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SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

The Honorable Letitia Verdin, Circuit Court Judge

Appellate Case No. 2022-000311
2005-GS-42-000888

State of South Carolina.....Respondent,

v.

Joshua Jeter Appellant.

**RECORD ON APPEAL
VOLUME II OF II**

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

Attorneys for Respondent

RANEE SAUNDERS
ELIZABETH FRANKLIN-BEST

Elizabeth Franklin-Best, P.C.
3710 Landmark Drive, Suite 113
Columbia, South Carolina 29204

Attorneys for Appellant

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Paula Brewster
Direct examination by Mr. Bulsa

1 each one after he read them and sign his name if he
2 understood them.

3 Q Did he understand them?

4 A Yes.

5 Q Did he ever seek to invoke any of those rights?

6 A No, he did not.

7 Q Did he agree to speak with you?

8 A Yes.

9 Q Did he sign an additional place on that document?

10 A Yes. I went through the waiver of rights. I read to
11 him the, "Fully understanding my rights as they have been
12 explained to me, I wish to waive, give up, my rights and
13 talk to Officer P. Brewster in reference to a murder at
14 Rose Hill Apartments. I waive my rights freely and
15 voluntarily without being threatened or coerced and without
16 being promised any leniency or reward."

17 And I asked him if he wanted to give a statement, and
18 he said yes. He signed his name.

19 Q And he obviously knew what this was about --

20 A Yes.

21 Q -- because you listed it on that paper.

22 A Yes. I did.

23 Q And did he then agree to speak to you?

24 A Yes.

25 Q I show you what's been marked State's Exhibit 2-B. Is

Paula Brewster
Direct examination by Mr. Bulsa

1 that the statement he gave?

2 A Yes.

3 Q Okay. I show you what's been marked State's Exhibit
4 2-C for Identification. Is that a typed version of
5 portions of that statement?

6 A Yes, it is.

7 Q Okay.

8 MR. BULSA: Your Honor, I would introduce 2-C into
9 evidence.

10 THE COURT: Two what?

11 MR. BULSA: C -- 2-C.

12 THE COURT: Okay. Any objection?

13 MS. ANDERSON: Could we see it?

14 THE COURT: Yeah.

15 MR. BULSA: May I approach?

16 (Bench conference held off the record in the presence
17 of the jury but out of the hearing of the jury.)

18 (Typed statement marked State's Exhibit No. 2-C.)

19 Q Okay. If you would, publish State's Exhibit 2-C as it
20 is typed to the jury at this time.

21 A I asked -- "Joshua Jeter, 12/11/04 at 12:45 p.m.

22 "The following is the statement of Josh Jeter which
23 was taken at Spartanburg Public Safety in interview room
24 one by Investigator P. Brewster and written for Josh Jeter.

25 "On Wednesday I got out of school around 3:15 p.m.

Paula Brewster
Direct examination by Mr. Bulsa

1 When I went home for a couple of -- went home for a couple
2 of hours. I asked my mama if I could drive her car over to
3 Charleston Place to my brother's, Travis Jeter's, house."

4 MR. VIETH: Your Honor, let me interrupt her one quick
5 time. I have to approach one more quick time.

6 THE COURT: It's been taken care of.

7 MR. VIETH: Sir?

8 THE COURT: It has been taken care of.

9 MR. VIETH: Thank you, sir.

10 MR. BULSA: I'm sorry.

11 THE COURT: You can proceed.

12 A "Brother's, Travis Jeter's, house. She said go ahead.
13 And I asked if I could take her phone. She said go ahead.
14 I went to Charleston Place, and this was around 6:00 or
15 7:00 then. I went to my brothers's house and they, my
16 brother's roommate Tony Rice and Marcus Hardy, were playing
17 a video game. I didn't want to wait in there so I went
18 outside for a while about ten to 20 minutes. I saw the
19 police at the end of my brother's building. I walked off
20 and around. You can't stand there because Charleston Place
21 has a little curfew. I done crept back in my brother's
22 house. I waited there for, waited there about 20 minutes
23 more." Excuse me. I'm sorry. "About 20 more minutes.
24 And I went back out, but really looked out the door. After
25 that I went back inside and chilled for about ten more

Paula Brewster
Direct examination by Mr. Bulsa

1 minutes."

2 Signed by Joshua Jeter, witnessed by P. Brewster.

3 Q Now, during this interview, this statement, we didn't
4 hear anything about Rose Hill Apartments. Did you question
5 him about going to Rose Hill Apartments?

6 A Excuse me?

7 Q Did you question Mr. Jeter about going to Rose Hill
8 Apartments?

9 A Yes.

10 Q What was his response?

11 A He said he wasn't there.

12 Q Okay. So he denied being there on December the 8th --

13 A Yes.

14 Q -- when you were interviewing him on December the
15 11th.

16 A Yes.

17 Q Three days later.

18 A Yes.

19 Q And he clearly understood what the interview was
20 about.

21 A Yes.

22 Q Okay. So we had a denial on 12/11, is that right?

23 A Yes.

24 Q What did you do with Mr. Jeter after that interview?

25 A I released him to his mother.

Paula Brewster
Direct examination by Mr. Bulsa

1 Q Okay. Did you ever see Mr. Jeter again?

2 A Yes.

3 Q When?

4 A On December the 14th.

5 Q Three days later.

6 A Yes.

7 Q Do you recall how that took place?

8 A His mother brought him up there to Spartanburg. His
9 mother brought him to Spartanburg Public Safety.

10 Q Okay. Was that at your request?

11 A Not at that time, no.

12 Q All right. And on December the 14th did you go
13 through the same process of reading him his rights?

14 A Yes, I did.

15 Q And he filled out a Miranda form. I show you State's
16 Exhibit No. 3-A for Identification. Is that the second
17 Miranda form?

18 A Yes, it is.

19 Q Did you follow the same process of reading him his
20 rights?

21 A Yes.

22 Q Did you do anything different?

23 A Yes.

24 Q What different did you do?

25 A I went through and read him his rights; and I also

Paula Brewster
Direct examination by Mr. Bulsa

1 asked him how far he went in school, and he told me he
2 completed the 8th grade and he can read and write.

3 Well, at the same process when I asked him to read
4 these rights to himself and put his initials out beside
5 each one, I have a star beside out here where number three
6 is at. I told him when he got there read that one out
7 loud.

8 Q Why did you do that?

9 A I did that to make sure that he could read and write.

10 Q Was he able to read?

11 A Yes.

12 Q And did he give up his rights?

13 A Yes, he did.

14 Q Did he ever seek to invoke them?

15 A No, he did not.

16 Q Did you then ask him if he wanted to speak to you
17 again?

18 A Yes, I did.

19 Q And did he sign that form as he did in the other
20 fashion?

21 A Yes, he did.

22 Q And did he then give another written statement?

23 A He did.

24 Q I show you what's been marked 3-B for identification,
25 as well as 3-C. Is that the statement he gave?

Paula Brewster
Direct examination by Mr. Bulsa

1 A Yes.

2 Q Okay.

3 MR. BULSA: Your Honor, at this time he would move
4 items 3-A and 3-C into evidence. I believe they understand
5 which one it is.

6 MR. VIETH: No objection.

7 MS. ANDERSON: Just over my original objection.

8 THE COURT: They are admitted.

9 (Pre-interrogation waiver form marked State's Exhibit
10 No. 3-A; statement dated 12/14/04 marked State's Exhibit No.
11 3-C.)

12 Q Officer, would you now publish the statement as typed
13 in 3-C?

14 A Joshua Jeter, 12/14/04 at 2:05p.m.

15 "The following is a statement of Joshua Jeter which
16 was taken at Spartanburg Public Safety Department in
17 interview room one by Investigator P. Brewster and written
18 for Joshua Jeter. Wednesday, the 8th of December, because
19 my birthday was on the 10th, I got up and went to school
20 and got out of school about 3:15 p.m. I stayed home for a
21 couple of hours. From there I went to Charleston Place to
22 A-6. I drove a gold Maxima. Then I stayed in Apartment
23 A-6 for about ten minutes. The apartment belongs to Travis
24 Jeter, my brother. Then I left out of the apartment and
25 went outside. That's when the police had came, so I walked

Paula Brewster
Direct examination by Mr. Bulsa

1 off. I walked around the corner to my brother's house. So.
2 I went to Rose Hill. So I walked over there, and I was
3 over there, and I was over by the balcony thing. And dude
4 came to the door. So I walked by the door, and I had a
5 mask on all the way. I had a, I had on a mask, all the way
6 on. And the dude saw me. The dude tried to close the
7 door. I had run back to Charleston Place and I had got in
8 the car. This was between 8:30 and 9:00 o'clock. I did
9 have on a mask all the way. I don't think nothing should
10 happen to me. But if you do the crime, you do the time."

11 Signed by Josh Jeter and witnessed by P. Brewster.

12 Q So on December the 14th he admitted being at Rose
13 Hill.

14 A Yes, sir.

15 Q In fact, he admitted to having a mask on.

16 A Yes, sir.

17 Q Did not admit to having a gun however.

18 A No.

19 Q Once you obtained this statement, what did you do?

20 A I signed a warrant.

21 Q Signed a warrant for his arrest?

22 A Yes, sir.

23 Q Was he arrested?

24 A Yes, he was.

25 Q After his arrest did you have occasion to speak with

Paula Brewster
Direct examination by Mr. Bulsa

- 1 him again?
- 2 A Yes, I did.
- 3 Q Okay. Was that some months later?
- 4 A Yes.
- 5 Q I show you what's been marked for identification as
- 6 State's Exhibit 4-A. What does that show us?
- 7 A It's a pre-interrogation waiver form.
- 8 Q Dated when?
- 9 A It's dated September the 14th of 2005.
- 10 Q So nine months later, ten months later you spoke to
- 11 him again.
- 12 A Yes.
- 13 Q Was it a voluntary interview?
- 14 A Yes, it was.
- 15 Q And did you read him his rights again?
- 16 A Yes, I did.
- 17 Q Did you follow the same fashion as you had before?
- 18 A Yes, plus I asked him to read number three out loud.
- 19 Q Did he initial out beside each right --
- 20 A Yes, he did.
- 21 Q -- that he understood those rights as he had before?
- 22 A Yes.
- 23 Q Did he then proceed to give you another statement?
- 24 A Yes, he did.
- 25 Q Show you State's Exhibit 4-B for identification and

Paula Brewster
Direct examination by Mr. Bulsa

1 4-C for identification. Are those the statements he gave?

2 A Yes.

3 Q Okay.

4 MR. BULSA: Your Honor, I would offer State's Exhibits
5 4-A, pre-interrogation waiver form, and 4-C, the typed
6 version of the September the 14th interview, statement.

7 MS. ANDERSON: Over my original objection.

8 THE COURT: Let me see y'all just a minute.

9 (Pause.)

10 MS. ANDERSON: I withdraw the objection.

11 THE COURT: All right. No objection to 4-C?

12 MS. ANDERSON: No, no, sir.

13 THE COURT: All right. It's admitted.

14 MR. BULSA: Thank you, Your Honor.

15 (Pre-interrogation waiver form marked State's Exhibit
16 No. 4-A; statement dated September the 14th, 2005, marked
17 State's Exhibit No. 4-C.)

18 Q If you would publish that to the jury.

19 A Joshua Jeter, 9/14/05 at 3:50 p.m.

20 "On 12/5/04 I went to school around 8:00. I got out
21 around 3:15. I went straight home. I was at home for
22 three to four hours. I went to Charleston Place. I was
23 driving my mother's car, and I went to my brother Travis
24 Jeter's house A-6. I was watching my brother's roommate,
25 Tony Rice, and my cousin, Marcus Hardy, play the video game

Paula Brewster
Direct examination by Mr. Bulsa

1 for about 20 to 30 minutes. Then I walked outside in
2 Charleston Place. The police came through patrolling the
3 area. So the police pulled into the parking lot I was at.
4 I walked around the building. I went back into my
5 brother's house. It was like 30 minutes later. I walked
6 outside into Charleston Place. It was cold outside. So I
7 wore a mask and I walked to Rose Hill. When I got to Rose
8 Hill I walked up, and the guy then like wus up, and I said
9 wus up. When I pulled my gun out the guy tried to close
10 the door. I didn't see anyone else in the house. So after
11 that I ran back to Charleston Place. On the way it was a
12 guy walking in the pathway that saw me running. The gun I
13 had, I bought it at the park from a guy named Kevin,
14 Calvin." Excuse me. "I don't know the guy. He was taking
15 me and my friend Jamal to his house. When we were finished
16 playing basketball me and Jamal was walking to the guy's
17 car and he popped the trunk to put the basketball into the
18 trunk, and I saw the gun, and I had asked him to let me see
19 it. Kevin asked me did I want," supposed to be want but it
20 said went, "to buy it, and I asked him how much, and he
21 said \$30. So I bought it. The day I bought it, it had
22 three bullets in it. And when went over my homeboy Jamal's
23 house I shot the bullets out to see how the gun sound. The
24 night in Rose Hill I didn't have any bullets."

25 Signed by Josh Jeter and witnessed by J. Patricia

Páula Brewster
Direct examination by Mr. Bulsa

1 Anderson.

2 Q I think you caught one of these typographical errors,
3 but I think the date he was actually talking about was
4 12/8, is that right?

5 A Yes.

6 Q Okay. Now, this statement admits to the mask and
7 admits to having a gun, right?

8 A Yes, sir.

9 Q Doesn't admit to shooting a gun.

10 A Excuse me?

11 Q Does not admit to firing a gun.

12 A No.

13 Q Now, Officer, I am going to take you back to the
14 December statements. Did you use any technique in order to
15 get him to talk to you?

16 A Yes.

17 Q Tell us how that took place.

18 A I brought him in and sat him down and talked to him.
19 And I used the technique to minimize the act itself in
20 order to give him an out, to be able to really talk about
21 what happened. I used the word accident. I sympathized
22 with him and told him I knew it was an accident.

23 Q Why did you use that technique?

24 A It minimized the act that happened that basically made
25 him feel comfortable so that he didn't think he was totally

Paula Brewster
Cross-examination by Ms. Anderson

1 at fault.

2 Q Okay. Did you use that same technique on the
3 September statement?

4 A Yes.

5 Q Okay. Now, we heard testimony earlier about some
6 search warrants, a search warrant of Lance Lyles's house.
7 Was a search warrant obtained of Josh Jeter's house?

8 A No.

9 Q Can you explain to us why one was not obtained?

10 A I just didn't do one for Josh Jeter's house at that
11 time. He was already arrested and he was in custody.

12 Q If you had to do it over again would you do one?

13 A Yes.

14 Q So you made a mistake.

15 A Yes.

16 Q All right. Thank you. Answer any questions either
17 attorney has.

18 CROSS-EXAMINATION

19 BY MS. ANDERSON

20 Q Officer Brewster, you were the lead investigator on
21 this case.

22 A Yes.

23 Q Okay. And you were the one that was telling everybody
24 what to do, is that correct?

25 A Yes, up to the point where I turned it over to

Paula Brewster
Cross-examination by Ms. Anderson

1 Lieutenant Lamb and the investigators at the crime scene.

2 Q That's correct. But you were in charge of
3 investigating what had happened.

4 A Yes.

5 Q Okay. You talked with a lot of people at the complex,
6 and/or you sent officers out to canvass the whole
7 neighborhood, didn't you?

8 A The whole division went out.

9 Q The whole division. And you didn't find anything, or
10 did you find anything out from any of the neighbors that
11 helped in the investigation?

12 A Not myself, no.

13 Q But did anyone else?

14 A The only other witness that was brought up was
15 Mr. Hill.

16 Q Okay. And Mr. Hill was the one that saw the two boys
17 with each of them having a gun, is that correct?

18 A I believe that's his statement.

19 Q Okay. Now, when you had Lance Lyles in your office,
20 or to interrogate him, you were present, weren't you, for
21 Lance Lyles?

