yes, sir. Your name, please?

MR. EAST: My name is Milton East.

THE COURT: Milton, you're his brother; right?

MR. EAST: Yes, sir, I'm his brother, his oldest brother. And he made a bad mistake.

THE COURT: He did.

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MR. EAST: Dumb mistake following behind the wrong crowd. And I know you got to do what you got to do and only so much you can do, but I'm just asking for the minimum, sir. I mean, it's his first offense. I'm hoping he learns from his mistakes. Thirty years is a long time.

THE COURT: It is a long time.

MR. EAST: Yes, sir.

THE COURT: Plus, he's 22 years old.

MR. EAST: He's 22 years old.

THE COURT: When you get to my age, it goes by in a hurry. So, hopefully, he can make the best of it.

MR. EAST: Yes, sir.

THE COURT: I hope your family continues to support him. It's just tragic that here he is getting ready to get out of high school.

MR. EAST: They were four days from graduation, all of them. All of them. And they were just dumb.

THE COURT: Well, I hope -- there's nothing good coming out of this. I hope it will send some message to the other young kids. For God's sake, think about what you're doing before you do something like this. Thank you for coming. I appreciate you.

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MR. EAST: Yes, sir. I just ask that --

THE COURT: I'm a big brother to two other boys too. I know how it is.

Markese, anything you want to tell me?

THE DEFENDANT: Judge, I'm sorry.

THE COURT: I know you are.

THE DEFENDANT: If I could take it back, I would, but I can't. You know, Judge, I just ask that you let me be able to make it to see my daughter. I just want to be with my daughter.

THE COURT: Mr. Weeks, we got a victim?

MR. WEEKS: Yes, sir.

THE COURT: Yes, ma'am. Your name, please?

MS. BROWN: Angela Brown.

THE COURT: Your relationship to the young man that was killed?

MS. BROWN: His oldest sister.

THE COURT: His sister. I'll be glad to hear from you.

MS. BROWN: I stand here today to speak before the Court in relation to my brother, something I wish I didn't have to do and I wish we all weren't sitting here under these circumstances. I came here today expecting to see a monster sitting in that chair, but I see a young boy, a young boy about the

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same age as my brother would be right now if he was still living. So I'm torn, because as Shane's sister, I cry for my brother who is no longer here, who will never be able to do the things that most 19-year-olds could have done.

His son is two years old, just turned two years old in December. He's the cutest thing you ever wanted to see. I get him every opportunity I can and he just makes my heart melt. And then to know that one day he's going to wonder where his dad is and he's going to have to hear this story and then his pain will begin. And all of this could have been avoided if we had just thought about the decisions that we were making at the time we were making those decisions.

And as a mother, I also stand here torn because I have children and to know that you guys are sitting here and you have to hurt because of the decision that he has made. So as a parent, it's still not easy. So nobody wins here today. And I wish to God that our young people would understand what it is they're doing when they do what they do and understand there's consequences and when they make those choices, everybody has to suffer.

My brother's fiancee sits over there. The man

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that she planned on marrying and spending the rest of her life with, she'll never know what it's like to have him as a husband. Her son will never know what it is to have his father. And my brother's not here to speak for himself. So I took it upon myself to make one of the hardest speeches I'll probably ever have to make and let you know, Your Honor, how I was feeling today. Nobody wins here today.

THE COURT: No, ma'am. Nobody wins. And I just wish more people like you maybe would get out in the community and not preach, but advise these young kids that --

MS. BROWN: I do.

THE COURT: -- using guns and trying to do things like this doesn't do anything but disrupt everything, particularly their lives, lives of people who are killed. A young man going to jail for a long time, the other three young men in jail a long time, the family back there broken, and you're broken too.

MS. BROWN: Exactly.

THE COURT: Over five dollars, three cell phones, and one little pill or two pills. Pretty sad, isn't it?

MS. BROWN: It's very, very sad. It's awful.

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But to think you stand here -- and I don't know how much time you may be facing, but you're 22 years old. You got a long time to think about what you have done and the choices that you have made. And then your son [sic] also has to live without you being physically there with him.

So now you have to think about what you've made, but you have to also look at the fact that in however many years, you can get out. Don't forget this particular day here. When you do get out, make a difference, pay back what you have done, because people will still be suffering when you're walking around. You hear me?

THE DEFENDANT: Yes, ma'am.

THE COURT: Thank you, ma'am.

Yes, ma'am. Your name?

MS. DUVAL: Tamieka Duval.

THE COURT: Ms. Duval, I'll be glad to hear from you.

MS. DUVAL: I'm Shane's cousin. And all I want to say is, as I look around the courtroom, it's a lot of emotions going on. And not only did we lose, your family lost too. You can see your family again, we can't see him again. I just hope that you learn from this experience and grow from it. Like

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my cousin said, go out when you get out and make it positive because we still hurting, we got a long journey still ahead of us. And I'm just glad that justice has been served.

And I hope that you, you know, look back what you did to our family, and not only our family, look around, your family. You know, it's like your son won't be able to see you again for a while. But I just hope when you get out, you make it positive and do what you got to do. I don't hate you, I really don't. I just hope that everybody can grow from this situation and move on.

THE COURT: Thank you. I appreciate that responsible attitude.

All right. Anything else from anyone?

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

THE COURT: Well, obviously, this is a -- in the beginning, when we started having bond hearings and we started having pleas in this case, this is a case where we all in the courtroom ask why, why, why. But it's happened, so we've got to make the best of it and make an example that will hopefully lead to a better community and for other young people not to make the same mistake.

Just from my observations up here, the highest

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commendment I can to the police officers in this case who conducted themselves very professionally. And, quite frankly, I don't think I've ever seen a murder solved this quickly.

I'd like to commend the victim's family as well as the young man's family, the defendant's family. Y'all have all been in here together under the most trying of times and you've behaved admirably, you've respected each other, and I commend all of you. I know this is tough. I don't know that I could sit out there if it was one of my children or one of my relatives either who have been killed or was involved in the tragedy.

I hope this will send a message to all of the young people here in the community. For God's sake, we have so many people who don't have an education. Here you were three days from having yours. So, hopefully, they'll learn not to throw away their education. And, hopefully, they'll learn to listen to older members of the family that have a lot of wisdom. These urges that you get at that age and how y'all handle this is something. I hope no other family will have to endure this in this community.

My hands are tied with my sentence. I can only go so low. And as I told you the other day when you

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stood before me that I was willing to give you the minimum sentence if you would admit your guilt and accept responsibility and you failed to do so. So I have to take that into consideration. I also take into consideration that you're 22 years of age, that you have no prior record.

So the sentence -- and I'll take into consideration the sentence of the other co-defendants. So in this case, the sentence of the court is that on all three indictments, murder indictment, armed robbery, burglary in the first degree, you be committed to the state department of corrections for a period of 30 years. They'll all run concurrent. You'll be given credit for time served. Good luck to you.

All right.

THE DEFENDANT: You ain't got to cry.

UNIDENTIFIED MALE: Thank you, Your Honor.

THE COURT: All right.