22 A I was there.

23 Q Okay. You were there during the interview.

24 A I don't believe I was inside while he was being
25 interviewed. He refused.

Paula Brewster
Cross-examination by Ms. Anderson

1 Q Well, he refused to be interviewed. But did he tell
2 you he refused?

3 A Sergeant Taylor was interviewing him. He told me.

4 Q So it wasn't you. You weren't in the room with him?

5 A I did not talk with him.

6 Q But were you in the room?

7 A I don't think. I don't believe I was in the room
8 during the time he was Mirandized and asked to speak.

9 Q Okay. Did you go in there at all?

10 A I went in there to give him some Gatorade earlier.

11 Q Okay. But you did no talking to him?

12 A Other than drink the Gatorade slowly.

13 Q Okay. Because he was throwing up?

14 A He was sick.

15 Q Was that from the running?

16 A Yes.

17 Q Okay. So you didn't participate in that. But you did
18 interview Josh Jeter three different times.

19 A Yes.

20 Q Okay. The first time was on December 11th, is that
21 correct --

22 A Yes.

23 Q -- when y'all had him brought over from his apartment?
24 You had said that you couldn't locate him, but it was
25 only -- y'all didn't go to the right apartment, did you? I

Paula Brewster
Cross-examination by Ms. Anderson

- 1 was looking at your notes on 12/11 at 1200 hours.
- 2 "Investigators Hearst and Winningham and myself went to
- 3 1480 west -- W. O. Ezell Boulevard, Apartment A-6 to locate
- 4 Josh Jeter."
- 5 A That was to his brother's house.
- 6 Q That was to his brother's house.
- 7 A Yes.
- 8 Q Okay. And no one was at home, correct?
- 9 A That's correct.
- 10 Q So 15 minutes later you went over -- I guess it took
- 11 you that long to get to 501 Camelot Drive, Apartment 26.
- 12 A We went directly over there.
- 13 Q Okay. And Josh was there.
- 14 A Yes.
- 15 Q Okay. Josh never tried to hide from you, did he?
- 16 A No.
- 17 Q He never tried to run.
- 18 A No.
- 19 Q Okay. In fact, well, this first time that you
- 20 interviewed him on 12/11, y'all brought him in to the city,
- 21 correct, when he gave his first statement to you?
- 22 A Yes.
- 23 Q This is where y'all went and picked him up at his
- 24 house, his apartment, and brought him to the city.
- 25 A Yes.

Paula Brewster
Cross-examination by Ms. Anderson

1 Q Okay, now, the next time he came in himself, didn't
2 he?

3 A He came in with his mother.

4 Q On December the 14th, is that correct?

5 A Yes.

6 Q In fact, on December the 14th -- would you have done
7 anything else about Mr. Jeter had he not come in?

8 A Probably tried to talk to him again.

9 Q Okay. But on December the 14th you hadn't called him
10 to come and talk to you, had you?

11 A No. That was Debbie Session (sic).

12 Q And on his own he came in.

13 A Yes.

14 Q And in that statement basically he told you he went
15 over to Rose Hill, is that correct?

16 A On December 14th, yes, he told me he did.

17 Q All right. When you hadn't called him to come in, he
18 came in on his own.

19 A Yes, ma'am.

20 Q Now, this was when you were talking to him, and you
21 kept telling him we know this was an accident, we know that
22 nobody meant to shoot anybody, just tell us what happened.
23 That was basically what you said to him?

24 A That was the technique I used, yes.

25 Q Okay. And you said it a lot to him.

Paula Brewster
Cross-examination by Ms. Anderson

1 A Yes.

2 Q Okay. And he didn't have a parent with him, did he?

3 A At which time?

4 Q The only time you had anyone with him was the
5 September 14th when I witnessed the interview, is that
6 correct?

7 A That's correct.

8 Q Yeah. Because the, on the 11th and on the 14th of
9 December he did not have his mother in there with him. He
10 was by himself.

11 A That's correct.

12 Q Okay. In the interview room with you. And you said
13 you did this to minimize the incident to get him to talk.

14 A Yes.

15 Q Okay. Did you believe that it could possibly have
16 been an accident though?

17 A No.

18 Q You believed that they deliberately went over there to
19 shoot him.

20 A I believe they went over there to commit a crime and
21 the outcome just --

22 Q Okay. But you kept telling him we know this was an
23 accident and, you know, tell me more about it.

24 A That is the technique I used, yes.

25 Q Okay. But on the 14th he came in and told you

Paula Brewster
Cross-examination by Ms. Anderson

1 himself.

2 A He came in and made another statement, yes.

3 Q And said that he was there. Now, the last statement
4 that he came in, he told you even more about what happened.

5 A Yes. The one in September.

6 Q The one in September.

7 A Yes.

8 Q Okay. Basically if Josh had not talked he may not
9 have been here today, is that a fair assessment?

10 A Yes.

11 MR. BULSA: Objection, Your Honor. That calls for
12 speculation.

13 THE COURT: Sustained.

14 Q My client came in voluntarily and implicated himself
15 by saying he was at Rose Hill.

16 A Yes.

17 Q You never did get -- you never talked to Lance Lyles
18 again, did you?

19 A No.

20 Q Okay. He would not agree to talk with y'all.

21 MR. VIETH: Your Honor, I object.

22 THE COURT: Sustained.

23 MS. ANDERSON: All right. I withdraw that question.

24 Q But the only one you ever talked to about the
25 situation was my client.

Paula Brewster
Cross-examination by Mr. Vieth
Redirect examination by Mr. Bulsa

1 A Yes.

2 Q Thank you.

3 CROSS-EXAMINATION

4 BY MR. VIETH

5 Q Officer Brewster, one question. Of course anybody,
6 anybody has a constitutional right to either talk or not
7 talk, isn't that true?

8 A That's true.

9 Q I mean, that's the intent of our constitution, is that
10 right?

11 A That's right.

12 Q And you wouldn't have it any other way.

13 A That's right.

14 Q Thank you.

15 MR. BULSA: Just briefly in reply.

16 REDIRECT EXAMINATION

17 BY MR. BULSA

18 Q Officer, are there various techniques to use to talk
19 with people?

20 A There are several different techniques.

21 Q Is that a common police tactic?

22 A Yes, it is.

23 Q Trying to get to what happened?

24 A Yes.

25 Q Trying to solve crimes.

Paula Brewster
Redirect examination by Mr. Bulsa

1 A Yes.

2 Q While you were interviewing him you knew a crime had
3 occurred.

4 A Yes.

5 Q Now, Ms. Anderson talked about on the 14th he came in
6 on his own. It's true that his mother is the one that
7 brought him in, right?

8 A Yes.

9 Q And you don't know what the dynamics were there. But
10 he didn't drive in and walk himself in. Somebody brought
11 him in.

12 A His mother.

13 Q In your experience as an investigator, before you
14 obtained a statement on December the 14th did you feel you
15 had enough information to obtain a search warrant on Josh
16 Jeter's house?

17 A Probably did, yes.

18 Q Because you had gotten one on Lance Lyles.

19 A Yes.

20 Q But we know Mr. Jeter had a weapon because he admitted
21 to one.

22 A Yes.

23 Q Is that what you would have hoped to obtain with a
24 search warrant?

25 MS. ANDERSON: Your Honor, I would object to going

Paula Brewster
Recross-examination by Ms. Anderson

1 into something that wasn't done.

2 THE COURT: Sustained.

3 Q Thank you. That's all I have.

4 RECROSS-EXAMINATION

5 BY MS. ANDERSON

6 Q One final question. Officer Brewster, did his mother
7 bring him in kicking and screaming on December the 14th?

8 A No.

9 Q So she wasn't pulling him by the arm or forcing him to
10 come in your office.

11 A No.

12 Q Thank you.

13 MR. VIETH: I have no questions.

14 THE COURT: You may step down.

15 Ladies and gentlemen, we are going to take a short
16 break before we go any further.

17 I will ask you to please go to your jury room. Do not
18 discuss the case. We will bring you back in a few minutes.

19 (The following takes place outside the presence of the
20 jury.)

21 THE COURT: Court is in recess for 15 minutes.

22 Let me see the lawyers before you go out.

23 (Whereupon, a recess was taken.)

24 THE COURT: All right. I am going to bring the jury
25 back in and excuse them for lunch, and then we will address

1 whatever we need to.

2 MR. BULSA: I need to inquire about the exhibits. I
3 believe I have identified all as being entered except --

4 THE COURT: We will check on them during the break.
5 Bring the jury back, please.

6 The state is going to rest when the jury gets in,
7 subject to an accounting for each of the exhibits.

8 (The following takes place in the presence of the
9 jury.)

10 THE COURT: All right. Mr. Bulsa.

11 MR. BULSA: Your Honor, at this time the state would
12 rest.

13 THE COURT: All right. Ladies and gentlemen, that is
14 all of the testimony or evidence to be offered by the
15 state, at least in their case in chief.

16 I anticipate that the next witness to be called is
17 going to be of some length, and rather than break that
18 testimony up we are going to excuse you now for lunch.
19 We'll resume at 2:00 o'clock this afternoon, and then we
20 will begin with that witness at 2:00 o'clock.

21 Keep in mind the caution I have previously given you.
22 Don't talk about the case with anybody; don't allow anyone
23 to discuss it with you; and do not permit yourselves to be
24 exposed to any type of media coverage relating to the case,
25 whether it be television, radio or newspaper articles.

1 You are now excused for lunch. Have a good lunch.
2 Please report back to your jury room at 2:00 o'clock this
3 afternoon, 2:00 o'clock.
4 (The following takes place outside the presence of the
5 jury.)
6 THE COURT: Let me ask y'all to verify the exhibits.
7 MS. ANDERSON: Your Honor, we also have a question if
8 we can come up and ask you if that's okay.
9 (Bench conference held off the record.)
10 THE COURT: Court is in recess until 2:00 o'clock.
11 (Whereupon, a recess was taken.)
12 MS. ANDERSON: Your Honor, we have a witness that we
13 would like to proffer his testimony outside the presence of
14 the jury.
15 THE COURT: Okay. Where is Mr. Vieth?
16 MS. ANDERSON: His name is Robert Ledford.
17 THE COURT: I need Mr. Vieth in here.
18 MS. ANDERSON: I know. He is coming.
19 (Pause.)
20 THE COURT: Okay.
21 MS. ANDERSON: Are you ready?
22 THE COURT: Uh-huh.
23
24
25

Robert Ledford (In-camera)
Direct examination by Ms. Anderson

1 ROBERT LEDFORD, having been
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MS. ANDERSON

4 Q Please state your name.

5 A Robert Ledford.

6 Q Okay. Can you pull that up maybe a little bit?

7 A Robert Ledford.

8 Q Okay. And how did you come to be here today?

9 A I was visiting my mom in the hospital from Fort Hood.

10 Q Fort Hood?

11 A Texas.

12 Q Texas?

13 A Yes, ma'am.

14 Q Why are you at Fort Hood, Texas?

15 A I'm in the United States Army.

16 Q Okay. And you are here. You come here from Fort
17 Hood?

18 A Yes, ma'am. My mom is in the hospital, and I came
19 home on emergency leave. And the gentleman came to my
20 mother-in-law's residence and grabbed me.

21 Q Grabbed you?

22 A Yeah, pretty much.

23 Q But, anyway, he served you with a subpoena to come
24 here today?

25 A Yes, ma'am.

Robert Ledford (In-camera)
Direct examination by Ms. Anderson

- 1 Q And back in December of 2004 did you live in
2 Spartanburg?
- 3 A Yes, ma'am, I did.
- 4 Q Where did you live?
- 5 A 20 -- I think it's in Apartment K-305 in Rose Hill
6 Apartments.
- 7 Q Okay. Was that next door to Apartment 306?
- 8 A Yes, ma'am, it was.
- 9 Q Okay. How long had you lived there?
- 10 A Since September of that same year.
- 11 Q Okay. And did you live there alone?
- 12 A No, ma'am. I lived with my wife.
- 13 Q Okay. Any children?
- 14 A Yes, one small child.
- 15 Q Okay. So you were in a position to know what went on
16 next door.
- 17 A Yes, ma'am.
- 18 Q And you gave a statement to the police, didn't you?
- 19 A Yes, ma'am, I did.
- 20 Q Okay. What did you tell the police about the
21 activities next door?
- 22 A I told them there were a lot of people in and out all
23 the time. There was a lot of loud music, partying,
24 drinking, been approached by people to buy drugs and other
25 things.

Robert Ledford (In-camera)
Direct examination by Ms. Anderson

- 1 Q All right. Who approached you to buy drugs?
- 2 A It was a person from the apartment next to ours.
- 3 Q Did you know or could you describe them?
- 4 A It was a short black male, cornrows, called him C. C.
- 5 Q Called him C. C.
- 6 A Yes.
- 7 Q Do you see him in the courtroom today?
- 8 A No, I do not.
- 9 Q But is it C. C., is the one that lived next door?
- 10 A He stayed there. I don't know if he lived there. He
- 11 was there all of the time.
- 12 Q And did he actually ask you if you wanted to buy some
- 13 drugs?
- 14 A I was there with one of my friends. And when he
- 15 walked up I heard the whole part of the conversation. And
- 16 right when he asked, I walked away because my family was
- 17 there and I didn't want anything to do with it, negative
- 18 repercussions on my family.
- 19 Q And you gave this statement to the police on
- 20 December the 9th of 2004.
- 21 A Yes, ma'am, I did.
- 22 Q Okay. Did you move shortly after that?
- 23 A I think I moved in March.
- 24 Q Okay.
- 25 A I tried to move right after it happened but they

Robert Ledford (In-camera)
Cross-examination by Mr. Bulsa

1 wouldn't let me out of my lease, so.

2 Q You mean after the shooting occurred?

3 A Yes, ma'am.

4 Q Okay. Answer any questions that the other lawyers
5 might have.

6 A Yes, ma'am.

7 CROSS-EXAMINATION

8 BY MR. BULSA

9 Q Sir, have you read your statement recently?

10 A No, I have not.

11 (Pause.)

12 Q Okay. Did you read it?

13 A Yes, I did.

14 Q Okay. You didn't tell the police that it was C. C. or
15 See that tried to sell any drugs, did you?

16 A I am pretty sure I did, sir.

17 Q It's not in your statement. You said a strange black
18 male.

19 A I mean, at the time I didn't realize it was that man.
20 I'd seen him before.

21 Q You said they call the man that lives there See. And
22 you even described him, a shorter, dark-skinned male. And
23 then you later on in the statement say a strange black
24 male. You don't connect the two, sir.

25 A No. The light-skin male that drives the Expedition

Robert Ledford (In-camera)
Cross-examination by Mr. Bulsa

1 was a completely different person.

2 Q So Chief Liberty was there. And they called the man
3 that lives there See. He was a shorter, dark-skin male.
4 And you talk about a man that drives an Expedition and talk
5 about a green Ford Explorer --

6 A Uh-huh.

7 Q -- with three white males.

8 A Yes.

9 Q And then you said a strange black male.

10 A It was, it was the same guy.

11 Q Huh?

12 A It was the same guy that stayed there. Like I say,
13 I'm not sure if he lived there, but I know that was the man
14 that stayed there.

15 Q Well, what's the difference between staying there and
16 living there?

17 A Because he did not hold -- it was not his apartment.

18 Q Whose was it?

19 A I am pretty sure it was his brother's. His brother is
20 a taller light-skinned male.

21 Q His brother?

22 A Yes. I seen his brother here too.

23 Q You did?

24 A Yes, I did.

25 Q You don't know much about these people, do you?

Robert Ledford (In-camera)
Cross-examination by Mr. Bulsa

1 A No. I didn't interact with them very much. I kept to
2 myself.

3 Q And where did this supposed attempted drug transaction
4 take place?

5 A Right at the top of the stairs. Like you come up the
6 stairs, and all on the top floor are the apartments there.
7 And right at the entrance to mine, right as you come off
8 the steps, you take two steps forward and there's my
9 apartment right there at the steps.

10 Q What was going on at the time?

11 A Me and my friend came back from -- I don't know. I
12 think it was working out. And we were coming up the
13 stairs. And he was coming out of the apartment. And him
14 and my friend struck up a conversation. And then he
15 attempted to, he asked us did we do -- he made a gesture
16 towards the nose. My friend -- that's when I started to
17 walk away, and he asked my friend did he want buy. That's
18 when I told you I walked away because I don't -- my family
19 was there. I don't.

20 Q Did your friend buy any?

21 A No.

22 Q Who is your friend?

23 A James Ellis.

24 Q Who?

25 A James Ellis.

Robert Ledford (In-camera)
Cross-examination by Mr. Bulsa

1 Q James Ellis.

2 A Yes.

3 Q Why didn't you tell the police his name?

4 A Because they didn't ask at the time. They didn't ask
5 who my friend was.

6 Q You gave the man the name See that lived there. Why
7 didn't you give them that name so they could ask him?

8 A Because he was already gone. He was in Missouri.
9 He's in the Army as well. He had already -- he was already
10 gone in December. At the time of the shooting my friend
11 was not in or around.

12 Q Huh?

13 A At the time of the shooting my friend was not around
14 any more.

15 Q That doesn't make a difference, whether you gave them
16 his name or not.

17 A But they didn't ask me.

18 Q So you don't know who it was. You don't even know if
19 they lived there, because it didn't happen in the
20 apartment.

21 A No. They came -- but he was the man that stayed there
22 at the apartment. Like I said, he didn't live there.

23 Q You don't see him in this courtroom?

24 A May I stand?

25 Q Yeah.

Robert Ledford (In-camera)
Cross-examination by Mr. Vieth

1 (Whereupon, the witness left the stand.)

2 THE COURT: Please move the microphone out of the way.

3 A No.

4 Q Okay.

5 THE COURT: Your answer is no, you don't see that
6 person in the courtroom.

7 A No, I do not see the same, the same individual. It
8 has been a year, so I don't.

9 THE COURT: Okay.

10 MR. BULSA: Thank you, Your Honor.

11 THE COURT: Mr. Vieth, do you have any questions?

12 MR. VIETH: Sure.

13 CROSS-EXAMINATION

14 BY MR. VIETH

15 Q The person you recall, his hair was how?

16 A It was cornrowed.

17 Q Okay. And did you see that person frequently in your
18 area?

19 A He was there a lot. I'd say five days out of the week
20 I saw him.

21 Q And that was in that apartment that we're talking
22 about.

23 A Coming in and out, yes, sir.

24 Q And he went by C. C.

25 A Yes, sir.

Robert Ledford (In-camera)
Cross-examination by Mr. Vieth

1 Q Did you ever get a name?

2 A No.

3 Q Okay. That's all. Thank you.

4 THE COURT: Mr. Ledford, when did you say this
5 incident took place?

6 THE WITNESS: The incident occurred around, I'd say,
7 October before the shooting. This is way before the
8 shooting.

9 THE COURT: October of 2004.

10 THE WITNESS: Yes, sir.

11 THE COURT: Okay. Thank you. You may step down.

12 All right. Mr. Bulsa, do you object to the testimony?

13 MR. BULSA: Yes, sir, I do.

14 THE COURT: Ms. Anderson, what do you perceive to be
15 the relevance of that testimony?

16 MS. ANDERSON: Well, Your Honor, my client is going to
17 testify that they went over there to buy drugs, and this
18 corroborates his testimony and I believe that of the other
19 codefendant, that they were going there to buy drugs. This
20 just corroborates that drugs were being sold out of that
21 apartment.

22 THE COURT: And the relevance of that would be what?

23 MS. ANDERSON: It just makes -- it's credibility of
24 our clients.

25 THE COURT: How does that establish the credibiliity of

1 your client?

2 MS. ANDERSON: Well, I mean, they could say, yes, we
3 were going over to Judge Cole's house to buy drugs.

4 THE COURT: Right.

5 MS. ANDERSON: You know, it's --

6 THE COURT: They could say that anywhere.

7 MS. ANDERSON: I understand that.

8 THE COURT: Right.

9 MS. ANDERSON: But I am just saying when someone, an
10 independent person who doesn't even live here any more,
11 comes and says, yes, someone tried to sell me drugs out of
12 that apartment, I think that will corroborate what our
13 clients are saying, is that they went there to buy drugs.

14 THE COURT: Well, how does that relate to Mr. Howze or
15 anybody else who was in the apartment such as Mr. Spicer?

16 MS. ANDERSON: Well, I believe it was Mr. Spicer that
17 they were going to buy the drugs from. I think that
18 this -- why else would they be there?

19 THE COURT: Well, I don't have the slightest idea,
20 Ms. Anderson. But Mr. Ledford saw Mr. Spicer, and he did
21 not identify him as being a person in that apartment or a
22 person selling or offering to sell drugs. So how would
23 that be probative in this case?

24 MS. ANDERSON: He also said that it's been over a year
25 since he's been there and seen them.

1 THE COURT: Well, what does that have to do with it?

2 MS. ANDERSON: Well, he described the person as having
3 cornrows, and Mr. Spicer does not have cornrows.

4 THE COURT: Well, what are you suggesting then, that
5 based on Mr. Ledford not being able to identify Mr. Spicer
6 the jury should speculate that it was Mr. Spicer or any
7 other black male that might have happened to have been in
8 the neighborhood that day?

9 MS. ANDERSON: No, sir. But I believe it corroborates
10 what our clients are going to testify, that drugs were
11 being sold out of that apartment.

12 THE COURT: Well, do you perceive that as being
13 material in this case or collateral to the issues in this
14 case?

15 MS. ANDERSON: I think it's material as to why our
16 clients went over there.

17 THE COURT: Well, let's assume all of that's true.
18 Does that -- is that a defense to a charge of murder or
19 armed robbery or burglary?

20 MS. ANDERSON: No, but it lends toward the credibility
21 of our clients.

22 THE COURT: In other words, if Mr. Spicer or some
23 other black male happened to be at that apartment and was
24 selling or offering to sell drugs, then that, the, the
25 evidence to discredit them establishes the credibility of

1 your clients?

2 MS. ANDERSON: It just corroborates that they were
3 going over there to buy drugs, to buy marijuana.

4 THE COURT: Okay. Well, I don't quite see the
5 connection since Mr. Ledford said it was somebody who is
6 not here and could not identify who it was.

7 So I don't see how that establishes the likelihood
8 that Mr. Spicer or somebody in that residence was selling
9 drugs if you can't identify them, not to mention the fact
10 that I don't understand how it's probative to the issues in
11 the case, so.

12 MS. ANDERSON: I am just working on the credibility of
13 my client.

14 THE COURT: Okay. Well, I think I understand the
15 purpose for which it is offered, but I find that it's
16 not -- it is certainly prejudicial as to the state. And
17 whatever probative value might result is clearly outweighed
18 by that prejudicial effect, not to mention the fact that I
19 don't find it to be relevant in any fashion in this case.

20 What else?

21 MS. ANDERSON: That's all. May I go tell Mr. Ledford
22 he may leave?

23 THE COURT: Yes, ma'am.

24 MR. VIETH: Your Honor, for the record I am going to
25 join in on the motion with Ms. Anderson.

1 THE COURT: Okay.

2 (Pause.)

3 THE COURT: All right. Now, Ms. Anderson, is
4 Mr. Jeter going to testify?

5 MS. ANDERSON: Yes, sir.

6 THE COURT: Mr. Vieth, is Mr. Lyles going to testify?

7 MR. VIETH: Yes, sir.

8 THE COURT: Have each of you discussed with them their
9 right to testify or not testify?

10 MR. VIETH: Yes, sir.

11 MS. ANDERSON: Yes, sir.

12 THE COURT: All right. Mr. Jeter, I am going to begin
13 with you.

14 Ms. Anderson tells me that you intend to testify in
15 the trial of this case.

16 Do you understand that you have an absolute right to
17 remain silent? Nobody can make you testify or call you to
18 the witness stand. Nobody can require that you answer any
19 questions as they relate to these charges. You have an
20 absolute right to remain silent. You do not have to
21 testify; you do not have to answer any questions. Do you
22 understand that?

23 DEFENDANT JETER: Yes, sir.

24 THE COURT: Has Ms. Anderson explained to you the
25 advantages and disadvantages of testifying, as well as not

1 testifying?

2 DEFENDANT JETER: Yes, sir.

3 THE COURT: And do you understand what those
4 advantages and disadvantages are?

5 DEFENDANT JETER: Yes, sir.

6 THE COURT: Have you had plenty of time to reflect
7 upon your decision as to whether or not you will testify?

8 DEFENDANT JETER: Yes, sir.

9 THE COURT: And have you made a decision?

10 DEFENDANT JETER: Yes, sir.

11 THE COURT: And what is your decision?

12 DEFENDANT JETER: I will testify.

13 THE COURT: Has anybody forced you into that decision?

14 DEFENDANT JETER: No, sir.

15 THE COURT: Has anybody pressured you into it?

16 DEFENDANT JETER: No, sir.

17 THE COURT: Has anyone suggested that that's the
18 decision that you ought to make?

19 DEFENDANT JETER: No, sir.

20 THE COURT: Did you make the decision of your own free
21 will and accord?

22 DEFENDANT JETER: Yes, sir.

23 THE COURT: You're satisfied with it?

24 DEFENDANT JETER: Yes, sir.

25 THE COURT: It was your decision.

1 DEFENDANT JETER: Yes, sir.

2 THE COURT: But you understand you don't have to.

3 DEFENDANT JETER: Yes, sir.

4 THE COURT: Now, do you understand that if you take
5 the witness stand and testify that you will have to answer
6 not only your lawyer's questions but you will have to
7 answer questions that will be asked of you by the
8 prosecutor, as well as Mr. Vieth, even if the answers to
9 those questions might tend to prove you guilty?

10 DEFENDANT JETER: Yes, sir.

11 THE COURT: Do you also understand that if you do not
12 take the witness stand I will instruct the jury they may
13 not consider that fact against you in any way?

14 DEFENDANT JETER: Yes, sir.

15 THE COURT: Understanding that, do you still want to
16 testify or not?

17 DEFENDANT JETER: I do.

18 THE COURT: Okay. Mr. Lyles, you have heard the
19 questions I just asked Mr. Jeter?

20 DEFENDANT LYLES: Yes, sir.

21 THE COURT: Do you understand you have the same right
22 to testify or not?

23 DEFENDANT LYLES: Yes, sir.

24 THE COURT: Mr. Vieth has discussed it with you and
25 explained it to you?

1 DEFENDANT LYLES: Yes, sir.

2 THE COURT: Did he explain to you the advantages and
3 disadvantages of testifying and of not testifying?

4 DEFENDANT LYLES: Yes, sir.

5 THE COURT: And do you understand what those are?

6 DEFENDANT LYLES: Yes, sir.

7 THE COURT: Have you made a decision about testifying?

8 DEFENDANT LYLES: Yes, sir.

9 THE COURT: What is your decision?

10 DEFENDANT LYLES: I will testify.

11 THE COURT: Has anybody forced you into that decision?

12 DEFENDANT LYLES: No, sir.

13 THE COURT: Has anybody pressured you into it?

14 DEFENDANT LYLES: No, sir.

15 THE COURT: Did anybody tell you that's what you ought
16 to do?

17 DEFENDANT LYLES: No, sir.

18 THE COURT: Did you make that decision of your own
19 free will and accord?

20 DEFENDANT LYLES: Yes, sir.

21 THE COURT: It's your decision and nobody else's.

22 DEFENDANT LYLES: Yes, sir.

23 THE COURT: And you're satisfied with it.

24 DEFENDANT LYLES: Yes, sir.

25 THE COURT: Okay. Do you understand you are going to

1 have to answer the prosecutor's questions, as well as your
2 own lawyers's questions and Ms. Anderson's questions, even
3 if the answers to those questions might tend to prove you
4 guilty of some crime the state claims you committed?

5 DEFENDANT LYLES: Yes, sir.

6 THE COURT: Do you understand if you don't testify
7 I'll tell the jury they can't consider that fact in any way
8 against you?

9 DEFENDANT LYLES: Yes, sir.

10 THE COURT: Understanding that, do you still want to
11 testify or not?

12 DEFENDANT LYLES: I do.

13 THE COURT: And you are satisfied with that decision.

14 DEFENDANT LYLES: Yes, sir.

15 THE COURT: Okay. You can be seated.

16 All right. Anything else before the jury is brought
17 in?

18 MR. VIETH: Your Honor, just from the defense
19 standpoint, we move at this time for a directed verdict on
20 the charges as indicted on behalf of Mr. Lyles.

21 Briefly with regards to the issue of murder, Your
22 Honor. I don't believe there's any evidence of malice, the
23 definition of murder including some type of malice
24 aforethought and the intentional killing of someone. I
25 don't believe there's any evidence to that in the case.

1 With regards to the issue of attempted armed robbery
2 on behalf of Mr. Lyles, the evidence on behalf of the state
3 is that someone knocked on the door and when the door was
4 opened upon someone apparently trying to enter the door was
5 closed or attempted to be closed. The gunshot discharged
6 at that time.

7 You know, I think there is sufficient ,or you could
8 surmise that someone was coming in. As Mr. Spicer
9 indicated, that someone has a gun and a mask he assumes
10 someone is going to rob him. I think that's what that is,
11 is an assumption. I move for a directed verdict on that
12 ground.

13 With regards to the possession of a pistol by a minor,
14 there's no evidence in the record that my client had a
15 pistol. I think even on a theory of hand of one, hand of
16 all theory on possession of a pistol, I don't think that
17 two or three or four people can possess a pistol if there
18 is one pistol testified to. And that's what Mr. Spicer has
19 alluded to.

20 Trying to be fair on both sides, you do have the
21 person in the woods that said he saw two people running
22 with pistols, but he could not identify anybody. So we
23 move for a dismissal, a directed verdict on the pistol
24 case.

25 THE COURT: Well, there is some direct evidence, and

1 there is also in addition substantial circumstantial,
2 evidence that would tend to establish each of the essential
3 elements of each of the crimes that have been alleged
4 against Mr. Lyles. So your motions for a directed verdict
5 are denied.

6 Ms. Anderson.

7 MS. ANDERSON: I would also like to make a motion for
8 a directed. I join in Mr. Vieth's motion in that as far as
9 murder, I don't believe the state has proved malice in this
10 case.

11 I don't believe that as far as the burglary, even if
12 you go by what Mr. Spicer said, I don't believe that he
13 ever said my client was in the home; that he never crossed
14 the threshold. He did not enter the home. So I don't
15 believe that there is any evidence that my client committed
16 a burglary at the time.

17 As far as the attempted armed robbery, there is
18 evidence that my client had a gun if that -- in
19 Mr. Spicer's testimony.

20 And as far as possession of a gun by a minor, I
21 believe in his own statement he said that he had a gun.

22 But as far as murder and burglary, I would ask for a
23 directed verdict on those two charges.

24 THE COURT: Well, as in the case of Mr. Lyles, there
25 is some direct evidence. There is also substantial

1 circumstantial evidence tending to establish each of the
2 offenses alleged against Mr. Jeter. And so your motions
3 for a directed verdict are also denied.

4 Anything else?

5 MR. VIETH: No, sir.

6 MS. ANDERSON: No, sir.

7 THE COURT: All right. Bring the jury in.

8 MR. BULSA: May we approach, Your Honor?

9 THE COURT: Yes.

10 (Bench conference held off the record.)

11 (The following takes place in the presence of the
12 jury.)

13 THE COURT: Okay. Thank you, ladies and gentlemen,
14 for your patience.

15 Again, I have had some matters that came up that I
16 didn't anticipate would take as long as they have to
17 resolve. But, nevertheless, they have been resolved now.

18 As you know, the state has concluded with their
19 presentation. So we are now going to continue with any to
20 be offered by either one or both of the defendants in the
21 case.

22 Ms. Anderson.

23 MS. ANDERSON: Your Honor, I call Joshua Jeter.
24
25

Joshua Jeter
Direct examination by Ms. Anderson

1 JOSHUA JETER, having been
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MS. ANDERSON

4 Q Are you comfortable?

5 A Yes, ma'am.

6 Q Okay. Please state your full name for the jury.

7 A Joshua Jeter.

8 Q Do you have a middle name?

9 A Tirrell.

10 Q All right. Where do you live, Joshua?

11 A Right now at 950 California Avenue.

12 Q In fact, you have been in jail since December the
13 14th of 2004.

14 A Yes, ma'am.

15 Q Okay. Since that time I believe your mother has moved
16 from where y'all lived.

17 A Yes, ma'am.

18 Q You will have to -- let me get that up.

19 THE COURT: That's all right. I have fixed it.

20 Q I was trying to keep him from hitting it.

21 THE COURT: Don't lean into it. Just speak out loud
22 and it will pick it up.

23 Q Okay. Now, you lived with your mother and brother.

24 A Just my mother.

25 Q That's right. Your brother didn't live there, did he?

Joshua Jeter
Direct examination by Ms. Anderson

- 1 A No, ma'am.
- 2 Q Who is your brother?
- 3 A Travis Jeter.
- 4 Q Okay. You have no other brothers and sisters.
- 5 A No, ma'am.
- 6 Q Okay. Since you have been in jail your girlfriend has
- 7 had a baby, hasn't she?
- 8 A Yes, ma'am.
- 9 Q What kind of child do you have?
- 10 A I have a son.
- 11 Q What's his name?
- 12 A Logan Jeter.
- 13 Q When was he born?
- 14 A July the 10th.
- 15 Q Of what year?
- 16 A 2005.
- 17 Q Have you got to see him?
- 18 A Yes, ma'am.
- 19 Q Have you ever gotten to hold him?
- 20 A No, ma'am.
- 21 Q What grade were you in at school?
- 22 A The 9th.
- 23 Q Okay. And what school did you go to?
- 24 A Spartanburg County Alternative School.
- 25 Q Okay. That's also called the university school?

Joshua Jeter
Direct examination by Ms. Anderson

1 A Yes, ma'am.

2 Q How long had you been there?

3 A Maybe two years.

4 Q Okay. Now, Lance Lyles, is he a friend of yours?

5 A Yes, ma'am.

6 Q How did you meet Lance?

7 A Well, I been knowing him for a long time. We used to
8 play football against each other for about maybe about five
9 years or so.