-- END OF TRANSCRIPT OF RECORD --

439

C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

I, the undersigned, Bethanie K. Creppon, Circuit Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the trial of the captioned cause, relative to appeal in the Criminal Court for Aiken County, South Carolina, on the 5th, 6th, 7th of January, 2016.

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

April 2, 2019

s/*Bethanie K. Creppon*

440

Bethanie K. Creppon
Circuit Court Reporter

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ARREST WARRANT

2013A0220100523

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

City of Aiken

13-31768 THE STATE

against

Markese D East

Address: [redacted]

Aiken, SC 29801-

Phone: SSN:

Sex: M Race: B Height: 6 Weight: 150

DL State: DL #:

DOB: [redacted]1993 Agency ORI #: [redacted]

Prosecuting Agency: Aiken Public Safety

Prosecuting Officer: David E Savage

Offense: MURDER

Offense Code: 116

Code/Ordinance Sec: 16-03-0010

This warrant is CERTIFIED FOR SERVICE in the ☐ County/ ☐ Municipality of

. The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Markese East on 5-30-2013 1257

5971

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Aiken Municipal Court
251 Laurens St., N.W.
Aiken, SC 29801

ORIGINAL

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
City of Aiken)

AFFIDAVIT

Form Approved by S.C. Attorney General April 21, 2003 SCCA 516

Personally appeared before me the affiant David E Savage who being duly sworn deposes and says that defendant Markese D East did within this county and state on 05/28/2013 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of City of Aiken) in the following particulars:

DESCRIPTION OF OFFENSE: MURDER

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

On or about May 28, 2013 the residence located at [redacted] Aldrich Street was entered unlawfully by masked individuals and [redacted] was intentionally, willfully shot with malice aforethought to death by one or more of the persons invading the residence. The undersigned alleges that Markese East was one of the four individuals who planned, executed and committed the Murder, Armed Robbery and Burglary 1st at this residence. Investigation by the Officers and through statments of co-defendants, indicate that Markese East was an active participant in these crimes. Xanax, phones, and money was stolen from the residence. This crime being in violation of the SC Code of Laws.

Signature of Affiant

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
City of Aiken)

Affiant's Address 251 LAURENS ST NW
AIKEN, SC 29801-
Affiant's Telephone (803)642-7620 x 0000

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 05/28/2013 defendant Markese D East did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of City of Aiken) as set forth below:

DESCRIPTION OF OFFENSE: MURDER

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 05/30/2013

(L.S.)

Signature of Issuing Judge

Judge Code: 005

Judge's Address

Judge's Telephone

Issuing Court: ☐ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

BAIL set by

Judge

on 5-30-13

Type and Amount

Name of Surety

PRELIMINARY HEARING held by

Judge

on

Defendant Attorney:

Decision

DISPOSITION before

Judge

on

by

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition:

Sentence:

JURORS

WITNESSES

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
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Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

CODEFENDANTS

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR MURDER
COUNTY OF AIKEN	)	§ 16-03-0010

At a Court of General Sessions, convened on November 4, 2013, the Grand Jurors of Aiken County present upon their oath:

That **MARKESE DEQUAM EAST**, along with others, did in Aiken County on or about May 28, 2013, feloniously, wilfully and with malice aforethought, then and there kill and murde[redacted] by means of shooting and that the victim did die in Aiken County at[redacted] Aiken, South Carolina as a proximate result thereof on the May 28, 2013. All in violation of Section 16-3-10 of the South Carolina Code of Laws (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

J. STROM THURMOND, SOLICITOR

WITNESSES

Aiken Department Of Public Safety

David E Savage

Law Enforcement Case #: 13-31768

JWW

ARREST WARRANT NUMBER

2013A0220100523

FILED October 31 2013
Liz Godard
C.C.P.&G.S.
Deputy Clerk

ACTION OF GRAND JURY

TRUE BILL

Ronnie M. Hall

Foreperson of Grand Jury
Date: October 31, 2013

VERDICT

Foreperson of Petit Jury
Date:

448

DOCKET NO. 2013GS0201734

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2013

THE STATE
vs.

MARKESE DEQUAM EAST

CDR #: 0116

Indictment for

MURDER

§ 16-03-0010

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF Aiken)
STATE VS.)
Markese Dequam East)
AKA:)
Race: Sex: M Age: 22)
DOB: [redacted]-1993 SS#[redacted])
Address: [redacted] Carver Ter)
City,State,Zip: Aiken, SC 29801)
DL#: SID#: [redacted])
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS0201734
A/W#: 2013A0220100523
Date of Offense: 5/28/2013
S.C. Code § : 16-03-0010; 16-03-0020
CDR Code #: 0116

SENTENCE SHEET 30 years to serve

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Murder / Murder

in violation of § 16-03-0010; 16-03-0020 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☑ VIOLENT ☐ SERIOUS ☑ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☑ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☑ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Weeks, John W. "Bill" 5989 SC Bar# Defendant Attorney for Defendant Ki D. Bell 100019 SC Bar#

WHEREFORE, the Defendant is commited to the ☑ **State Department of Corrections,** ☐ **County Detention Center,**
for a determinate term of 30 days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years
and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment
of $ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____
☑ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
_____
Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 47.9 (Public Def/Prob)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
Proviso 90.5 (SCCJA Surcharge)	$5	$ 5.00
3% to County (if paid in installments)		$ 3.90
TOTAL		$ 133.90

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires $500 be paid to Clerk during probation.

~~Clerk of Court~~/ Deputy Clerk Sherry Langley
Court Reporter: Bethanne Coppon
Presiding Judge W. Marion Cartledge
Judge Code: 0136
Sentence Date: Jan 7, 2016

SCCA/217 (03/2011)

STATE OF SOUTH CAROLINA COUNTY OF AIKEN THE STATE OF SOUTH CAROLINA Plaintiff vs. MARKESE DEQUAM EAST Defendant	IN THE COURT OF GENERAL SESSIONS FOR THE SECOND JUDICIAL CIRCUIT Indictment Number: 2013-GS-02-01734 **VERDICT FORM**

As to the offense of MURDER, we the Jury find the Defendant,

_____ Not Guilty

__✓__ Guilty

WE UNANIMOUSLY AGREE.

January 7, 2016

Deshonda M. Mercy
Foreperson

ARREST WARRANT

2013A0220100524

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

City of Aiken

451

13-31768 THE STATE

against

Markese D East

Address: [redacted] Carver Terrace

Aiken, SC 29801-

Phone: SSN:

Sex: M Race: B Height: 6 Weight: 150

DL State: DL #:

DOB: [redacted]/1993 Agency ORI #: SC0020100

Prosecuting Agency: Aiken Public Safety

Prosecuting Officer: David E Savage

Offense: ROBBERY/ WHILE ARMED W/DEADLY WEA

Offense Code: 139

Code/Ordinance Sec: 16-11-0330(A)

This warrant is CERTIFIED FOR SERVICE in the ☐ County/ ☐ Municipality of _____. The accused is to be arrested and brought before me to be dealt with according to the law.