10 Q Okay. Was he at the alternative school with you?

11 A Yes, ma'am.

12 Q Had y'all both been there the same length of time?

13 A No, ma'am.

14 Q You hadn't been. Who had been there longer?

15 A I have.

16 Q Okay. Was Lance ahead of you in grades?

17 A Yes, ma'am.

18 Q Okay. But he is younger than you.

19 A Yes, ma'am.

20 Q Now, on December 8th of 2004, how old were you?

21 A I was 16.

22 Q Okay. That was two days before your birthday, is that
23 correct?

24 A Yes, ma'am.

25 Q Now, do you remember the events of that day?

Joshua Jeter
Direct examination by Ms. Anderson

- 1 A Yes, ma'am.
- 2 Q And what you're getting ready to tell the jury, is
- 3 this what you told Officer Brewster?
- 4 A Yes, ma'am.
- 5 Q Okay. What happened that day?
- 6 A Well.
- 7 Q Just start at the beginning. What did you do first
- 8 thing?
- 9 A I went to school around 8:15.
- 10 Q And then what did you do?
- 11 A My mother came and picked me up about around 3:15.
- 12 Q Did she pick you up every day?
- 13 A Just about.
- 14 Q Okay. And what -- where did she take you?
- 15 A Me and my mother went to 501 Camelot Drive.
- 16 Q Is that where she lived, where y'all lived?
- 17 A Yes, ma'am.
- 18 Q Okay. And what did you do when you got home?
- 19 A I was, I stayed at home. I was playing my video game.
- 20 Q What kind of game?
- 21 A Madden 2005.
- 22 Q Is that a football game?
- 23 A Yes, ma'am.
- 24 Q Okay. How long had you been playing it?
- 25 A Maybe three, maybe three or four hours.

Joshua Jeter
Direct examination by Ms. Anderson

- 1 Q Okay. What happened after that?
- 2 A Well, Lance and his brother when I was finishing the
3 game, Lance and his brother had came down to my house.
- 4 Q Let me ask you this. Who is Lance's brother?
- 5 A Leonard.
- 6 Q Leonard Lyles?
- 7 A Yes, ma'am.
- 8 Q Okay. They came over to your house?
- 9 A Yes, ma'am.
- 10 Q What did y'all decide to do?
- 11 A Leonard asked us did we want to go to Westgate Pines.
- 12 Q What was at Westgate Pines?
- 13 A Going over at my brother's house.
- 14 Q Talking about Travis Jeter.
- 15 A Yes, ma'am.
- 16 Q So what did y'all do?
- 17 A So we decided to go over there.
- 18 Q And what did you do about it?
- 19 A I asked my mother can I drive her car over there.
- 20 Q And did she tell you you could?
- 21 A Yes, ma'am.
- 22 Q Okay. Did you? You were going over to where?
- 23 A Westgate Pines.
- 24 Q Okay. And before you left did you do something?
- 25 A Before I left my house I had remembered that my

Joshua Jeter
Direct examination by Ms. Anderson

1 brother wanted to borrow my gun. So I grabbed it and left.

2 Q Okay. Now, what gun are you talking about?

3 A I had a .25.

4 Q Okay. What kind of gun was it?

5 A It was a Phoenix.

6 Q Okay. But what caliber?

7 A .25.

8 Q Okay. How did you end up with the gun?

9 A I had bought it one day when I was at the park.

10 Q What park?

11 A It's by the -- it's by the fairgrounds. It's a new
12 park.

13 Q Okay. What were you doing over there?

14 A Playing basketball with my friends.

15 Q Okay. Well, how did it turn up that after playing
16 basketball you ended up with a gun?

17 A Well, we was playing basketball. And my friend, his
18 friend was at the park. And he asked him will he take us
19 to his house.

20 Q His house being your friend's house?

21 A Yes, ma'am.

22 Q What was your friend's name?

23 A Jamal.

24 Q And Jamal asked someone if they would take you to
25 Jamal's house?

Joshua Jeter
Direct examination by Ms. Anderson

- 1 A Will they take us to, both of us to, his house.
- 2 Q Okay. And do you remember that guy's name?
- 3 A Calvin.
- 4 Q Did you know his last name?
- 5 A No, ma'am. I never knew it.
- 6 Q Okay. So did he offer to give you a ride?
- 7 A Yes, ma'am.
- 8 Q Okay. So what happened then?
- 9 A Well, after the basketball game finished as we were
- 10 walking to his car he popped the trunk and put the
- 11 basketball in his trunk. And I had saw the gun by the
- 12 spare tire.
- 13 Q Okay. Did you ask him about it?
- 14 A Yes, ma'am. I asked him to let me see it. And he
- 15 asked me did I want to buy the gun. And I asked him how
- 16 much he was selling it for. And he told me \$30. So I had
- 17 bought it.
- 18 Q Okay. Now, when did you do this?
- 19 A Maybe around August probably.
- 20 Q Now, you are talking August of 2004?
- 21 A Yes, ma'am.
- 22 Q Okay. So you got the gun from this man named Calvin.
- 23 Was it a man or a guy, a young man?
- 24 A He was a man, I guess. I don't really know.
- 25 Q Was he older than you?

Joshua Jeter
Direct examination by Ms. Anderson

- 1 A Yes, ma'am.
- 2 Q Was he over 21?
- 3 A Maybe so.
- 4 Q But he had been playing basketball with y'all.
- 5 A Yes, ma'am.
- 6 Q Okay. So you got the gun. Did it have any bullets in
- 7 it?
- 8 A Yes, ma'am.
- 9 Q How many?
- 10 A It had three bullets in it.
- 11 Q Okay. So after you got the gun, what did you do?
- 12 A Well, he took us to Jamel's house. And while we were
- 13 over there we was in the back yard. And I had shot the
- 14 bullets out just to see how the gun had sounded.
- 15 Q Okay. So did you shoot all of the bullets?
- 16 A Yes, ma'am.
- 17 Q Okay. So that's how you came to have a gun.
- 18 A Yes, ma'am.
- 19 Q Okay. So on the night of December 8th you picked up
- 20 this gun and took it with you.
- 21 A Yes, ma'am.
- 22 Q Okay. Where did you have it?
- 23 A I had it in my, on my side.
- 24 Q In your pants pocket?
- 25 A On the side of my hip.

Joshua Jeter
Direct examination by Ms. Anderson

1 Q What, where? Stuck down in the waistband of your
2 pants, or what?

3 A Yes, ma'am.

4 Q Okay. All right. So your brother had asked to borrow
5 it. So you were carrying it over there. What time did you
6 get over to your brother's apartment?

7 A Maybe 7:00 or 8:00 o'clock.

8 Q Okay. When you got there, what was going on?

9 A Well, my brother wasn't there at the time.

10 Q Who was there?

11 A It was my brother's roommate, Tony Rice, and my
12 cousin, Marcus Hardy.

13 Q They were there in your brother's apartment.

14 A Yes, ma'am.

15 Q What were they doing?

16 A They were playing a video game.

17 Q What video game were they playing?

18 A N. F. L. 235.

19 Q Is that another football game?

20 A Yes, ma'am.

21 Q And what did you do?

22 A I had took a seat on the couch and watched them play
23 video game.

24 Q Okay. Now, this was you?

25 A Lance and Leonard.

Joshua Jeter
Direct examination by Ms. Anderson

1 Q Lance and Leonard Lyles. Okay. All right. So y'all
2 were watching them play the video game. Then what
3 happened?

4 A Well, we were watching about 20 minutes. And so
5 Leonard had asked. Leonard had said he wanted to go
6 outside to see if there was anybody outside. So we all got
7 up and went outside.

8 Q When you say we all, who is we all?

9 A Me and Lance and Leonard.

10 Q Okay. So you went outside. And what happened then?

11 A Well, no one was outside at the time. We stayed out
12 for about ten minutes around my brother's parking lot.

13 Q Okay. And then what happened?

14 A Well, the police had turned into the parking lot that
15 we were standing in, and so me and Lance had walked around
16 the building.

17 Q Why did y'all walk around the building?

18 A Because we know that Westgate Pines has a curfew that
19 you don't -- no one is supposed to be standing outside in
20 the place, in the complex.

21 Q Leonard didn't go with you?

22 A No, ma'am.

23 Q What happened next?

24 A Well, I guess the police questioned him and they --

25 Q Questioned who?

1 A Questioned Leonard.

2 Q Uh-huh.

3 A And I guess they took him and put him in the police
4 car.

5 Q Okay. What did y'all do about it?

6 A Me and Lance, we walked around. As we walked around
7 the apartment complex, and as we came around the other end
8 of the apartment complex, we saw the police leaving with
9 his brother.

10 Q Okay. So then what happened?

11 A As we were, as we were walking we saw the guy named
12 Vern. He was outside by his apartment. And me and Lance
13 stopped and talked to him.

14 Q Okay.

15 A And we was talking to him maybe about ten minutes.

16 Q And then what happened?

17 A Lance, Lance's father had came through. And he came
18 where we were, came where we were standing, and he called
19 Lance to the car. And I guess Lance told him about his
20 brother. And so his father had left.

21 Q Okay. So what did y'all do then?

22 A We stayed and talked to the dude for maybe a couple of
23 more minutes. And Lance had asked me, let's go get some
24 weed.

25 Q Where did he want to go get weed?

Joshua Jeter
Direct examination by Ms. Anderson

1 A I don't know. I told Lance that I wasn't driving my
2 mother's car to get no weed.

3 Q And when you are talking about weed, you're talking
4 about marijuana?

5 A Yes, ma'am.

6 Q Okay. So what happened then?

7 A Well, Lance stated that his homeboy sells weed in Rose
8 Hill.

9 Q Okay. So what did y'all do?

10 A So he asked me. So we was about to walk over there,
11 and Lance had on a stocking cap and he had on a coat. And
12 I didn't have on nothing but a long sleeve shirt. And I
13 had asked Lance to let me wear the stocking cap.

14 Q Why was that?

15 A Because it was cold outside.

16 Q And so you got the stocking cap from Lance?

17 A Yes, ma'am.

18 Q And what did you do with it?

19 A Well, after he pulled it off his head, that's when I
20 realized it was a mask. And I pulled it all the way over
21 my face to keep my nose warm.

22 Q Was it cold outside?

23 A Yes, ma'am.

24 Q Now, after you put on the mask did Lance have the hood
25 of his jacket up on his head?

Joshua Jeter
Direct examination by Ms. Anderson

1 A Yes, ma'am.

2 Q Okay. Let me ask you this. Did Lance also have gold
3 teeth in?

4 A I believe so. I can't recall.

5 Q Did he have some gold teeth that he would wear?

6 A Yes, ma'am.

7 Q Okay. Now, so y'all walked to Rose Hill. Did y'all
8 follow that little path?

9 A Yes, ma'am.

10 Q Okay. As you were walking over there did Lance ask
11 you anything?

12 A Well, we walked. And before we got to the guy's house
13 Lance asked me was I going to put in on the weed. So I
14 gave Lance \$10 to go in on the weed.

15 Q Okay. What did Lance tell you then?

16 A Lance said that he was going to get a big sack, a big
17 sack of marijuana for my birthday.

18 Q And that was coming up in two days?

19 A Yes, ma'am.

20 Q Okay. So did Lance tell you anything about where you
21 were going?

22 A No, ma'am.

23 Q Okay. Did he tell you you didn't know where you were
24 going or whose place you were going to?

25 A No, ma'am.

Joshua Jeter
Direct examination by Ms. Anderson

1 Q Okay. When did you find out?

2 A When we got to the, when we got to the house.

3 Q Okay. Did he tell you anything about this guy before
4 you got there?

5 A No, ma'am.

6 Q Did he tell you -- okay. So you didn't know who the
7 man was.

8 A No, ma'am.

9 Q Or the guy was.

10 A No, ma'am.

11 Q Okay. So tell us what happened then.

12 A Well, as we got up to the apartment Lance -- I walked
13 over by the balcony and Lance knocked on the door.

14 Q Okay. What happened then?

15 A I believe the guy answered the door. And they were
16 walking for maybe 30 seconds to a minute. And I turned
17 around. And I had walked by the door, because we usually
18 went somewhere and go buy some marijuana. They go in the
19 house and buy the weed. So I just walked over just to see
20 what was going on.

21 Q Because Lance hadn't gone in the house?

22 A No, ma'am.

23 Q Okay. So what happened when you walked by?

24 A So when I got by Lance and the dude was discussing
25 something I couldn't make out.

1 So when I came in the room the guy at the door, he
2 said what's up. So I said what's up.

3 And then I turned around and looked at Lance. And
4 Lance was making a weird face, and I saw Lance's right hand
5 in his right back pocket with his hand on this gun, on the
6 handle of the gun.

7 Q What kind of gun did Lance have?

8 A Lance had a .22.

9 Q And what did it look like?

10 A It was black with rust on it.

11 Q Okay. So Lance had his hand in his back pocket on his
12 gun.

13 A Yes, ma'am.

14 Q What was he doing with it?

15 A He was pulling it out slowly.

16 Q Okay. What was happening with the man in the door?

17 A The guy in the door, he was looking at me.

18 Q So what did you do?

19 A When I saw, when I glanced at Lance and saw that, my
20 first reaction, I had pulled my gun out.

21 Q What did you do with your gun?

22 A I had pointed it towards the guy's foot. And I turned
23 and looked at Lance, and I asked Lance what's going on.
24 And at that time the guy tried to close the door.

25 Q And what did Lance do?

Joshua Jeter
Direct examination by Ms. Anderson

1 A And Lance pushed up against the door with his left
2 shoulder.

3 Q And what happened?

4 A And at that time I was on the right side of the door.
5 So when Lance pushed up against it, I walked. I started
6 walking towards the stairs. And then all of a sudden I
7 heard two shots fired. So I started running down the
8 stairs. And Lance came running behind me.

9 Q Okay. So what happened then?

10 A We ran back to Charleston Place, Westgate Pines.

11 Q Okay. Did you both have guns out?

12 A Yes, ma'am.

13 Q Okay. Do you remember seeing the guy on the path?

14 A Yes, ma'am.

15 Q You didn't know him, did you?

16 A No, ma'am.

17 Q Okay. When you were up there at the door, to who we
18 now know was Mr. Spicer's apartment, did you fire your gun?

19 A I had no reason to.

20 Q Well, you pulled it out.

21 A That was just my reaction.

22 Q Okay. But did you fire it?

23 A No, ma'am.

24 Q If you had fired it what would have happened?

25 A I don't know.

Joshua Jeter
Direct examination by Ms. Anderson

- 1 Q Okay. Did you have any bullets in it?
- 2 A No, ma'am.
- 3 Q So if you had tried to fire it nothing would have
- 4 happened, would it?
- 5 A No, ma'am.
- 6 Q When you started running did you know anyone had been
- 7 shot?
- 8 A No, ma'am.
- 9 Q Did you know anyone else was in the apartment besides
- 10 Mr. Spicer?
- 11 A No, ma'am.
- 12 Q So when -- what did y'all do? How far did you run?
- 13 A We ran all the way back to Westgate Pines.
- 14 Q And that's where your brother lived.
- 15 A Yes, ma'am.
- 16 Q Was your brother there?
- 17 A When we got there, he was there.
- 18 Q Okay. Did you tell him about what happened?
- 19 A No, ma'am.
- 20 Q Did you and Lance talk about what happened?
- 21 A No, ma'am.
- 22 Q How long did y'all stay there?
- 23 A Me and Lance stayed in my brother's house for maybe
- 24 five to ten minutes, and Lance asked me to take him home.
- 25 Q Is that what you did?

Joshua Jeter
Direct examination by Ms. Anderson

1 A Yes, ma'am.

2 Q Okay. Did you know that anyone had been shot?

3 A No, ma'am.

4 Q All right. On 12 -- on December the 10th of '04,
5 Mr. Watson from your school came and got you, didn't he?

6 A Yes, ma'am.

7 Q All right. He came. And what did he tell you? Where
8 were you?

9 A I was in the cafeteria. Mr. Watson came and said
10 police wanted to talk to me.

11 Q Okay. Did he tell you you had to go talk to them?

12 A No, ma'am.

13 Q Okay. So did he tell you that you didn't have to talk
14 to them?

15 A No, ma'am.

16 Q What did he say?

17 A He just stated that the investigators want to talk to
18 you.

19 Q Okay. So you went up there and you talked to them.

20 A Yes, ma'am.

21 Q And you gave them the statement, a statement.

22 A Yes, ma'am.

23 Q Okay. All right. Would you look at this statement?
24 Is this the statement that you gave to Mr. Hearst at the
25 alternative school?

Joshua Jeter
Direct examination by Ms. Anderson

1 A Yes, ma'am.

2 Q And you gave this statement on your birthday, in fact.

3 A Yes, ma'am.

4 MS. ANDERSON: I would like to enter this into
5 evidence.

6 MR. BULSA: No objection.

7 MR. VIETH: No objection.

8 THE COURT: It is admitted. Defendant's 1.

9 (Statement previously marked State's Exhibit No. 1
10 marked Defendant Jeter's Exhibit No. 1.)

11 Q Now, they didn't read --

12 THE COURT: Wait just a minute.

13 MS. ANDERSON: I'm sorry. Excuse me.

14 Q Now, they didn't read you any rights then, did they?

15 A No, ma'am.

16 Q And you didn't tell them everything that happened, did
17 you?

18 A No, ma'am.

19 Q You did tell them that you were with Lance.

20 A Yes, ma'am.

21 Q But you didn't go into anything else.

22 A No, ma'am.

23 Q Did you? Okay. Did you ever talk to Lance again
24 about this?

25 A Not till the investigators, investigators, after the

Joshua Jeter
Direct examination by Ms. Anderson

1 investigators talked to us.

2 Q You and he talked?

3 A Yeah, yes, ma'am.

4 Q Okay. And what did y'all talk about?

5 A Like wanted to know what happened that night. I

6 didn't, didn't know anyone had got shot or killed.

7 Q Okay. The next time you talked to the police was on

8 December the 11th of '04, is that correct?

9 A Yes, ma'am.

10 Q Did Detective Brewster come to your house to get you?

11 A It was Detective Hearst and Porter.

12 Q Okay. They came to your house and picked you up?

13 A Yes, ma'am.

14 Q And they took you to the police station.

15 A Yes, ma'am.

16 Q The city. Okay. And you talked with Detective

17 Brewster and Mr. Hearst.

18 A Yes, ma'am.

19 Q Okay. All right. And in this statement did you tell

20 them what happened?

21 A No, ma'am.

22 Q You just left out about going to Rose Hill.

23 A Yes, ma'am.

24 MS. ANDERSON: I would like to admit this statement.

25 MR. BULSA: No objection.

Jóshua Jeter
Direct examination by Ms. Anderson

1 MR. VIETH: No objection.

2 THE COURT: It's admitted.

3 (Statement previously marked State's Exhibit No. 2-A
4 and 2-B marked Defendant Jeter's Exhibit No. 2.)

5 Q So this second statement went up to the point that
6 Leonard Lyles had been arrested. That's what was in the
7 second statement, correct?

8 A Yes, ma'am.

9 Q Okay. Now, you went back and talked to the police
10 again. Did they come and pick you up?

11 A No, ma'am.

12 Q Did you go yourself?

13 A My mother took me.

14 Q Okay. Why did you go talk to the police this next
15 time?

16 A Because I told my mother about the situation that
17 happened. She told me to go tell the truth.

18 Q Okay. Did she have to pull and you screaming and
19 yelling to the police station, or did you go because you
20 wanted to?

21 A I go, I went because I wanted to.

22 Q Okay. And so this last time or this third time,
23 excuse me, that you went to the police station, this was on
24 December 14th, is that correct?

25 A Yes, ma'am.

Joshua Jeter
Direct examination by Ms. Anderson

1 MS. ANDERSON: This statement isn't marked as to the
2 date. Do we need to put some kind -- this is the
3 December the 14th statement.

4 MR. BULSA: It's numbered.

5 MS. ANDERSON: 3-B.

6 MR. BULSA: Correspondence with the Miranda warnings.

7 MS. ANDERSON: But it's missing.

8 MR. BULSA: The Miranda warnings are in.

9 MS. ANDERSON: Okay.

10 MR. BULSA: It's three pages, I believe.

11 Q All right. Okay. When you went on the 14th of
12 December did you tell everything that happened?

13 A Yes, ma'am.

14 Q Okay. Now, Detective Brewster said that she kept
15 telling you we know it was an accident to get you to talk
16 about it.

17 A Yes, ma'am.

18 Q Is that what you felt it was?

19 A Yes, ma'am.

20 Q When I say accident, I'm talking about Tavaris being
21 shot.

22 A Well, I really, I really didn't see the situation that
23 went on.

24 Q I mean, did you go over there to rob anybody?

25 A No, ma'am.

Joshua Jeter
Direct examination by Ms. Anderson

1 Q Did you go over there to steal anything?

2 A No, ma'am.

3 Q Did you go over there to kill anybody?

4 A No, ma'am.

5 Q What did you go over there to do?

6 A I went to buy some marijuana.

7 Q Okay. Now, let me ask you another question. On

8 September the 14th you had -- now, on September the 14th of

9 '05 you told your mom to get your gun. Where was it?

10 A The gun was in one of my shoe boxes in my closet.

11 Q Okay. Now, your mom had moved since this had

12 happened.

13 A Yes, ma'am.

14 Q Okay. And is this where you put your gun after this

15 happened, in a shoe box?

16 A Yes, ma'am.

17 Q Okay. And why did you have your mom get this gun and

18 have it given to the solicitor's office?

19 A Because in September, supposed to have went to court.

20 And my mother told me if I had a gun then, you know, turn

21 it in. So I told her where it was.

22 Q Okay.

23 THE COURT: Let me see that exhibit first. Are you

24 going to show it to him?

25 MS. ANDERSON: Yes. Would you like one of the

Joshua Jeter
Direct examination by Ms. Anderson

1 officers to check it?

2 (Bench conference held off the record in the presence
3 of the jury but out of the hearing of the jury.)

4 THE COURT: For the benefit of the jury, the gun is
5 secure. So don't worry about it.

6 MS. ANDERSON: I think they are more worried about me
7 shooting.

8 Q Now, would you look at this gun? Is this the gun that
9 you bought from Calvin at the basketball court?

10 A Yes, ma'am.

11 Q Okay. What kind of gun is it?

12 A A Phoenix.

13 Q Okay. What caliber?

14 A .25.

15 Q .25 caliber. And this is the gun that you had that
16 night?

17 A Yes, ma'am.

18 Q Okay.

19 MS. ANDERSON: I would like to enter this into
20 evidence.

21 MR. BULSA: We object, Your Honor.

22 THE COURT: Well, let me see y'all just a minute.

23 (Bench conference held off the record in the presence
24 of the jury but out of the hearing of the jury.)

25 THE COURT: All right. Any objection from the state?

Joshua Jeter
Direct examination by Ms. Anderson

1 MR. BULSA: Your Honor, we do not object to the
2 admission into evidence. However, we do not agree or admit
3 that's the weapon he had that night.

4 THE COURT: All right. Mr. Vieth.

5 MR. VIETH: Same objection, Your Honor.

6 THE COURT: It's admitted.

7 MS. ANDERSON: Do you want me to leave it in the bag?

8 THE COURT: Mr. Vieth, do you understand that was not
9 an objection?

10 MR. VIETH: Correct. Well, the same comment, yes,
11 sir.

12 THE COURT: Same stipulation or condition?

13 MR. VIETH: Yes, sir.

14 THE COURT: Okay.

15 (Pistol marked Defendant Jeter's Exhibit No. 3.)

16 MS. ANDERSON: All right. I would like to admit into
17 evidence. This is the December 14th of '04 statement and
18 the September the 14th of '05 statement.

19 MR. BULSA: No objection.

20 MR. VIETH: No objection.

21 THE COURT: They are admitted.

22 (Statement previously marked State's Exhibit No. 3-A
23 and 3-B marked Defendant Jeter's Exhibit No. 4; statement
24 previously marked State's Exhibit No. 4-A and 4-B marked
25 Defendant Jeter's Exhibit No. 5.)

Joshua Jeter
Direct examination by Ms. Anderson

1 MS. ANDERSON: Your Honor, would it be possible to
2 attach the first sheets to these at some point so it's
3 clear which one is which for the jury?

4 THE COURT: I don't know what you are referring to,
5 the first sheet.

6 MS. ANDERSON: The first sheet would be the -- that
7 has date. These don't have the dates on them, as to what
8 date.

9 THE COURT: Well, I understand, but I assume that
10 those are complete statements.

11 MS. ANDERSON: Yes, sir. They are. There's just no
12 date as to when they were given.

13 THE COURT: Well, I can't help you. We can't offer
14 the evidence.

15 MS. ANDERSON: I understand. I am just asking if we
16 can clip the first page to each other. They're already --
17 that first is already in evidence.

18 THE COURT: Well, why is the first page of the
19 statement not attached to the rest of the statement?

20 MS. ANDERSON: Because Mr. Bulsa entered the Miranda
21 warnings. That's where the date is on these statements.

22 THE COURT: Well, are you referring to the Miranda
23 warnings, are you referring to the first page of the
24 statement?

25 MS. ANDERSON: The waiver, yes.

Joshua Jeter
Direct examination by Ms. Anderson

1 THE COURT: Well, the waiver is not the first page of
2 the statement. The waiver is a separate page altogether.

3 MS. ANDERSON: Well, they number it as number one, I
4 believe, because this is page two of three.

5 THE COURT: Bring them over here.

6 (Bench conference held off the record in the presence
7 of the jury but out of the hearing of the jury.)

8 Q All right. Now, Josh, you have identified that gun as
9 the gun that you had that night.

10 A Yes, ma'am.

11 Q And where did you say it was located?

12 A Ma'am?

13 Q Where did you say it was located? Where did you put
14 it after that night?

15 A In my, in my shoe box in the closet.

16 Q Okay. And you asked your mother to find it?

17 A Yes, ma'am.

18 Q Okay. And you asked her to get it to the solicitor's
19 office or to me?

20 A Yes, ma'am.

21 Q Okay. Now, Josh, again, now I am going to let
22 everybody ask you questions from now on. You will have to
23 answer questions from Mr. Vieth and from Mr. Bulsa.

24 But I will ask you again. Did you go over to Cecil, or
25 I'm sorry, Clearance Spicer's house to rob him?

Jóshua Jeter
Cross-examination by Mr. Bulsa

1 A No, ma'am.

2 Q Did you go over there to burglarize his home?

3 A No, ma'am.

4 Q Did you go over there to kill anybody?

5 A No, ma'am.

6 Q Did you shoot a gun that night?

7 A No, ma'am.

8 Q Answer any questions that either of the other
9 attorneys might have.

10 CROSS-EXAMINATION

11 BY MR. BULSA

12 Q Mr. Jeter, you went over to Rose Hill Apartments,
13 didn't you?

14 A Yes, sir.

15 Q When did you learn somebody died?

16 A On the 10th.

17 Q On the 10th?

18 A Yes, sir.

19 Q From whom?

20 A The investigators.

21 Q When did they tell you that?

22 A At the statement when they came and talked to me.

23 Q At the school?

24 A Yes, sir.

25 Q Told you somebody died.

Joshua Jeter
Cross-examination by Mr. Bulsa

1 A Yes, sir.

2 Q Did you tell them what a terrible accident it was, how
3 you just happened to be there?

4 A No, sir.

5 Q And you didn't tell them that on the 11th either, did
6 you?

7 A No, sir.

8 Q And then on the 14th it was your mama that made you go
9 up there. That's what you told.

10 A Yes, sir.

11 Q And I think you said your mama told you to tell the
12 truth.

13 A Yes, sir.

14 Q You didn't even do that, did you?

15 A Yes.

16 Q No, you didn't. You just admitted being there, didn't
17 you?

18 A Yes, sir.

19 Q In fact, you wouldn't admit at first to wearing the
20 mask all the way. Did you?

21 A I don't recall.

22 Q In your statement of 12/14 when your mama took you up
23 there, the way it's written, "I had on a mask but not all
24 the way on." And then it's scratched out later, and you
25 initialed it.

Joshua Jeter
Cross-examination by Mr. Bulsa

- 1 A Maybe wrote it wrong.
- 2 Q And they kept talking to you, right? Right?
- 3 A They maybe wrote it wrong.
- 4 Q Maybe wrote it wrong. And there's nothing in here
- 5 about you having a gun, is there?
- 6 A No.
- 7 Q No?
- 8 A I don't think so.
- 9 Q There is not, isn't there? You have read this.
- 10 A Yes, sir.
- 11 Q You didn't tell the truth. And you are still not
- 12 telling the truth, are you?
- 13 A I am telling the truth.
- 14 Q In fact, the only reason you went to the police and
- 15 gave this statement was so you could point the finger at
- 16 Lance Lyles before he pointed it at you, isn't that true?
- 17 A No, sir.
- 18 Q But it's true you went over there with Lance, right?
- 19 A Yes, sir.
- 20 Q You walked over there from Charleston Place, right?
- 21 A Yes, sir.
- 22 Q Y'all are good friends.
- 23 A Yes, sir.
- 24 Q And you have known each other for years.
- 25 A Yes, sir.

Joshua Jeter
Cross-examination by Mr. Bulsa

- 1 Q Went to school together.
- 2 A Yes, sir.
- 3 Q Hung out together at school when you could, right?
- 4 A Yes, sir.
- 5 Q Even rode home with him at times.
- 6 A Yes, sir.
- 7 Q He came to your house and visited.
- 8 A Yes, sir.
- 9 Q Did you go to his house and visit?
- 10 A Not very often.
- 11 Q So he came to your house mostly.
- 12 A Yes, sir.
- 13 Q And then y'all would go to your brother's house a lot?
- 14 A Yes, sir.
- 15 Q So you hung out together after school --
- 16 A Yes, sir.
- 17 Q -- playing games together.
- 18 A Yes, sir.
- 19 Q Apparently walking around with guns together.
- 20 A No, sir.
- 21 Q No? Is that just the only night you both had a gun?
- 22 A I didn't usually carry my gun.
- 23 Q But you carried a gun together that night, right?
- 24 A Yes, sir.
- 25 Q Over to your brother's place.

Joshua Jeter
Cross-examination by Mr. Bulsa

- 1 A Yes, sir.
- 2 Q I'm going to walk over to Rose Hill.
- 3 A Yes, sir.
- 4 Q Up the steps.
- 5 A Yes, sir.
- 6 Q To a door.
- 7 A Yes, sir.
- 8 Q And once the door opened, right --
- 9 A Yes, sir.
- 10 Q -- pulled your gun out?
- 11 A Yes, sir.
- 12 Q And that's just because you were buying weed, is that
- 13 right?
- 14 A I don't have no, I don't have any knowledge of what
- 15 went on before I walked up.
- 16 Q Yeah, you do. You were with him.
- 17 A No. I wasn't near the door the whole time.
- 18 Q You were the muscle, weren't you?
- 19 A No, sir.
- 20 Q You were supposed to come out with the mask and the
- 21 gun, right?
- 22 A No, sir.
- 23 Q When the man didn't let you in, you were supposed to
- 24 force your way in, weren't you?
- 25 A No, sir.

Joshua Jeter
Cross-examination by Mr. Bulsa

1 Q Isn't that what happened?

2 A No, sir.

3 Q Saw you with a gun, and it didn't go down the way it
4 was supposed to. So you and Lance began trying to push
5 your way in.

6 A No, sir.

7 Q And whether Lance pulled his gun or you stuck your gun
8 in the door, a gun was stuck in the door, wasn't it?

9 A I don't know.

10 Q Yeah, you do. You were right there.

11 A I didn't see. I didn't see what happened when the
12 shots were fired.

13 Q And you were wearing this mask just to keep your nose
14 warm.

15 A Yes, sir.

16 Q But you didn't tell the police that at first. You
17 told them you didn't have it all the way on. If you were
18 just wearing it to keep your nose warm, what were you
19 trying to hide?

20 A I wasn't trying to hide anything.

21 Q You were trying to hide your identity, weren't you?

22 A No, sir.

23 Q Y'all went over there together, acting together, bust
24 in there and robbed those boys, right?

25 A No, sir.

Joshua Jeter
Cross-examination by Mr. Bulsa

1 Q In fact, this gun that your attorney has just put into
2 evidence, that wasn't the gun you had, was it?

3 A Yes, sir.

4 Q Because you got rid of the gun you had, right?

5 A No, sir.

6 Q Do you remember talking to your mom and your brother
7 at the jail?

8 A No, sir.

9 Q You don't remember all of those conversations you have
10 had with your mother and your brother at the jail?

11 A Some of them.

12 Q And you talked to your mom and your brother about
13 having to get a gun to turn in to show that it wasn't the
14 murder weapon.

15 A No, sir.

16 Q You don't remember those conversations?

17 A No, sir.

18 Q Do I have to bring mama in to ask her?

19 A I don't know, sir.

20 Q Okay. We will do that. Bring mama in, and we'll play
21 those tapes. Are you sure you don't want to change your
22 testimony?

23 A No, sir.

24 Q Okay. We will hear that tomorrow. That's why you
25 gave this other statement on September 14th, wasn't it,

Joshua Jeter
Cross-examination by Mr. Bulsa

1 because you had to come up with a story about where that
2 gun supposedly came from?

3 A Yeah. I had gave a statement to tell where I had
4 bought the gun from.

5 Q You didn't tell them on the 14th, did you? You didn't
6 tell them on December 14th.

7 A No, sir.

8 Q You didn't tell them on December 11th.

9 A No, sir.

10 Q You didn't tell them on December 10th.

11 A No, sir.

12 Q So you were just an unfortunate victim of
13 circumstances even after your mama told you to tell the
14 truth. Because the truth was you were in this up to
15 eyeballs, right?

16 A Say what?

17 Q You were in this up to your eyeballs, weren't you?
18 That's why you wouldn't tell the full truth. Isn't that
19 right?