_____ (L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Markese East on 5-30-2013 1258

Sgt 5971 Sgt. Davis

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Aiken Municipal Court
251 Laurens St., N.W.
Aiken, SC 29801

ORIGINAL

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
City of Aiken)

AFFIDAVIT

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

Personally appeared before me the affiant David E Savage who being duly sworn deposes and says that defendant Markese D East did within this county and state on 05/28/2013 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of City of Aiken) in the following particulars.

DESCRIPTION OF OFFENSE: ROBBERY/ WHILE ARMED W/DEADLY WEAPO

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts.

On or about May 28, 2013 the residence located at [redacted] Aldrich Street was entered unlawfully by masked individuals and [redacted] was intentionally, willfully shot with malice aforethought to death by one or more of the persons invading the residence. The undersigned alleges that Markese East was one of the four individuals who planned, executed and committed the Murder, Armed Robbery and Burglary 1st at this residence. Investigation by the Officers and through statments of co-defendants, indicate that Markese East was an active particpant in these crimes. Xanax, phones, and money was stolen from the residence. This crime being in violation of the SC Code of Laws.

Signature of Affiant

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
City of Aiken)

Affiant's Address: 251 LAURENS ST NW
AIKEN, SC 29801-

Affiant's Telephone: (803)642-7620 x 0000

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 05/28/2013 defendant Markese D East did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of City of Aiken) as set forth below:

DESCRIPTION OF OFFENSE: ROBBERY/ WHILE ARMED W/DEADLY WEAPO

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 05/30/2013 (L.S.)

Signature of Issuing Judge

Judge Code: 005

Judge's Address

Judge's Telephone

Issuing Court: ☐ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

BAIL set by

Judge [illegible]

on 5-30-13

Type and Amount: Denied

Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____

on _____

Defendant Attorney: _____

Decision: _____

DISPOSITION before

Judge _____

on _____

by _____

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

_____ _____

_____ _____

_____ _____

WITNESSES

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
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Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS

_____

_____

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	ARMED ROBBERY
COUNTY OF AIKEN	)	
	)	§ 16-11-0330(A)

At a Court of General Sessions, convened on November 4, 2013, the Grand Jurors of Aiken County present upon their oath:

That **MARKESE DEQUAM EAST**, along with others, did in Aiken County on or about May 28, 2013, while armed with a deadly weapon or while alleging either by action or words that he was armed while using a representation of a deadly weapon or an object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, to wit: a handgun and/or rifle, feloniously take from the occupants of the household by means of force or intimidation goods or monies of said occupants, such goods or monies being described as follows: Xanax and personal items, all in violation of §16-11-330, Code of Laws of South Carolina (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

J. STROM THURMOND, SOLICITOR

WITNESSES

Aiken Department Of Public Safety

David E Savage

Law Enforcement Case #: 13-31768

JWW

ARREST WARRANT NUMBER

2013A0220100524

FILED October 31 2013

Liz Godard
CLERK C.C.P.&G.S.

Deputy Clerk

ACTION OF GRAND JURY

TRUE BILL

Ronne M Hall

Foreperson of Grand Jury
Date: October 31, 2013

VERDICT

Foreperson of Petit Jury
Date:

454

DOCKET NO. 2013GS0201735

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2013

THE STATE
vs.

MARKESE DEQUAM EAST

CDR #: 0139

Indictment for

ARMED ROBBERY

§ 16-11-0330(A)

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF Aiken)
STATE VS.)
Markese Dequam East)
AKA:)
Race: Sex: M Age: 22)
DOB: [redacted]1993 SS# [redacted])
Address: [redacted] Carver Ter)
City,State,Zip: Aiken, SC 29801)
DL#: SID#: [redacted])
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS0201735
A/W#: 2013A0220100524
Date of Offense: 5/28/2013
S.C. Code § : 16-11-0330(A)
CDR Code #: 0139

SENTENCE SHEET 10 years to 30 years

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:
Weeks, John W. "Bill" SC Bar# Defendant Attorney for Defendant 100019 SC Bar#

WHEREFORE, the Defendant is commited to the ☒ **State Department of Corrections,** ☐ **County Detention Center,**
for a determinate term of 30 ~~days/months~~/years or ☐ under the **Youthful Offender Act** not to exceed _____ years
and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment
of $ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2013-GS-02-01734
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 47.9 (Public Def/Prob)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
Proviso 90.5 (SCCJA Surcharge)	$5	$ 5.00
3% to County (if paid in installments)		$ 3.90
TOTAL		$ 133.90

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires $500 be paid to Clerk during probation.

~~Clerk of Court~~/ Deputy Clerk Sherry Langley
Court Reporter: Bethanie Crippen
Presiding Judge
Judge Code: 0136
Sentence Date: Jan 7, 2016

SCCA/217 (03/2011)

STATE OF SOUTH CAROLINA COUNTY OF AIKEN THE STATE OF SOUTH CAROLINA Plaintiff vs. MARKESE DEQUAM EAST Defendant	IN THE COURT OF GENERAL SESSIONS FOR THE SECOND JUDICIAL CIRCUIT Indictment Number: 2013-GS-02-01735 **VERDICT FORM**

As to the offense of ARMED ROBBERY, we the Jury find the Defendant,

_____ Not Guilty

__✓__ Guilty

WE UNANIMOUSLY AGREE.

January 7, 2016

Dyhonda M. Macey
Foreperson

457

ARREST WARRANT

2013A0220100525

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

City of Aiken

13-31788 THE STATE

against

Markese D East

Address: [redacted] Carver Terrace

Aiken, SC 29801-

Phone: SSN:

Sex: M Race: B Height: 6 Weight: 150

DL State: DL #

DOB: [redacted]1993 Agency ORI #: SC0020100

Prosecuting Agency: Aiken Public Safety

Prosecuting Officer: David E Savage

Offense: BURGLARY/burglary (post 6/20/85) 1st degree

Offense Code: 79

Code/Ordinance Sec: 16-11-0311

This warrant is CERTIFIED FOR SERVICE in the ☐ County/ ☐ Municipality of _____. The accused is to be arrested and brought before me to be dealt with according to the law.

_____ (L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Markese East on 5-30-2013 1258

Sgt. Dennis 5971 Sgt. Dennis

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Aiken Municipal Court
251 Laurens St., N.W.
Aiken, SC 29801

ORIGINAL

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
City of Aiken)

AFFIDAVIT

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

Personally appeared before me the affiant David E Savage who being duly sworn deposes and says that defendant Markese D East did within this county and state on 05/28/2013 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of City of Aiken) in the following particulars:

DESCRIPTION OF OFFENSE: BURGLARY/burglary (post 6/20/85) 1st degree

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts.

On or about May 28, 2013 the residence located at [redacted] Aldrich Street was entered unlawfully by masked individuals and [redacted] was intentionally, willfully shot with malice aforethought to death by one or more of the persons invading the residence. The undersigned alleges that Markese East was one of the four individuals who planned, executed and committed the Murder, Armed Robbery and Burglary 1st at this residence. Investigation by the Officers and through statments of co-defendants, indicate that Markese East was an active particpant in these crimes. Xanax, phones, and money was stolen from the residence. This crime being in violation of the SC Code of Laws.