20 A No, sir.

21 Q What grade are you in?

22 A I was in the 9th grade.

23 Q Alternative school.

24 A Yes, sir.

25 Q What is that? What's the alternative school?

Jōshua Jeter
Cross-examination by Mr. Bulsa

- 1 A It's a school where you go when you get put out of
2 regular school.
- 3 Q How long have you been there?
- 4 A Maybe two years.
- 5 Q And you hooked back up with Lance at that school?
- 6 A Well, when I had moved over in that area.
- 7 Q Huh?
- 8 A I had moved over in the area Lance lived in.
- 9 Q So you hooked up with him before this school.
- 10 A Yes, sir.
- 11 Q And he lived close enough to walk to your place.
- 12 A Yes, sir.
- 13 Q Mr. Jeter, did you give the gun you had that night to
14 your brother?
- 15 A No, sir.
- 16 Q You testified today that you got the gun out of the
17 shoe box in your closet to give to your brother that night.
18 Didn't you testify to that?
- 19 A Yes, sir.
- 20 Q Yet you didn't give it to him.
- 21 A Because after the situation happened I wasn't thinking
22 about giving it to him.
- 23 Q No, no. One of the reasons you went over there was to
24 give him your gun. That's what you testified to.
- 25 A He wasn't there when I first got over to his house.

Joshua Jeter
Cross-examination by Mr. Bulsa

- 1 Q He was there before you left, wasn't he?
- 2 A At the end of the night, yes.
- 3 Q Before you went to Rose Hill wasn't he there?
- 4 A No, sir.
- 5 Q He was not?
- 6 A No, sir.
- 7 Q Okay. After the situation happened you didn't tell
- 8 then what happened.
- 9 A No, sir.
- 10 Q That two shots were fired off.
- 11 A Yes, sir.
- 12 Q You ran away from the scene.
- 13 A Yes, sir.
- 14 Q What did you run for anyway?
- 15 A Because shots were fired. I didn't know who shot, who
- 16 was shooting.
- 17 Q So you want us to believe that Lance didn't tell you
- 18 what happened.
- 19 A He did not tell after the police talked to us.
- 20 Q Say that again.
- 21 A He did not tell me till December the 10th.
- 22 Q What did he tell you December the 10th?
- 23 A He said that the guy owed him some weed.
- 24 Q And that's why he pulled a gun?
- 25 A He said the dude wouldn't give him his weed.

Joshua Jeter
Cross-examination by Mr. Balsa

1 Q So he was telling you he was trying to rob him of the
2 marijuana?

3 A He just said that the guy didn't give him his
4 marijuana that he owed him.

5 Q But y'all were going over there to buy marijuana
6 according to you.

7 A And he also owed to Lance.

8 Q He had the money to give the man the marijuana.

9 A Yes, sir.

10 Q And you are telling us that Lance then told you that
11 he pulled his gun because he was going to rob the guy of
12 the marijuana that he owed him?

13 A He was pulling it out where he can get it. I don't
14 know if he was going to rob him or what.

15 Q And that's why he was trying to shove in the door to
16 get in the apartment?

17 A I didn't see. I didn't see when he shoved the door.
18 I just saw -- well, I saw when he shoved the door, but I
19 didn't know he was going -- I didn't see he was going in
20 there to break in or nothing like that.

21 Q Well, isn't that what you do when you shove a door
22 trying to force it in? I think he had stepped up in the
23 doorway, hadn't he?

24 A I can't recall.

25 Q Huh?

Jōshua Jeter
Cross-examination by Mr. Vieth

1 A I can't recall.

2 Q You just know that the guy tried to close the door and
3 Lance pushed up against it.

4 A Yes, sir.

5 Q Do you want to change your story now about your
6 mother?

7 A Excuse me?

8 Q Do you want to change your story then about your
9 mother?

10 A Excuse me?

11 Q Do you want to change your story about making this gun
12 up? I'm giving you your last chance.

13 A No, sir.

14 Q Okay. Answer any questions Mr. Vieth has.

15 CROSS-EXAMINATION

16 BY MR. VIETH

17 Q Mr. Jeter, you gave three statements that were fairly
18 close together, I believe, 12/14/04, 12/10/04 and 12/11/04.
19 So a matter of about three to four days is when you gave
20 three varying statements, is that right?

21 A Yes, sir.

22 Q Okay. And then what happened in the history of this
23 case is that you remained in jail pending this trial today
24 for bond reasons, et cetera. You didn't get out, is that
25 fair to say?

Joshua Jeter
Cross-examination by Mr. Vieth

1 A Yes, sir.

2 Q Mr. Lyles has been out on house arrest. Is that your
3 understanding?

4 A Yes, sir.

5 Q Has a bracelet. He can't leave his home. Is that
6 what your understanding is of the situation?

7 A Yes, sir.

8 Q All right. And during all of this time, I think it's
9 fair to say that lawyers get what we call discovery
10 information, which is all of these things that we look on
11 that everybody assembles and shares. And I assume you
12 shared some of the discovery material with your attorney in
13 discussions of this case. Isn't that fair to say -- in the
14 jail?

15 A Yes, sir.

16 Q And just like I have, just like the solicitor has.
17 You have to learn about the results of the case.

18 During that time from December of '04 until September
19 of '05, or, yeah, September of '05, you're in jail and
20 you're fully familiar with the fact that every time you make
21 a call there's a little program voice up there that says
22 this is to let you know this call may be monitored at any
23 time.

24 A Yes, sir.

25 Q And during those calls as you got closer to a

Joshua Jeter
Cross-examination by Mr. Vieth

1 September date, were you going to be in a trial on this
2 case before today, before this week started?

3 A Yes, sir.

4 Q Initially, the case was going to be tried with one
5 defendant and then another defendant instead of both
6 together, is that right?

7 A Yes, sir.

8 Q And your case, for whatever reason, was selected to go
9 first. And that would have been in September.

10 A Yes, sir.

11 Q Okay. And it wasn't until the eve of your trial that
12 you decide I better turn in a gun that I have had from
13 September -- from December of '04 until September of '05 to
14 make whatever contributions to this case I want to make.
15 That contribution came after discovery and after you knew a
16 .22 had caused a death. It came the day of the trial when
17 you were in a courtroom, and along a .25 appears, isn't
18 that right?

19 A Yes, sir.

20 Q That's the way it happened. The day of your trial a
21 .25 caliber gun appears that says guess what, we found this
22 gun; that certainly isn't the murder weapon and it was in
23 my shoe box and we just now are getting to it. Some many
24 months, nine or ten months, after your three statements and
25 through all of the discovery process to the day of trial,

Joshua Jeter
Cross-examination by Mr. Vieth

1 the day of trials, when this gun first surfaces, isn't it?

2 A Yes, sir.

3 Q And isn't it true that in the course of all of that
4 time those phone calls that were monitored, probably people
5 don't remember things were monitored, don't pay attention
6 to it -- do you believe that on one of those tapes or more
7 of those tapes is going to be a conversation with you and
8 your mother and Travis saying we need to get a gun, get any
9 gun, doesn't matter whether it's a .25; and someone else is
10 saying, well, I think maybe so and so only has an automatic
11 and things like that? Do you recall any of those
12 conversations?

13 A Some of them.

14 Q Okay. And this was to try, as your mom says on the
15 tape, we got to do everything we can to help. Isn't that
16 fair to say for a mother?

17 A Yes, sir.

18 Q And that's on these tapes, isn't it?

19 A I don't know. I guess so.

20 Q Okay. Well, and you may not remember. And that's
21 fair to say. But these are as you are getting closer and
22 closer to trial, this issue about we-need-to-get-a-gun gets
23 more and more prevalent on some tapes, doesn't it?

24 A Yes, sir.

25 Q And then the .25 you handed in, obviously the

Joshua Jeter
Cross-examination by Mr. Vieth

1 solicitor doesn't think anything about the .25 because it
2 never was brought up in his case in chief at all. Didn't
3 even bring it up.

4 So from September until December through all of the
5 discovery, finally we know what caused the death, what you
6 needed to turn in to make sure you don't have a murder
7 weapon, and that Travis needed to make sure you get
8 something and hurry up and get it done. Do you recall those
9 conversations?

10 A Yes, sir.

11 Q Okay. Now, going back to just your last statement,
12 the one that you gave, and to set that scenario, the trial
13 had to be stopped right in its tracks, didn't it? Because
14 they had to stop it to get that gun analyzed. Do you know
15 that?

16 A Yes, sir.

17 Q I mean, the jury was picked. The gun is shown. The
18 trial was stopped until we started it together as a group
19 this week. Right?

20 A Yes, sir.

21 Q Okay. And when that happened, then Officer Brewster
22 reconvened with you an opportunity to get another statement
23 from you, and this time in the presence of your attorney.

24 A Yes, sir.

25 Q And that's the last statement that we have, correct?

Jōshua Jeter
Cross-examination by Mr. Vieth

1 A Yes, sir.

2 Q And that statement says that, among other things, you
3 and Lance went to buy weed, correct?

4 A Yes, sir.

5 Q And that's, that's true, isn't it? Of all of the
6 things in this case, can we agree that that's why y'all
7 were going over there?

8 A Yes, sir.

9 Q Did anyone in a communication that evening talk about
10 robbing, shooting, killing or doing anything to anybody?

11 A No, sir.

12 Q Okay. It was never discussed at all between you and
13 Lance, at all, was it?

14 A No, sir.

15 Q And when Lance and you were talking, and Lance
16 apparently says, according to what you are saying, just
17 let's go buy some weed, then y'all go through a path, go
18 over to the apartment complex, and Lance knocks on the
19 door.

20 A Yes, sir.

21 Q That's right, isn't it? And to further solidify the
22 fact that y'all were going to buy weed, you testified on
23 the stand you gave him \$10, didn't you?

24 A Yes, sir.

25 Q Okay. So does it make sense to you that Lance would

Joshua Jeter
Cross-examination by Mr. Vieth

1 ask for \$10 to buy weed and then knock on a door and shoot
2 somebody?

3 A No, sir.

4 Q Okay. And then your, your testimony briefly as to the
5 issue, and I am not going to get into y'all contradicting
6 each other all day long here, but just on that -- at the
7 point of the time that this happened you're saying that
8 Lance was drawing his gun kind of slowly or something like
9 that, is what I heard you say, kind of a slow mode.

10 A Yes, sir.

11 Q Okay. Now, you heard Mr. Spicer indicate that this
12 was a very quick knock on the door. Someone tried to get
13 in. Person without the mask had the gun. The gun
14 discharged when he closed the door. You disagree with
15 that.

16 A Yes, sir.

17 Q Okay. And did in your knowledge of it, did anyone
18 ever get in the door?

19 A No, sir. Lance pushed up against the door, but, no,
20 nobody got in the door.

21 Q All right. And you're saying that there was a
22 conversation of about 30 minutes, no, excuse me, 30 seconds
23 to a minute. Is that what you think?

24 A Yes, sir.

25 Q All right. Now, we are going to look at that clock

Joshua Jeter
Cross-examination by Mr. Vieth

1 and just stop for about 30 seconds.

2 (Pause.)

3 Q Okay. Is that about the length of time you think the
4 conversation was going on?

5 A Yes, sir.

6 Q So it wasn't just a what's up. There was more to it
7 than that.

8 A Yes, sir.

9 Q Okay. In that 30 seconds did you have an occasion to
10 see how many people may have been in that complex?

11 A No, sir.

12 Q Okay. And even the next day did you or Lance have any
13 knowledge that anyone had been shot?

14 A No, sir.

15 Q Okay.

16 MR. VIETH: Excuse me one second, Your Honor.

17 (Pause.)

18 Q Let me ask you one other question on these, on the
19 tapes. Did you ever say on any of these tapes you could
20 get a hit out on Banks?

21 A I don't recall.

22 Q Okay. If it's on the tapes, it's you talking, isn't
23 it?

24 A I don't remember saying that.

25 Q Okay. That's all. Thank you.

Joshua Jeter
Redirect examination by Ms. Anderson

1 REDIRECT EXAMINATION

2 BY MS. ANDERSON

3 Q Josh, now, when Mr. Bulsa was questioning you, you
4 stated that you called Lance. Banks had told you that the
5 place you were going, that the guy owed you, owed Lance
6 some marijuana.

7 A Yes, ma'am.

8 Q Is that -- did you use the word played?

9 A Yes, ma'am.

10 Q Okay. What does that mean?

11 A He didn't give Lance the right amount of weed, I
12 guess, last time.

13 Q Okay. I'm assuming that this wasn't the first time
14 you had gone to buy some weed. I mean, is that kind of
15 something that does happen?

16 A Sometimes, not really.

17 Q Okay. So but that's what you understood as y'all went
18 up to the apartment, that the guy had shorted him. Is that
19 an okay way of saying it?

20 A Yes, ma'am.

21 Q Didn't give him all the weed that he paid for.

22 A Yes, ma'am.

23 Q Okay. Now, was Lance mad about it?

24 A I guess so.

25 Q Okay. Let me go on to another thing. Now, you gave a

Joshua Jeter
Redirect examination by Ms. Anderson

1 lot of statements. Both of these lawyers made a big deal
2 about you giving a lot of statements. In the statements
3 that you gave were you trying to protect Lance?

4 A Yes, ma'am.

5 Q I mean, he was your friend, wasn't he?

6 A Yes, ma'am.

7 Q Okay. Is that why you didn't tell the whole truth?

8 A Yes, ma'am.

9 Q Would you have given Lance \$10 to buy the marijuana if
10 he had planned to steal it?

11 A No, ma'am.

12 Q One other thing. There was a picture that's been
13 admitted into evidence.

14 (Pause.)

15 Q Okay. This is a picture. All right. Okay. When you
16 said that you had walked to the balcony, all right, there
17 we go. Can you point right there where you said you walked
18 to the balcony with that?

19 (Whereupon, the witness demonstrated.)

20 Q Okay. So you had walked over there. Where was the
21 door?

22 A Right there.

23 Q Right there. Okay. So do you know how many feet you
24 were away from the door?

25 A Maybe about five to seven.

Joshua Jeter
Redirect examination by Ms. Anderson

1 Q Okay. You were standing over here?

2 A Yes, ma'am.

3 Q And Lance was right here?

4 A Yes, ma'am.

5 Q Okay. At any time -- you said you came up on this
6 side.

7 A Yes, ma'am.

8 Q Lance was in front of the door, correct?

9 A Yes, ma'am.

10 Q And were you right in front of the door? Here is a
11 picture of the door. Okay. Where was Lance standing?

12 A About right there.

13 Q Okay. And where were you?

14 A I was like over here.

15 Q Okay. So you couldn't see in the apartment, could
16 you?

17 A No, ma'am.

18 Q But, again, I'll ask you. Did you go over there to
19 rob anybody?

20 A No, ma'am.

21 Q Steal anything?

22 A No, ma'am.

23 Q Kill anybody?

24 A No, ma'am.

25 Q Thank you.

Joshua Jeter
Recross-examination by Mr. Bulsa

1 MR. BULSA: May I?

2 RECROSS-EXAMINATION

3 BY MR. BULSA

4 Q Mr. Jeter, you told Ms. Anderson, I believe, that you
5 were trying to protect Lance, is that right?

6 A Yes, sir.

7 Q Was that about not telling the police about the
8 marijuana?

9 A Not the whole situation.

10 Q You were trying to protect Lance about the whole
11 situation?

12 A Yes, sir.

13 Q You didn't tell the police about this story about
14 going over there to get marijuana until September 14th of
15 2005, the date after your trial, right?

16 A I guess so.

17 Q Right?

18 MS. ANDERSON: Your Honor, I'm going to object. It
19 wasn't the day after the trial.

20 MR. BULSA: Well, after we started.

21 MS. ANDERSON: The jury had been picked.

22 THE COURT: Overruled.

23 Q Right?

24 A Yes, sir.

25 Q Okay. But on December the 14th of 2004, the day your

Joshua Jeter
Recross-examination by Mr. Bulsa

1 mama told you to go tell the police, you said I had on a
2 mask, struck out but not; and then it says, "I had a mask
3 all the way on and the dude saw me walk behind Lance. The
4 dude tried to close the door, and then Banks pushed the
5 door back, and then Lance shot off into the apartment."

6 That sounds pretty deliberate, doesn't it?

7 A Yes, sir.

8 Q "Lance pushed the door back and fired into the
9 apartment. Does that sound like trying to protect Lance?

10 A I just was nervous at that time.

11 Q Nervous at the time. You told the police that. But
12 regarding the reason why you went over there, "So after
13 that Banks said let's walk to Rose Hill. I was like come
14 on. So we went to Rose Hill. Lance was walking over to
15 some dude's house. So we walked over there. And Lance had
16 knocked on the door. And I was over by the balcony thing."