Signature of Affiant

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
City of Aiken)

Affiant's Address 251 LAURENS ST NW
AIKEN, SC 29801-
Affiant's Telephone (803)642-7620 x 0000

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 05/28/2013 defendant Markese D East did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of City of Aiken) as set forth below:

DESCRIPTION OF OFFENSE: BURGLARY/burglary (post 6/20/85) 1st degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 05/07/2013 (L.S.)

Signature of Issuing Judge

Judge Code: 005

Judge's Address

Judge's Telephone

Issuing Court: ☐ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

BAIL set by

Judge [illegible]

on 5-30-13

Type and Amount Denied

Name of Surety: _____

_____

PRELIMINARY HEARING held by

Judge _____

on _____

Defendant Attorney: _____

Decision: _____

_____

_____

DISPOSITION before

Judge _____

on _____

by _____

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition _____

Sentence: _____

JURORS

_____ _____

_____ _____

_____ _____

WITNESSES

Name: _____

Address: _____

_____

Telephone: _____

Name: _____

Address: _____

_____

Telephone: _____

Name: _____

Address: _____

_____

Telephone: _____

Name: _____

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Name: _____

Address: _____

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Telephone: _____

Name: _____

Address: _____

_____

Telephone: _____

CODEFENDANTS

_____

_____

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)

INDICTMENT FOR
BURGLARY IN THE FIRST DEGREE

§ 16-11-0311

At a Court of General Sessions, convened on November 4, 2013, the Grand Jurors of Aiken County present upon their oath:

That **MARKESE DEQUAM EAST**, along with others, did in Aiken County on or about May 28, 2013, wilfully and unlawfully enter the dwelling of [redacted] located at [redacted] Aiken, South Carolina, without consent and with the intent to commit a crime therein and the defendants were armed and entered or remained during the nighttime, all in violation of §16-11-311, Code of Laws of South Carolina (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

J. STROM THURMOND, SOLICITOR

WITNESSES

Aiken Department Of Public Safety

David E Savage

Law Enforcement Case #: 13-31768

JWW

ARREST WARRANT NUMBER

2013A0220100525

FILED October 31 2013

Liz Godard

C.C.P.&G.S. as

Deputy Clerk

ACTION OF GRAND JURY

TRUE BILL

Ronnie M. Hall

Foreperson of Grand Jury
Date: October 31, 2013

VERDICT

Foreperson of Petit Jury
Date:

460

DOCKET NO. 2013GS0201736

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2913

THE STATE
vs.

MARKESE DEQUAM EAST

CDR #: 0079

Indictment for

BURGLARY IN THE FIRST DEGREE

§ 16-11-0311

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF Aiken)
STATE VS.)
Markese Dequam East)
AKA:)
Race: Sex: M Age: 22)
DOB: [redacted]-1993 SS#[redacted])
Address: [redacted] Carver Ter)
City,State,Zip: Aiken, SC 29801)
DL#: SID#: [redacted])
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS 461

INDICTMENT/CASE#: 2013GS0201736
A/W#: 2013A0220100525
Date of Offense: 5/28/2013
S.C. Code § : 16-11-0311
CDR Code #: 0079

SENTENCE SHEET 15 years to Life

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Burglary / Burglary (After June 20, 1985) - First degree

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079
☐ NON-VIOLENT ☑ VIOLENT ☐ SERIOUS ☑ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☑ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: John W Weeks 5989 _____ Kim D. Beck 100019
Weeks, John W. "Bill" SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is commited to the ☒ **State Department of Corrections,** ☐ **County Detention Center,**
for a determinate term of 30 ~~days/months~~/years or ☐ under the **Youthful Offender Act** not to exceed _____ years
and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment
of $ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
☑ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2013-GS-02-01734
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 47.9 (Public Def/Prob)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
Proviso 90.5 (SCCJA Surcharge)	$5	$ 5.00
3% to County (if paid in installments)		$ 3.90
TOTAL		$ 133.90

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires $500 be paid to Clerk during probation.

~~Clerk of Court~~/ Deputy Clerk Sherry Langley
Court Reporter: Bethanie Coppom
Presiding Judge M O Eaton
Judge Code: 0136
Sentence Date: Jan 7, 2014

SCCA/217 (03/2011)

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOR THE SECOND JUDICIAL CIRCUIT
COUNTY OF AIKEN	)	
	)	Indictment Number: 2013-GS-02-01736
THE STATE OF SOUTH CAROLINA	)	
	)	
Plaintiff	)	
vs.	)	**VERDICT FORM**
	)	
MARKESE DEQUAM EAST	)	
	)	
Defendant	)	
	)	

As to the offense of BURGLARY IN THE FIRST DEGREE, we the Jury find the Defendant,

_____ Not Guilty

__✓__ Guilty

WE UNANIMOUSLY AGREE.

January 7, 2016

Foreperson

FORM 5 2013A0220100523
2013A0220100524
2013A0220100525

STATE OF SOUTH CAROLINA)
County of Aiken)
Markese East 366609)
Full name and prison number (if any) of Applicant)
v.)
State of South Carolina)

IN THE COURT OF COMMON PLEAS

2017CP0200146

APPLICATION FOR

POST-CONVICTION RELIEF

FILED 1-26-2017
C.C.P. & G.S.
Anita Knowles 1230
Deputy Clerk

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention - McCormick Correctional Institution

2. Name and location of Court which imposed sentence South Carolina General Session Court of Aiken Co

3. Name(s) of co-defendant(s) (if any) Brian Norton, Rashawn Issac, Leon Simmons, Treveane Butler

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a) (Murder) 15-03-0010

(b) (Burglary 1st) 16-11-0211

464 (c) (Armed Robbery) 16-11-330 (A)

5. The date upon which sentence was imposed and the terms of the sentence:
   (a) January 7, Concurrent sentence of 30 years (Murder)
   (b) January 7, Concurrent sentence of 30 years (Burglary 1st)
   (c) January 7, Concurrent sentence of 30 years (Armed Robbery)

6. Check whether a finding of guilty was made:
   (a) after a plea of guilty _____
   (b) after a plea of not guilty _____
   (c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?
   No I have not

8. If you answered "yes" to (7), list:
   (a) the name of each Court to which you appealed:
   i. _____
   ii. _____
   iii. _____
   (b) the result in each such Court to which you appealed:
   i. _____
   ii. _____
   iii. _____
   (c) the date of each such result:
   i. _____
   ii. _____
   iii. _____
   (d) if known, citations of any written opinion or orders entered pursuant to such results:
   i. _____
   ii. _____
   iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:
   (a) I had advised my attorney to do so but he did not.
   (b) _____

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) Will explain at hearing.