17 Nothing about going over there for marijuana. Were you
18 protecting him from the police about the marijuana?

19 A No, sir.

20 Q Because it wasn't true, was it?

21 A It was true.

22 Q You didn't go over there for marijuana. You went over
23 there to rob Mr. Spicer.

24 A I don't even know Mr. Spicer.

25 Q You don't have to know somebody to rob them, do you?

Joshua Jeter
Recross-examination by Mr. Bulsa

- 1 A No, sir.
- 2 Q Did Banks push the door chute in?
- 3 A He hit the door with his left shoulder.
- 4 Q And then the shot fired?
- 5 A I guess so.
- 6 Q So the door was going the other way when the shot was
- 7 fired?
- 8 A Yes, sir.
- 9 Q So the door didn't hit anybody's arm that caused the
- 10 shot to be fired, did it?
- 11 A I don't know.
- 12 Q It was a deliberate shot into that apartment, wasn't
- 13 it?
- 14 A I wasn't up on the door when the shots were fired.
- 15 Q That's the way you describe it in this statement,
- 16 right?
- 17 A I don't know.
- 18 Q Mr. Vieth was going over these phone conversations,
- 19 and I was listening closely because it appeared to me that
- 20 you were agreeing with him about having conversations with
- 21 your mother and brother about getting a gun.
- 22 A Turning in the gun.
- 23 Q Excuse me?
- 24 A I had conversations with them about turning in my gun.
- 25 Q I thought he was using words about getting a gun so he

Joshua Jeter
Recross-examination by Mr. Vieth

1 could prove you weren't the shooter.

2 A I was just agreeing with him.

3 Q And then these conversations got more and more closer
4 to trial. It was just as simple as turning the gun in.
5 You could have done that weeks before the day of
6 trial, couldn't you?

7 A Yes, sir.

8 Q But you didn't because it didn't exist, did it?

9 A It did.

10 Q It was already gone, wasn't it?

11 A No, sir.

12 Q You realized the day had come. So you had to rush and
13 get something done. That's what happened.

14 MS. ANDERSON: Your Honor, I would object to Mr. Bulsa
15 testifying.

16 THE COURT: Put it in the form of a question, please.

17 Q Wasn't that what happened?

18 A No, sir.

19 Q Just ironic it happened that way.

20 THE COURT: Anything further from this witness?

21 MR. VIETH: Yes, sir. I do now. I didn't think I
22 did.

23 RECROSS-EXAMINATION

24 BY MR. VIETH

25 Q All right. We are going to listen to this either

Joshua Jeter
Recross-examination by Mr. Vieth

1 today or tomorrow, one of these tapes. If -- and I think
2 we have to give you notice. Have you got it there? We
3 have got to give you notice, give you a chance to say what
4 you want to say. You are under oath.

5 Now, I was under the impression when I asked you the
6 question, the same thing that the solicitor was under the
7 impression of, that you said to your mother, and I guess a
8 three-way to your brother, y'all needed to get a gun. That
9 would do good for you if you would turn in a gun. And
10 someone's trying to find out if they can get a gun quick
11 enough. And someone mentions a name. And someone says, "I
12 think all they got is an auto," meaning to me an automatic,
13 which wasn't going to do it. Do you not recall that
14 conversation, Mr. Jeter?

15 A Not right off the back of my head.

16 Q Okay. If I play it for you, will it help refresh your
17 memory?

18 A Maybe.

19 Q All right.

20 THE COURT: Let me see y'all just a minute.

21 (Bench conference held off the record in the presence
22 of the jury but out of the hearing of the jury.)

23 MR. VIETH: Your Honor, I would move at this time to
24 introduce into evidence a Memorex tape that has been
25 furnished as part of the discovery material as evidence of

Joshua Jeter
Recross-examination by Mr. Vieth

1 several phone messages between the defendant, Jeter, and
2 family members.

3 THE COURT: Any objection?

4 MR. BULSA: Not by the state.

5 MS. ANDERSON: I object to this being played, but, I
6 mean, I really have no reason to object to it, no, sir.

7 THE COURT: Why are you objecting to it?

8 MS. ANDERSON: I don't know.

9 THE COURT: Oh, you are just offering a portion of
10 that.

11 MR. VIETH: Yes, sir, just a portion of the tape as
12 defendant Jeter's exhibit.

13 THE COURT: All right. It's admitted.

14 MS. ANDERSON: Mr. Vieth, could you tell me which tape
15 that is?

16 MR. VIETH: Sixty.

17 (C. D. marked Defendant Lyles' Exhibit No. 1.)

18 (Pause.)

19 (Whereupon, the C. D. was played for the jury.)

20 Q Let me ask you this before I go to something else.

21 Does that help refresh your memory a little bit?

22 A Yes, sir.

23 Q Y'all were looking for anything, I believe Travis
24 said, either a .25, and y'all talked about needs -- think
25 someone has got an auto and that will not do, and help to

Joshua Jeter
Redirect examination by Ms. Anderson

1 turn something in, anything, and you have got to hurry real
2 quick. Does that kind of refresh your memory?

3 A Yes, sir.

4 Q Okay. So it really isn't turning in the gun of
5 December the 8th or 10th, or whenever the shooting was.
6 And we are all getting tired. It was to get any gun, and
7 get it quick because it was going to help you. Isn't that
8 what that said?

9 A Actually I was really referring to hurry up and go to
10 my house and get it.

11 Q Are you saying you got to hurry? You have only had
12 about seven months. It ain't like you got to run over
13 there. You are doing this on the eve of a trial, right?

14 A Yes, sir.

15 Q That's all I have. Thank you.

16 REDIRECT EXAMINATION

17 BY MS. ANDERSON

18 Q Josh, why had you not gotten the gun before then?
19 What was the problem?

20 A Because I didn't want to turn one in.

21 Q I know. But I am talking about why was it, I mean,
22 September 14th that the gun appeared? Why would you tell
23 your brother he had to hurry?

24 A I guess because I had -- you came and talked to me,
25 and I had told you that I had a gun that night. And I

Joshua Jeter
Redirect examination by Ms. Anderson

1 asked you would it be best turned in, and you said yeah.

2 So I was like you need to hurry up and go get it.

3 Q Okay. Now, what -- didn't your mother move?

4 A Yes.

5 Q Was there a problem with Travis being able -- didn't
6 she move far away?

7 A Yes, ma'am.

8 Q I mean, she moved further away than where she
9 originally lived, correct?

10 A Yes, ma'am.

11 Q It wasn't that near your brother's house. Did he have
12 a problem going over to your mother's?

13 A Yes, ma'am.

14 Q What was the problem?

15 A He always -- I told him to go get it, and he be
16 telling me that he don't have any gas money to make it all
17 the way out there.

18 Q So did anything of that have to do with getting -- I
19 mean, what they're trying to say is you told your brother
20 to get any kind of gun, it didn't matter as long as it was
21 a .25. Is that what you told him on that?

22 A No, ma'am.

23 Q Okay. What were you saying?

24 A I said go hurry up and go get the gun. And he said
25 something; he said something. I can't recall. I said

Joshua Jeter
Redirect examination by Ms. Anderson

1 nothing about no .25 or nothing.

2 Q Okay. But is that the gun that you had on
3 December 8th of 2004?

4 A Yes, ma'am.

5 Q Thank you.

6 THE COURT: Anything else from this witness?

7 MR. BULSA: No, sir.

8 MS. ANDERSON: No, sir.

9 THE COURT: Step down.

10 All right. Ladies and gentlemen, we are going to take
11 a short break before we go further.

12 Please go to your jury room. Don't talk about the
13 case. I will bring you back in a few minutes.

14 (The following takes place outside the presence of the
15 jury.)

16 THE COURT: Who is your next witness, Ms. Anderson?

17 MS. ANDERSON: Josh's mother, Sherry Hardy.

18 THE COURT: Okay. Court is in recess for 15 minutes.

19 (Whereupon, a recess was taken.)

20 THE COURT: All right. Are we ready for the jury?

21 MS. ANDERSON: Your Honor, I have one matter. I have
22 David Reeves in here from the city.

23 THE COURT: Right.

24 MS. ANDERSON: I would renew my request to allow him
25 to testify as to the -- he examined the partially smoked

1 cigarette containing green leafy matter. He analyzed it.
2 And I would ask -- I just want to put on the record that I
3 would ask that he be allowed to testify as to that.
4 THE COURT: All right. What's Mr. Lyles' position?
5 MR. VIETH: We concur.
6 THE COURT: What's the state's position?
7 MR. BULSA: Your Honor, we object. We don't feel
8 there's any relevance.
9 THE COURT: What's the relevance, Ms. Anderson?
10 MS. ANDERSON: It was one of the items that was marked
11 into evidence at the crime scene and --
12 THE COURT: Does that make it relevant?
13 MS. ANDERSON: No, sir. But it was there. And it
14 goes along, again, to the credence of our clients when they
15 said they went there to buy marijuana.
16 THE COURT: They were going to buy that smoked joint?
17 MS. ANDERSON: Well, they were going to buy some.
18 That was the idea.
19 THE COURT: Well, was there any other besides that
20 partially smoked joint?
21 MS. ANDERSON: No, sir. But, as we said earlier, it
22 could have been gotten rid of before the police there.
23 But, no, there was none other found.
24 THE COURT: Well, anything could have happened. They
25 could have dropped a bomb on the place, but they didn't.

Sherry Hardy
Direct examination by Ms. Anderson

1 MS. ANDERSON: Yes, sir.

2 THE COURT: All right. I sustain the objection to it.

3 Mr. Bulsa, are you agreeing to stipulate that if Mr.
4 Reeves were to testify he would testify that
5 partially-smoked, hand-rolled cigarette containing green
6 plant material would test positive for marijuana?

7 MR. BULSA: Yes, sir.

8 THE COURT: Okay.

9 MS. ANDERSON: Your Honor, then I can release
10 Mr. Reeves?

11 THE COURT: Yes, ma'am.

12 MS. ANDERSON: Thank you.

13 (Pause.)

14 THE COURT: All right. Bring the jury in.

15 (The following takes place in the presence of the
16 jury.)

17 THE COURT: All right. Ms. Anderson.

18 MS. ANDERSON: All right. Sherry Hardy.

19 SHERRY HARDY, having been
20 first duly sworn, testified as follows:

21 DIRECT EXAMINATION BY MS. ANDERSON

22 Q Please state your name.

23 A Sherry Hardy.

24 Q All right. And what is your relationship to Josh
25 Jeter?

Sherry Hardy
Direct examination by Ms. Anderson

1 A I'm his mother.

2 Q Okay. You're going to have to speak up, Sherry.

3 A I'm Joshua's mother.

4 Q Okay. And you are divorced from his father?

5 A Yes.

6 Q And you live here in Spartanburg County.

7 A Yes, I do.

8 Q Okay. Josh called you back in -- I'm not quite sure
9 when, but sometime prior to September the 14th in regards
10 to a gun, is that correct?

11 A Right.

12 Q Okay. What did he call and ask you?

13 A What he called to ask me?

14 Q Uh-huh.

15 A Well, when I had talked to him he was just talking
16 about, you know, the trial coming up. And he was telling
17 about he was going fast and everything. And I was just
18 telling him everything will be okay, just tell the truth
19 about the trial. We just talked about the trial coming up.

20 Q Okay. And did he ask you to do something?

21 A Oh, okay. He asked me to look in the shoe box for
22 him.

23 Q Okay. Did Josh have a habit of keeping his items in
24 shoe boxes?

25 A Yes.

Sherry Hardy
Direct examination by Ms. Anderson

- 1 Q Since December the 8th of 2004 had you moved?
- 2 A I have.
- 3 Q Okay. Did you move all of Josh's stuff with you?
- 4 A Yes.
- 5 Q And does he have his room at your new house?
- 6 A Yeah.
- 7 Q Okay. And he asked you to look in a shoe box?
- 8 A Right.
- 9 Q Okay. What did he tell you you would find?
- 10 A He just told me to look in the shoe box and that --
- 11 Q I'm sorry. Go ahead.
- 12 A Okay. He told me to look in the shoe box. And when I
- 13 looked in there I said why. I think I asked him why or
- 14 something like that. I said why. He said just look in the
- 15 shoe box. And I said, Oh, Lord, don't tell me, you know,
- 16 God, just lost it. And that was it. He didn't tell me
- 17 what to look. He didn't tell me what I was going to find
- 18 in the shoe box. He just said mama look in the shoe box.
- 19 Q So did you look in the shoe box?
- 20 A Yeah, later on I looked in the shoe box.
- 21 Q And what did you find?
- 22 A I found a gun in it.
- 23 Q Okay. Is this the gun that you found?
- 24 A Yeah.
- 25 Q Is this it?

Sherry Hardy
Direct examination by Ms. Anderson

1 A Yes.

2 Q Okay. And where was this located?

3 A In the closet in his new bedroom.

4 Q Okay. When you moved you didn't look through these
5 boxes?

6 A No. He had a whole lot of shoe boxes and all kinds of
7 stuff.

8 Q Okay. So what did you do when you found it?

9 A After I found it I just, I didn't do anything for a
10 while. I just started praying.

11 Q Okay.

12 A I didn't do anything. I just sat down and I just, I
13 didn't do anything, just.

14 Q Okay. When did you do something?

15 A I just -- that morning I had called his brother and
16 had told him that I had found a gun in a shoe box of
17 Joshua's. And then he told me -- he said you know we got
18 to turn it in. Well, I told him we have to turn this gun
19 in. And he said, yeah, we have to turn it in. And I said
20 we have to turn it in to the lawyer. So therefore it was
21 that morning, and that's what we do. We turned it in.

22 Q Okay. You actually turned it in to one of the
23 investigators from the solicitor's office, didn't you?

24 A What?

25 Q You were at my office.

Sherry Hardy
Direct examination by Ms. Anderson

1 A Right.

2 Q But Investigator Crystal Sarr picked up the gun, is
3 that not correct?

4 A Right.

5 Q Okay. They're going to ask you a lot of questions and
6 say that you conspired to find this gun, that you and your
7 son, Travis, on Josh's direction were looking for any kind
8 of gun that was a .25 to turn in. Is that what you did?

9 A No.

10 Q Did you find that gun in Josh's bedroom?

11 A Yes, I did.

12 Q And when you found it, you said you had the gun.

13 A Right. And turned it in to the lawyer, yes.

14 Q Okay. Well, again, you didn't give it to me. You
15 gave it to Crystal Sarr, the solicitor's investigator.

16 A Right.

17 Q Okay. And you identified, that is the gun.

18 A Yes.

19 Q You also gave a statement to David Hearst about this
20 on September 13th, is that correct?

21 A Right.

22 Q Okay. And explained to him what you did.

23 A Yes.

24 Q Okay. Did you conspire with your son, sons, both of
25 them, to produce this gun?

Sherry Hardy
Direct examination by Ms. Anderson

1 A No, I didn't.

2 Q Okay.

3 A I wouldn't do anything. I am just not that kind of
4 mom to let anything happen like that. So I don't even like
5 that word.

6 Q Let me ask you this. Back before this instance,
7 before the gun, back in December of '04, Josh told you what
8 happened, didn't he?

9 A Yes.

10 Q And didn't you tell him -- what?

11 A I told him that you got to tell the truth.

12 Q And so did you take him down to the police station --

13 A Yes, I did.

14 Q -- when he told what happened?

15 A Yes.

16 Q So is that what you teach your children?

17 A I do. I told through the whole time, like I said,
18 Josh, as long as you tell the truth, everything will be
19 okay. And the whole time he said, mama, I'm telling the
20 truth.

21 I said, Josh, don't lie to your mom, you got a good
22 family, food friends, and you know the truth will set you
23 free.

24 And he, you know, he just, he kept saying, mama,
25 telling the truth. And I stayed on him the whole time,

Sherry Hardy
Cross-examination by Mr. Bulsa

1 Josh, tell mama the truth and if you lied about anything
2 just tell mama the truth. And so we decided to take him --
3 he decided, you know, to go.

4 Q I mean, you didn't have to pull him screaming and
5 yelling to the police.

6 A No.

7 Q He went because he wanted to.

8 A Right.

9 Q Okay. Answer any questions that Mr. Vieth and Mr.
10 Bulsa might have.

11 CROSS-EXAMINATION

12 BY MR. BULSA

13 Q Mrs. Hardy, is that the first time you ever saw that
14 gun?

15 A Yes.

16 Q You didn't know your son had it?

17 A No.

18 Q Is his grandma living?

19 A She has passed away now.

20 Q Do you remember having a conversation with your son
21 about Grandma Lillie saying that that gun was Grandma
22 Lillie's?

23 A Yeah.

24 MS. ANDERSON: Your Honor, I am having trouble hearing
25 Mr. Bulsa.

Sherry Hardy
Cross-examination by Mr. Bulsa

- 1 THE COURT: Speak up a little, please.
- 2 A I remember something about Grandma Lillie's gun, but I
3 don't remember exactly what the conversation was.
- 4 Q Was that before or after he told you to go look in the
5 shoe box?
- 6 A That was before.
- 7 Q Huh?
- 8 A That was before.
- 9 Q And what was that conversation before?
- 10 A I am not sure. I am not sure what. I remember
11 talking about it, but I am not sure.
- 12 Q Wasn't it about telling where he got a certain gun?
- 13 A I'm not sure. I can't remember. I'm sorry.
- 14 Q Weren't you trying to help him make up a story about
15 saying where a gun came from?
- 16 A No. I can't, I can't, I can't remember the
17 conversation.
- 18 Q Okay. I have got it right here on this tape. Do you
19 want to listen to it? Okay.
- 20 (Whereupon, the C. D. was played for the jury.)
- 21 Q Is that the conversation you had on September the
22 10th, ma'am?
- 23 A Yes.
- 24 Q Sounds to me like you are telling him a story about
25 Grandma Lillie's gun, is that right?