(b) Ineffective Assistance of Counsel

(c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) Will discuss at hearing

(b) _____

(c) _____

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? _____

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____

(d) any other petitions, motions or applications in this or any other Court? _____

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. _____

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

_____

_____

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) _____

(b) _____

(c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? _____

(b) your trial, if any? Yes

(c) your sentencing? Yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
N/A

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. ~~Kevin Beck~~
~~Attorney at Law PO Box 1068 Cayley, SC 29834~~

ii. _____

iii. _____

(b) the proceedings at which each such attorney represented you:

i. Kevin Beck Attorney at Law PO Box 1068 Cayley SC 29834

ii. _____

iii. _____

19. State clearly the relief you seek in filing this application:

Released from prison and aquitted of all Charges, * Equal Rights to an appeal.

20. Are you now under sentence from any other court that you have not challenged?

N/A

STATE OF SOUTH CAROLINA)
) VERIFICATION
County of Aiken)

I, Markese P. East, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Markese East

SWORN to and subscribed before me this 24 day of January, 2017.

JC Franklin (L.S.)
Notary Public

My Commission Expires: 12.16.2019

APPLICATION TO PROCEED WITHOUT PAYMENT OF COSTS AND AFFIDAVIT IN SUPPORT THEREOF

I, Markese East, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

(1) I am the applicant in this action and I believe I am entitled to redress.

(2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Markese East
Applicant

SWORN or affirmed to and subscribed before me this 24 day of January, 2017.

Notary Public

My Commission Expires: 12-16-2019

STATE OF SOUTH CAROLINA COUNTY OF AIKEN Markese East, #366609 Plaintiff, vs. State of South Carolina Defendant.	IN THE COURT OF COMMON PLEAS SECOND JUDICIAL CIRCUIT CASE NO.: 2017-CP-02-0146 **MOTION AND ORDER INFORMATION FORM AND COVERSHEET**

Plaintiff's Attorney:	Defendant's Attorney:
Markese East, #366609, Bar No. _____ Address: 990 Wisacky Hwy Bishopville SC 29010 Phone: _____Fax _____ E-mail: _____Other: _____	Julie A. Coleman, Bar No. 102214 Address: PO Box 11549 Columbia, SC 29211-1549 Phone: 803-734-3737 Fax803-734-4113 E-mail: _____Other: _____

☐ **MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**
☒ **FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**
☐ **PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)**

SECTION I: Hearing Information

Nature of Motion: _____
Estimated Time Needed: _____ Court Reporter Needed: ☐ **YES**/☐ **NO**

SECTION II: Motion/Order Type

☒ Written motion attached
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☐ Plaintiff /☒ Defendant — March 20, 2018 Date submitted

SECTION III: Motion Fee

☐ PAID – AMOUNT: $_____
☒ EXEMPT: (check reason)
- ☐ Rule to Show Cause in Child or Spousal Support
- ☐ Domestic Abuse or Abuse and Neglect
- ☐ Indigent Status ☐ State Agency v. Indigent Party
- ☐ Sexually Violent Predator Act ☒ Post-Conviction Relief
- ☐ Motion for Stay in Bankruptcy
- ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
- ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
  Name of Court Reporter: _____
- ☐ Other: _____

JUDGE'S SECTION	
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____	JUDGE CODE _____ Date: _____

CLERK'S VERIFICATION

Collected by:_____ Date Filed: _____
☐ MOTION FEE COLLECTED: $ _____
☐ CONTESTED – AMOUNT DUE: $ _____

STATE OF SOUTH CAROLINA COUNTY OF AIKEN Markese East, #366609, Applicant, v. State of South Carolina, Respondent.	IN THE COURT OF COMMON PLEAS FOR THE SECOND JUDICIAL CIRCUIT 2017-CP-02-00146 **RETURN AND MOTION TO DISMISS**

In response to the Application for post-conviction relief (PCR) filed by Markese East (Applicant) on January 26, 2017, Respondent would respectfully show this Court:

I.

Applicant is present confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Aiken County Clerk of Court. Applicant was indicted at the November 2013 term of the Aiken County Grand Jury for armed robbery (2013-GS-02-01735) and first degree burglary (2013-GS-02-01736). Applicant was represented by Kevin D. Beck, Esquire. John W. Weeks, Esquire, prosecuted the case. On January 7, 2016, Applicant proceeded to trial before the Honorable Doyet A. Early, III. Applicant was found guilty as indicted and sentenced to confinement for concurrent terms of thirty years. Applicant did not appeal his conviction or his sentence.

II.

In his first and current Application for post-conviction relief, Applicant alleges he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel."
   a. "Will discuss at hearing."

Attached and incorporated herein are the records of the Aiken County Clerk of Court, Applicant's records from the South Carolina Department of Corrections, and the records from this post-conviction relief action. Respondent reserves the right to amend this Return upon receipt of any relevant information.

III.

This Application should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to -160. S.C. Code Ann. §17-27-45(a) reads as follows:

> An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). Applicant was convicted of the offenses he now challenges on January 7, 2016. Accordingly, Applicant had until January 9, 2017 to file a timely application for post-conviction relief. This application was filed on January 26, 2017; several days after the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (1985) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, this Court should summarily dismiss this application

for post-conviction relief for failure to file within the time mandated by the Post-Conviction Procedure Act.

IV.

Each and every allegation contained within the application not hereinbefore expressly admitted, qualified or explained is hereby denied.

V.

WHEREFORE, Respondent moves to summarily dismiss the application because it was filed after the statute of limitations had expired.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

JULIE A. COLEMAN
Assistant Attorney General

By: Julie Coleman
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

March 20, 2017

STATE OF SOUTH CAROLINA COUNTY OF AIKEN MARKESE EAST, #366609 Applicant, vs STATE OF SOUTH CAROLINA, Respondent.	IN THE COURT OF COMMON PLEAS 2017-CP-02-0146 AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.

2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.

3. I have this day served a copy of the Return and Motion to Dismiss in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

Markese East, #366609
990 Wisacky Highway
Bishopville, SC 29010

DATED this 20th day of March, 2018.

Chandra Squirewell

Chandra E. Squirewell,
Legal Assistant For Respondent

STATE OF SOUTH CAROLINA COUNTY OF AIKEN Markese East, #366609, Applicant, v. State of South Carolina, Respondent.	IN THE COURT OF COMMON PLEAS FOR THE SECOND JUDICIAL CIRCUIT Case No. 2017-CP-02-00146 **AMENDED RETURN AND PARTIAL MOTION TO DISMISS**

Respondent, making its amended return and partial motion to dismiss the application for post-conviction relief filed by Markese East (Applicant) on January 26, 2017, Respondent would respectfully show this Court:

I. Procedural History

Applicant is present confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Aiken County Clerk of Court. During its November 2013 term, the Aiken County Grand Jury incited Applicant for murder (2013-GS-02-1734), armed robbery (2013-GS-02-01735), and first-degree burglary (2013-GS-02-01736). Aaron Walsh, Esquire, and Kevin D. Beck, Esquire, represented Applicant. Deputy Solicitor John W. Weeks and Assistant Solicitor Cassie Hall of the Second Circuit Solicitor's Office prosecuted the case.

On January 5, 2016, Applicant proceeded to a jury trial before the Honorable Doyet A. Early, III, circuit court judge. The jury convicted Applicant as indicted. Judge Early sentenced to confinement for concurrent terms of thirty years. Applicant did not appeal his conviction or his sentence.

II. Allegations Raised and Relief Requested

In his application for post-conviction relief, Applicant alleges he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel."
    a. "Will discuss at hearing."

In response to question 9 as to why he did not pursue a direct appeal, Applicant indicated, "I had advised my attorney to do so but he did not." Thereafter, Respondent received a letter from defense counsel Beck indicating that he had been asked to file an appeal on Applicant's behalf and had failed to do so.

Attached and incorporated herein are the records of the Aiken County Clerk of Court, the trial transcript, Applicant's records from the South Carolina Department of Corrections, and the records from this post-conviction relief action. Respondent reserves the right to amend this Return upon receipt of any relevant information.

III. Allegations of Ineffective Assistance of Counsel Should be Barred by the Statute of Limitations

Respondent submits this application should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10 to -160. Specifically, the Act requires as follows:

> An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision on appeal, whichever is later.

S.C. Code Ann. § 17-27-45(A).

The South Carolina Supreme Court has held the statute of limitations shall apply to all applications filed after July 1, 1996. *Peloquin v. State,* 321 S.C. 468, 469 S.E.2d 606 (1996). A motion for summary judgment may properly be used to raise the defense of statute of limitations. *McDonnell v. Consolidated School District of Aiken*, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) authorizes this Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings . . . that there is

no genuine issue of material fact and the moving party is entitled to judgment as a matter of law."

Applicant was convicted as indicted on January 7, 2016, and he did not pursue a direct appeal. The application was, therefore, due on or before January 8, 2017. This application was filed on January 26, 2017, *after* after the requisite filing period had expired. Therefore, the application should be summarily dismissed for failure to file within the time mandated by Uniform Post-Conviction Procedure Act, particularly in light of the fact Applicant has failed to allege any known ground entitling him to equitable tolling. *See Pelzer v. State*, 378 S.C. 516, 521, 662 S.E.2d 618, 619-20 (Ct. App. 2008) (equitable tolling has been deemed available where (1) extraordinary circumstances prevented the plaintiff from filing despite his due diligence; (2) the plaintiff actively pursued his or her judicial remedies by filing a defective pleading during the statutory period or the claimant has been induced or tricked by the defendant's misconduct into allowing the filing deadline to pass; and (3) the plaintiff, despite all due diligence, is unable to obtain vital information bearing on the existence of his or her claim).

IV. Allegation that Applicant is Entitled to Belated Appellate Review Pursuant to White v. State[1]

Applicant alleges he was denied his right to a direct appeal based on ineffective assistance of trial counsel. The one-year limitations period in which to file a petition for post-conviction relief does not apply where the defendant alleges he was denied a direct appeal due to ineffective assistance of counsel. *Wilson v. State*, 348 S.C. 215, 218, 559 S.E.2d 581, 582-83 (2002).

Applicant claims he was denied effective assistance of counsel because his trial counsel did not appeal his conviction. The decision of the South Carolina Supreme Court, in *White v.*

[1] 263 S.C. 110, 119, 108 S.E.2d 35, 39 (1974).

State, holds even though the post-conviction relief court finds the applicant had never voluntarily and intelligently abandoned his appeal, the court has no jurisdiction to grant a belated appeal. However, where an accused establishes in a post-conviction relief hearing that he was unconstitutionally deprived of his statutory right to a direct appeal, the South Carolina Supreme Court, upon an appeal of the post-conviction relief decision, will review the trial record and pass upon all issues properly raised and argued as if the direct appeal has been perfected. *Id.* at 119, 108 S.E.2d at 39-40.

Respondent submits Applicant cannot meet his burden showing he is entitled to a belated appeal pursuant to *White*. However, because this allegation probably raises questions of fact not conclusively refuted by the record, Respondent requests an evidentiary hearing solely on this issue. Should Applicant prevail on his allegation counsel was ineffective for failing to file an appeal and establish he did not timely file this current application due to the ineffective assistance of counsel, Respondent requests an evidentiary hearing to address the remaining issues raised in the application for post-conviction relief. *See Toney v. State*, Op. No. 2019-MO-006 (S.C. filed February 6, 2019) (where an applicant for post-conviction relief has established he did not knowingly and voluntarily waive his right to a direct appeal, the applicant is entitled to a full evidentiary hearing on the merits of his application).

Should this Court find Applicant was denied his right to a direct appeal, Respondent submits Applicant's remaining allegations of ineffective assistance of counsel are without merit. In a post-conviction relief action, Applicant bears the burden of proving the allegations in his application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied

upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland v. Washington*, 466 U.S. 668. First, the applicant must prove that counsel's performance was deficient. *Id.*; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Id.* (citing *Strickland*, 466 U.S. at 690). The applicant must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625. Respondent contends Applicant cannot meet his burden; however, the allegations of ineffective assistance of counsel probably raise questions of fact the record does not conclusively refute. Accordingly, should this Court find Applicant was denied his right to a direct appeal, Respondent requests an evidentiary hearing to fully resolve this issue. *Sharper v. State*, 279 S.C. 264, 305 S.E.2d 247 (1983).

V. Denial of All Other Claims

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this Return is hereby denied.

VI. Conclusion

WHEREFORE, Respondent requests an evidentiary hearing be held solely on the claim of ineffective assistance of trial counsel in failing to file an appeal. Should this Court find Applicant has failed to establish he did not knowingly and voluntarily waive his right to appeal, Respondent further requests all other allegations raised or potentially raised in Applicant's application be dismissed as barred by the statute of limitations. In the alternative, should this Court find Applicant did not knowingly and voluntarily waive his right to a direct appeal, Respondent requests an evidentiary hearing be held on Applicant's allegations of ineffective assistance of trial counsel and prosecutorial misconduct.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

By: Megan Harrigan Jameson
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
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Columbia, South Carolina 29211
Telephone: (803) 734-3737

April 3, 2019

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF AIKEN	)	
	)	
	)	2017-CP-02-00146
	)	
MARKESE EAST, #366609,	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
	)	

1. I am an employee of the Respondent in the above-captioned action.

2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.

3. I have this day served a copy of the **Amended Return and Partial Motion to Dismiss** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Nancy C. Fennell, Esquire
Post Office Box 2176
Irmo, South Carolina 29063

DATED this the 3rd day of April 2019.

Kaitlyn S. Slice, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
)
COUNTY OF AIKEN) TRANSCRIPT OF RECORD

----------x
MARKESE EAST,)
)
Applicant,)
)
vs.) Case No. 2017-CP-02-00146
)
STATE OF SOUTH CAROLINA,)
)
Respondent.)
----------x

May 14, 2019

B E F O R E:

The Honorable J. Cordell Maddox, Presiding Judge

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

Nancy Fennell, Esq.
Attorney for the Applicant

Megan Harrigan Jameson, Esq.
Attorney for the Respondent

Court Reporter: Bonnie Kelly (retired)

Transcribed by: Bobbi Fisher
SC Official Court Reporter III

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E X H I B I T S

(Exhibits on file in Clerk of Court's Office.)

Applicant's Exhibit		ID	RCVD
1	Letter from Mr. Beck	8	8
2	Letter from Mr. Beck	12	12

P R O C E E D I N G S

(Whereupon, the proceedings commenced as follows:)

THE COURT: Who do we got next?

MS. JAMESON: Your Honor, Markese East is before you.

THE COURT: Okay.

MS. JAMESON: During the November 2013 term, the Aiken County Grand Jury indicted Mr. East for murder and armed robbery and first degree burglary. On January 5th, 2016, Mr. East proceeded to a jury trial before Judge Early. The judge -- the jury convicted him, and the judge sentenced him to concurrent terms of 30 years. Mr. East did not appeal his conviction or sentence. Mr. East did not file a PCR application until January 26, 2017, which is outside the one-year statutory filing period. A return to motion to dismiss was filed summarily dismissing the application.

Thereafter, a letter from Mr. East's defense counsel, Kevin Beck, was received, indicating Mr. East had requested an appeal, and Mr. Beck failed to file one. An amended return and partial motion to dismiss was then filed, dismissing all of Mr. East's ineffective assistance claims other than related appellate review.

Mr. East is present today and represented by Ms. Fennell, and we are prepared to proceed on the belated appellate review and our motion to dismiss the remaining of his PCR application.

THE COURT: Okay. Yes, ma'am. Do you want to make a -- well, sure, go ahead.

MS. FENNELL: Applicant would call Mr. Markese East to the stand to take some testimony regarding --

THE COURT: Yeah, that would be fine.

THE CLERK: Place your left hand on the Bible and raise your right hand.

MARKESE EAST,

after having been duly sworn, was examined and testified to as follows:

THE CLERK: Please take a seat in the witness box, and state your full name for the Court.

THE DEFENDANT: Yes, ma'am.

THE COURT: Okay. If you would, give us your full name and spell your last name for the record.

THE DEFENDANT: Markese Dequam East. Last name, East. E-a-s-t.

COURT REPORTER: And spell your middle name.

THE DEFENDANT: Oh, spell that?

COURT REPORTER: Yeah.

THE DEFENDANT: D-e-q-u-a-m. And Markese, M-a-r-k-e-s-e.

THE COURT: Yes, ma'am.

DIRECT EXAMINATION

BY MS. FENNELL:

Q Mr. East, can you tell the Court where you're currently

housed?
A Broad River correctional facility.
Q Okay. And what sentence are you serving?
A A 30-year sentence.
Q Okay. And was that sentence as a result of trial?
A Yes, ma'am.
Q Okay. And what were you convicted of?
A I was convicted of murder, burglary first, and armed robbery.
Q And who represented you at that trial?
A Mr. Kevin Beck.
Q And was he appointed or did you hire him?
A He was appointed to me.
Q Okay. And he represented you through the end of the trial?
A Yes, ma'am.
Q And so you have filed a PCR application; is that correct?
A Yes, ma'am.
Q And when did you file that PCR application?
A I had filed after I had been noticed that he hadn't filed for me an appeal.
Q Okay. But did you file your application on January 26, 2017?
A Yes, ma'am.
Q Okay. And on what date were you convicted?

A January 7th, 2016.

Q Okay. And on your PCR application, you indicated that your attorney did not file an appeal on your behalf; is that correct?

A Yes, ma'am.

Q And did you request that your attorney file an appeal after your conviction?

A Yes, ma'am.

Q And describe what took place during that conversation.

A The day of my trial, we went back there and we talked, and he said that he was going to file for my appeal that day, that relieving -- it had been several times we had talked after that that he had said that he was going to file for it, and it never been put in for my appeal. He did not ever once put in for it.

Q Okay. So you specifically requested him -- on the day that you requested, you requested that he file an appeal?

A Yes, ma'am.

Q Okay. And so you were still at the courthouse that day?

A Yes, ma'am.

Q Did he file an appeal on your behalf?

A No, ma'am.

Q And when did you discover that he had never filed that appeal?

A I officially find out when he sent me the letter that he

sent me, telling me that he didn't. And -- but it had been times before that where I had been trying to write the appeal to the courts, and they told me there was no appeal filed on my behalf.

Q Okay. Now, you have mentioned a letter that you received from Mr. Beck; is that correct?

A Yes, ma'am.

Q And what did -- what did he indicate in his letter?

A He indicated that basically he was -- he know that he didn't file for my appeal, and he had been sorry for it, and that everything had been his fault, and he was wrong for -- wrong for not filing my appeal.

Q And do you recall the date of that letter?

A I'm not sure exactly of the date of the letter, but it was on there.

MS. FENNELL: Your Honor, may I approach the witness?

THE COURT: Sure.

MS. FENNELL: Thank you.

BY MS. FENNELL:

Q Mr. East, is that the letter that you're referring to?

A Yes, ma'am.

Q Okay. And what is the date on that letter?

A The date on this letter is July 17th, 2018.

Q And is this the letter you received from Mr. Beck?

A Yes, ma'am.

Q And it's addressed to you at Broad River Correctional?

A Yes, ma'am.

MS. FENNELL: At this time, we'd like to offer this document as Applicant's Exhibit 1.

THE COURT: Any objection?

MS. JAMESON: No, sir.

THE COURT: Okay. Without objection.

(Applicant's Exhibit No. 1, Letter from Mr. Beck, was marked for identification and received into evidence.)

BY MS. FENNELL:

Q Mr. East, are you aware of any other letters that Mr. Beck sent on your behalf?

A He said that he had sent another letter to -- I want to say it was the clerk of court, saying that he had wrote to them, stating to them about the same situation and saying the thing that he hadn't told me that he had been 100 percent at fault, like he says on this letter.

Q Okay. And do you mean that he had actually sent a letter to the Attorney General's Office?

A Yes, ma'am.

Q Okay. And so you received this letter on July -- or he sent this letter on July 17th, 2018; is that correct?

A Yes, ma'am.

Q Okay. And you filed your application on January 26, 2017?

A Yes, ma'am.

Q So until July 17th, 2018, did you know for sure whether an appeal had been filed on your behalf?

A No, ma'am.

Q Okay. You indicated that you had, yourself, contacted the Court of Appeals to question whether there was an appeal pending; is that correct?

A Yes, ma'am.

Q Prior to January 8th, 2017, had anyone notified you that there was no appeal filed on your behalf?

A No, ma'am.

Q Okay. So as of January 8th, 2017, you still thought an appeal had been filed?

A Yes, ma'am.

Q And is the reason that you did not file your PCR application by January 8th, 2017, is the reason that you didn't file by then the fact that you thought your appeal was pending?

A Yes, ma'am.

MS. FENNELL: I don't believe I have any further questions. Thank you.

MS. JAMESON: No questions.

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

Yes, ma'am?

MS. FENNELL: Applicant would call Kevin Beck to the

stand.

THE COURT: Okay.

THE CLERK: Place your left hand on the Bible and raise your right hand.

KEVIN BECK,

after having been duly sworn, was examined and testified to as follows:

THE CLERK: Please take a seat in the witness box, and state your full name for the Court.

THE WITNESS: Kevin Beck. B-e-c-k.

DIRECT EXAMINATION

BY MS. FENNELL:

Q Good morning, Mr. Beck. You have heard Mr. East's testimony today. Did you represent him in the underlying charges?

A I did.

Q Okay. And you have heard that he requested a direct appeal; is that accurate? He requested you to file an appeal?

A Yes, ma'am.

Q Okay. And did you file that appeal?

A No, ma'am, I did not.

Q Okay. And prior to January 8th, 2017, had you notified Mr. East that you had not filed that appeal?

A No, ma'am.

Q Okay. And did you write that letter on July 17th, 2018,

to Mr. East notifying him that the appeal had not been filed?
A I can't recall the date, but I -- yes, ma'am, I did write a letter to him, as well as the Attorney General's Office, stating that I did not.
Q Okay. And so the letter that you wrote to the Attorney General's Office, was that letter dated July 9th, 2018?
A I'm not sure, to be honest with you, but I know it was about -- within the same time.
MS. FENNELL: Okay. Your Honor, may I approach the witness?
THE COURT: Sure.
BY MS. FENNELL:
Q And, Mr. Beck, is this the letter that you wrote the Attorney General's Office?
A Yes, ma'am, I believe it is.
Q And what is the date on this letter?
A July 9, 2018.
Q And you indicated in this letter that the appeal had not been filed?
A Correct.
MS. FENNELL: Okay. At this time, we'd like to offer this document as Applicant's Exhibit 2.
THE COURT: Any objection?
MS. JAMESON: No, sir.
THE COURT: Without objection.

(Applicant's Exhibit No. 2, Letter from Mr. Beck, was marked for identification and received into evidence.)

BY MS. FENNELL:

Q Mr. Beck -- so, again, you -- on July 17th, 2018, that was the first time you had notified Mr. East that the appeal had not been filed?

A Yes, ma'am.

Q Okay. I have no further questions. Thank you.

MS. JAMESON: No questions, Your Honor.

THE COURT: All right. Thank you, sir. You may step down. Appreciate it.

MS. FENNELL: We have nothing further, Your Honor.

THE COURT: Okay. Anything from the State?

MS. JAMESON: No, sir.

THE COURT: Okay. Yeah, I -- first, sir, your lawyer being completely honest with the Court is something that is unbelievably refreshing for me, and I appreciate it. I'm going to grant your motion for a direct appeal or I -- I always say it wrong, but I'm granting your motion so you'll have the ability to appeal your conviction. Okay?

THE DEFENDANT: Thank you, Judge.

THE COURT: You have got -- you have got a good lawyer now and you got a good lawyer before who -- like I said, I appreciate the honesty. It just happens. It happened to me as a lawyer many years ago.

So y'all send me an order.

MS. FENNELL: Yes, sir. And about the underlying PCR application, on our original motion to dismiss, would that be equitably tolled based on his testimony that he didn't file his PCR application timely?

THE COURT: Yeah, so it will be equitably tolled. I mean, I think you had an opportunity to appeal and then --

MS. FENNELL: PCR.

THE COURT: -- PCR again at that point. So however you -- y'all want to work that out. I think that's the fair thing to do.

MS. FENNELL: Agreed. Just want to make sure that's clear.

THE COURT: Yeah, okay.

All right. Good luck to you. Okay?

THE DEFENDANT: Thank you, sir.

THE COURT: Thank you.

(The above matter concluded.)

CERTIFICATE OF TRANSCRIBER

CASE NAME/NUMBER: Markese East v. State of SC

2017-CP-02-00146

DATE OF HEARING: 5/14/2019

COURT REPORTER/MONITOR: Bonnie Kelly (retired)

I, Bobbi Fisher, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording and supporting information, and that I am neither counsel for, related to, nor employed by any of the parties to this case, and I have no interest, financial or otherwise, in its outcome.

_/s/ Bobbi Fisher_____

Bobbi Fisher, Certified Transcriber

Date Prepared: February 4, 2023

NOTE: PURSUANT TO RULE 607(h)(1)(B), SCACR, "A COURT REPORTER SHALL RECEIVE THE FEE OF $1.00 PER PAGE FOR FURNISHING A COPY OF A PREVIOUSLY PREPARED TRANSCRIPT." ALL REQUESTS FOR COPIES OF THE ATTACHED TRANSCRIPT (FORM 800) FROM OPPOSING PARTY OR NON-PARTIES MUST BE SENT TO THIS REPORTER AT BFISHER@SCCOURTS.ORG.

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	**SECOND JUDICIAL CIRCUIT**
COUNTY OF AIKEN	)	**C/A NO. 2017-CP-02-00146**
	)	
	)	
Markese East, #366609	)	**AMENDMENT TO PCR**
	)	**APPLICATION**
Applicant,	)	
	)	
v.	)	
	)	
State of South Carolina	)	
	)	
Respondent.	)	
	)	

The Applicant, by and through appointed counsel below, hereby amends his PCR application filed on January 26, 2017, to add the following grounds and/or facts on which Applicant bases his allegations that he is being held in custody unlawfully:

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

Ineffective assistance of counsel for failing to file an appeal of Applicant's conviction.

Ineffective assistance of counsel for failing to put any co-defendant on the stand to testify during his trial.

Ineffective assistance of counsel for allowing trial to proceed while co-defendants were present in jail issue clothing.

19. State clearly the relief you seek in filing this application: Applicant seeks to have his conviction overturned and a new trial, and Applicant seeks an appeal of his conviction.

FILED January 27 20 22
C.C.P. & G.S.
Deputy Clerk

Respectfully submitted,

s/ Nancy C. Fennell

Nancy C. Fennell
Law Office of Nancy C. Fennell, LLC
P.O. Box 2176
Irmo, South Carolina 29063
(803) 553-1772
nancyfennell1@gmail.com
SC Bar No. 69729
Attorney for Applicant

Irmo, SC
January 24, 2022

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this Amendment to PCR Application was served upon the following this 24th day of January, 2022 via email to:

Megan Jameson
Senior Assistant Deputy Attorney General
mjameson@scag.gov
P.O. Box 11549
Columbia, SC 29211

Michael Neubauer
Assistant Attorney General
michaelneubauer@scag.gov
P.O. Box 11549
Columbia, SC 29211

s/ Nancy C. Fennell
Nancy C. Fennell
Attorney for Applicant

FILED January 27 20 22
C.C.C.P. & G.S.
Deputy Clerk

State of South Carolina)	Court of Common Pleas
County of Aiken)	Second Judicial Circuit
Markese East,)	Transcript of Record
Applicant,)	
vs.)	2017-CP-02-00146
State of South Carolina,)	
Respondent.)	

February 2, 2022
Aiken, South Carolina

B E F O R E:

The Honorable Robert J. Bonds, Judge

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

Nancy C. Fennell, Esquire
On behalf of the Applicant

Megan H. Jameson, Assistant Attorney General
On behalf of the State of South Carolina

Reported by: Stacy S. Johnson,
Circuit Court Reporter

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E X H I B T S

NO EXHIBITS WERE INTRODUCED