Sherry Hardy
Cross-examination by Mr. Bulsa

1 A Yes.

2 Q Sounds to me like you're trying to -- you're not
3 trying to help him tell the truth. You are trying to help
4 him lie.

5 A No. We was discussing about the gun, but that was not
6 the gun that I found. We discussed about trying to find a
7 gun to help him out, whatever. The whole time he just kept
8 saying, the whole time. I believed Joshua. So I believed
9 him. And I believe him today that that was not the gun. I
10 found it in the shoe box, and that's where I found it at.

11 Q You are sticking to that story.

12 A Yes.

13 Q Even though we heard you and Travis and Josh talking
14 about Grandma Lillie's gun, saying it was Grandma Lillie's.
15 And Josh said, no, I was going to say about some guy from
16 the park gave it to me.

17 A Yeah.

18 Q In fact, that's what he wound up telling the police,
19 that he got it from some guy in the park. Are you aware of
20 that?

21 A I'm not sure.

22 Q He didn't come up with the Grandma Lillie story.

23 A Okay. Well, we talked about it. But I don't know
24 where the gun come from. But when he told me to look in
25 the shoe box, it was a gun there.

Sherry Hardy
Cross-examination by Mr. Vieth

1 MR. BULSA: No further questions.

2 CROSS-EXAMINATION

3 BY MR. VIETH

4 Q Ma'am, the statement that the solicitor is talking
5 about that was given the day of, or the day after, the
6 aborted trial due to the appearance of this gun, that
7 statement that was listened to or given in the presence of
8 the lawyer did say, in fact, everything that was said on
9 this tape, didn't it, that it was found, bought, some guy
10 in the park, and had three bullets, and he shot all three
11 bullets, and then he had no bullets in the gun? I mean,
12 this is all stuff that's been talked about over a bunch of
13 tapes, isn't it? Do you see all of these tapes, all of
14 these tapes that came from y'all's conversations?

15 A Uh-huh.

16 Q We don't need to go through any more on this gun
17 issue, do we? I mean, what it is is what it is, isn't it?

18 A Right, yeah.

19 Q And the reality of it that is as a mother you might
20 not want to be involved in this thing, but you got involved
21 in it.

22 A Yes.

23 Q And as the tapes played earlier, I think, you had to
24 do what you had to do to help your son, right?

25 A Right.

Sherry Hardy
Redirect examination by Ms. Anderson

1 Q And until the day of the trial that couldn't go on and
2 all of those phone conversations right there, not one time
3 did he say go get the gun from the shoe box and turn it in
4 five or six or seven months before trial date, did he?

5 A No.

6 Q And it was only as you got right on the eve of trial
7 that probably from what you heard, which probably makes
8 sense, if you got a gun turn it in. And y'all could take
9 that to say turn in a gun and it might help us. And that's
10 what y'all did, isn't it?

11 A Right.

12 Q That's all. Thank you.

13 REDIRECT EXAMINATION

14 BY MS. ANDERSON

15 Q Mrs. Hardy, when were you told -- or let me put it
16 another way. No one said anything to you about finding a
17 gun early on, did they?

18 A No.

19 Q Okay. When was it? It was close to trial date,
20 wasn't it?

21 A It was.

22 Q Close to the September date.

23 A Yes.

24 Q And you still say you found that gun in the shoe box.

25 A Yes. I did.

Sherry Hardy
Redirect examination by Ms. Anderson

1 Q Okay. And although Mr. Vieth picked up this stack of
2 tapes and tried to make you think all of these were about
3 the guns, these were every conversation that your son had
4 with anybody at the jail, because didn't you facilitate the
5 calls?

6 A Yes.

7 Q Okay. And I'm sure your phone bill was astronomical.

8 A It was.

9 Q And this is 56 hours of Josh talking to whom, to you?

10 A To me, his grandmother sometimes, his aunts, his
11 uncles, his pastor, his girlfriend, his little baby, his
12 friends, all of those phone calls.

13 Q So that's what all of these tapes are. I think there
14 are 68 of them maybe.

15 A Yes.

16 Q And each one is an hour.

17 A When Joshua would make his phone calls to me he talks
18 to me like 15 minutes. And then he will ask to speak to
19 his brother or, like I say, his aunt or uncle or whoever he
20 wants to talk to -- his grandma.

21 And then I would call back the three way and let him
22 talk. I'd dial the phone, dial up the phone and let him
23 talk to whoever he wants to talk to for 15. And then when
24 that's over with, because, and then I will call, let him
25 call back and let him talk another 15 minutes to whoever he

Sherry Hardy
Redirect examination by Ms. Anderson

1 wanted to talk to. And then when I call back, I'd let him
2 talk another 15 minutes to who he wanted to talk to, so.

3 Q Okay. And so did you listen in on all of the
4 conversations?

5 A No. I lay the telephone down.

6 Q But these all -- all of the conversations weren't
7 about a gun.

8 A No. You could play. No.

9 MS. ANDERSON: That's all I have.

10 MR. BULSA: Nothing further.

11 MR. VIETH: Nothing further.

12 THE COURT: You may step down.

13 MS. ANDERSON: That's our case, Your Honor.

14 THE COURT: All right. Ladies and gentlemen, that is
15 all of the testimony or evidence to be offered by the
16 defendant Jeter.

17 Before we go further with any to be offered by
18 defendant Lyles I will need to discuss something with the
19 lawyers.

20 (Bench conference held off the record in the presence
21 of the jury but out of the hearing of the jury.)

22 THE COURT: All right, ladies and gentlemen, we are
23 going to recess for the afternoon.

24 We will begin with testimony from defendant Lyles's
25 side at 9:00 o'clock in the morning, at 9:00 o'clock. You

Sherry Hardy
Redirect examination by Ms. Anderson

1 have been coming at 9:30, but I am going to ask you to come
2 at 9:00 o'clock in the morning. Is that going to be a
3 problem for anybody?

4 Okay. Have a good evening. Do not discuss the case;
5 don't allow yourselves to be exposed to any type of media
6 coverage; don't allow anyone to discuss it with you; don't
7 conduct any research or do any investigation; and do not
8 watch anything on the news, listen to anything on the radio
9 or read any newspaper articles that might relate to the
10 case.

11 With that, have a good evening. Please report to your
12 jury room at 9:00 o'clock in the morning.

13 (The following takes place outside the presence of the
14 jury.)

15 THE COURT: Court in recess until 9:00 o'clock in the
16 morning.

17 END OF PROCEEDINGS MARCH 17, 2006
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1 (Proceedings March 16, 2006)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: All right. Any matters to address before
5 the jury comes?

6 MS. ANDERSON: One, Your Honor. I have a witness that
7 I have been trying to locate that is on his way here, and I
8 would ask that he be allowed to testify at some point this
9 morning.

10 THE COURT: I thought you had rested.

11 MS. ANDERSON: I had. I didn't think I could find
12 him. He's on his way here this morning.

13 THE COURT: Well, we will discuss that when the time
14 comes when he gets here.

15 All right. Anything else?

16 MS. ANDERSON: No, sir.

17 THE COURT: Okay. Bring the jury in.

18 (The following takes place in the presence of the
19 jury.)

20 THE COURT: Good morning, ladies and gentlemen.

21 As you know, when we recessed yesterday the defendant
22 Jeter had made his presentation. So we are now going to
23 continue with any to be made by defendant Lyles.

24 Mr. Vieth.

25 MR. VIETH: May it please the Court. Thank you.

Melissa Lyles
Direct examination by Mr. Vieth

1 Q And how long you have been at Carver?

2 A Two years.

3 Q And is that sole purpose as a basketball coach? Do
4 you teach anything?

5 A I'm their head basketball coach.

6 Q Okay. You are through with that part of the season
7 now?

8 A That is correct.

9 Q Basketball. So you're now just full-time at B. M. W.

10 A Yes, sir.

11 Q And your husband has been seated in the courtroom
12 throughout the trial, is that right?

13 A That is correct.

14 Q You haven't been able to because you have been
15 sequestered as a witness.

16 A That's right.

17 Q And is that your husband seated behind your son?

18 A Yes, it is.

19 Q How long have y'all been married?

20 A We have been married 13 -- 11 years, and we've been
21 together for 24 years.

22 Q All right. You are originally from Spartanburg?

23 A That is correct.

24 Q Now, where do you and your husband live now?

25 A We stay at, reside at 209 Singingwoods Lane where we

Melissa Lyles
Direct examination by Mr. Vieth

1 are buying our home.

2 Q And is that in a particular subdivision in Spartanburg
3 County?

4 A In Camelot.

5 Q Okay. How long have you and your husband and children
6 lived there?

7 A Since '95.

8 Q Okay. Now, what are the ages of your two children?

9 A Seventeen and 20.

10 Q Okay. And the 20-year-old is -- what's his name?

11 A His name is Leonard.

12 Q Okay. Does he live at home?

13 A No, he doesn't.

14 Q Does he have a room at home if he comes? Does he come
15 and go at your house on occasions?

16 A Yes.

17 Q What is the last time on a permanent basis, where, I
18 mean, he would actually come there, stay there, live there,
19 leave, come back that night, how long ago has that been?

20 A Probably about, about maybe a year and a half.

21 Q Okay. All right. And Lance, what about Lance? Has
22 he been with you the whole time?

23 A Yes.

24 Q And is he still living with you?

25 A Yes.

Melissa Lyles
Direct examination by Mr. Vieth

1 Q Has he been on an ankle bracelet and detained in your
2 home during, since this allegation has arisen?

3 A Yes, he has.

4 Q And who has been home, if anyone, to monitor him being
5 there all the time?

6 A His father, my husband.

7 Q How did that work with your husband's job?

8 A Well, my husband was in a car accident. He has been
9 hit by a car in front of our home. And the car ran over
10 his leg, and he had, actually he's had, two operations on
11 his knee. And right now he's still under a doctor's care.
12 And that's been since August of 2004.

13 Q Okay. Where is his employment when he was employed?

14 A At Exopack.

15 Q Okay. So he has been kind of a stay-at-home
16 monitoring of Lance during this time.

17 A Yes. He's doing Lance's home schooling. He has been
18 doing his home schooling since he has been home.

19 Q Okay. Now, where was Lance in school immediately
20 preceding the alternative school?

21 A At Dorman. He was a student at Dorman High School.

22 Q Okay. Did he do any activities at Dorman?

23 A Yes. He played on the football team.

24 Q And is it fair to say if you are not in Dorman and at
25 the university school there was some issues with him at

Melissa Lyles
Direct examination by Mr. Vieth

1 school that would require him to go to a university, what
2 they call university school?

3 A Yes, yes.

4 Q Not minding teachers, just getting disruptive, this
5 type of stuff?

6 A That is right.

7 Q Okay. And when did he get into the university school?

8 A I think it was October of 2003 -- October of 2003.

9 Q Okay. And he would have been, what, 15 at that time?

10 A Yeah. He had just turned 15 in September.

11 Q Okay. And so he was there until December of '04 when
12 this incident took place.

13 A That is correct.

14 Q Okay. What were the aspirations that you and your
15 family had, and your son, as far as his future with
16 schooling?

17 A He was really ready to turn his life around. He was
18 talking about getting back on the football team and going
19 back out for basketball.

20 He and my husband, we had a membership at the Y. And
21 they had started back working out at the Y, lifting
22 weights, getting his body back in shape for -- for
23 football. And he was also wanting to be a veterinarian
24 once he graduated from high school and go on to college.

25 Q All right. Now, tell us about your house, the number

Melissa Lyles
Direct examination by Mr. Vieth

1 of bedrooms, where you are located in Camelot.

2 A We stay on, like I said, 209 Singingwoods Lane. We
3 have a tri-level home. We have three bedrooms,
4 two-and-a-half baths, a dining room, a den, a living room
5 and a laundry room.

6 Q All right. So does Lance have his own room?

7 A Yes.

8 Q And is there another bedroom other than Lance's and
9 your bedroom?

10 A Yes, sir. We have a spare bedroom.

11 Q And did y'all have plans, or have plans to change that
12 spare bedroom?

13 A We did. We was going to make that into an upstairs
14 den.

15 Q Now, directing your attention back to December of
16 2004, obviously you recall the incident involving the
17 arrest of your son.

18 A Yes.

19 Q Okay. And as a part of that arrest there was, or
20 incident to that arrest there was, a search of your
21 residence, is that right?

22 A That is correct.

23 Q Okay. Briefly tell us how that -- were you there when
24 that search took place?

25 A Not at first. I had some of the players from Carver

Melissa Lyles
Direct examination by Mr. Vieth

1 that I took to Dorman's basketball game that night. And
2 one of my neighbors called me and told me that I needed to
3 come home because my house was -- well, actually what she
4 said is that she was trying to get in our neighborhood and
5 they had the streets blocked off and they said they had two
6 murder suspects and my son was one of them. And she said
7 you need to come home. So I had to leave Dorman and take
8 the kids home so I could get home.

9 On my way home, I was trying to get in the first
10 entrance, and it was blocked. And I was trying to tell the
11 officer that I lived at that residence and I was trying to
12 get home to see what was going on. He put his hand on his
13 gun and told me to back up.

14 MR. BULSA: Objection, Your Honor. That's not
15 relevant to this case.

16 THE COURT: Sustained.

17 Q Skip that part.

18 A Okay. And then I went to the second entrance. And
19 upon going towards the officers where they had the road
20 blocked, the officer that's sitting at the table with the
21 state, he approached my vehicle, and he knew who I was.
22 And he -- I felt as though I was being mobbed, and at this
23 time I was very upset.

24 MR. BULSA: Objection, Your Honor.

25 THE COURT: I sustain the objection.

Melissa Lyles
Direct examination by Mr. Vieth

1 Mr. Vieth, we need to get relevant information for
2 now. Do you perceive this being relevant to some issue?

3 MR. VIETH: Yes, sir. And I will be glad to approach.
4 I mean, I am not making a big deal of it.

5 (Bench conference held off the record in the presence
6 of the jury but out of the hearing of the jury.)

7 Q Melissa, let's just take it from -- without going
8 through any observations you may have had about anybody,
9 what did you do during the part of the moments leading up
10 and arrest of your son? How did that happen, without going
11 through any more than just what happened without
12 observations?

13 A Once I, once I got home, and my home was being
14 searched, you know, we had a lot of people in our home and
15 a lot of people and a lot of officers in our yard. And I
16 went upstairs where my husband was at, and I heard over the
17 walkie-talkies that they were running my son, and I was
18 afraid because I could hear them talking on the
19 walkie-talkie.

20 MR. BULSA: Objection, Your Honor.

21 THE COURT: Sustained.

22 Q Okay. You were concerned.

23 A I was concerned. And I heard them saying that they
24 were --

25 MR. BULSA: Your Honor --

Melissa Lyles
Direct examination by Mr. Vieth

1 Q Let's not go into what anyone said.

2 A Okay. Once I got to the city?

3 Q Let's just go into -- as a result of what someone
4 might have said, what did you do?

5 A I went looking for my son.

6 Q Okay. All right. And tell us where you went to look
7 and how you went to look.

8 A I went. After I left my home I saw some blue lights
9 over in the apartments behind B. P. I can't think of the
10 name of the apartments.

11 So I went over that way, and I saw some officers
12 running. So my sister lived in the townhouses behind those
13 apartments. So I thought my son was going over there. And
14 I went to my sister's and I told her. I didn't tell her
15 everything that was going on, but I told her if he comes to
16 him you, you keep him here because I'm afraid. And I was
17 real upset.

18 And she couldn't understand what I was saying. I said
19 just if he comes here, you call me and you let me know and
20 I will take him up to the city, to city hall. And she said
21 okay.

22 Then I went to my aunt's house that stayed right down
23 the street in Vanderbilt Hills homes, and I told her the
24 same thing, because I thought that he would probably go to
25 one of their homes, because I knew that he was afraid.

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Direct examination by Mr. Vieth

1 Well, once I left back out, I didn't see any cars. I
2 didn't see anything. And I called my husband and I asked
3 him, I said, "Do they have my son, do they have Bank?" And
4 he said "I don't know." And he asked the officers that was
5 at home. And they told -- they didn't tell us anything.

6 I said, well, I don't see anything and I don't hear
7 anything so I am going to city hall. He kept asking, and
8 they never would tell us whether or not they had my son in
9 custody.

10 Q All right. Let's pause there. Did you go to city
11 hall?

12 A I did.

13 Q And was your son there?

14 A He was.

15 Q Okay. And you met with him in the room.

16 You weren't here throughout this trial. Officer
17 Brewster testified they gave him Gatorade and he was
18 dehydrated and so forth. And that's accurate. That's
19 right?

20 A That is correct.

21 Q And that he had gold teeth at that time and you took
22 them out of his mouth.

23 A I did.

24 Q And you were visibly upset.

25 A I was.

Melissa Lyles
Direct examination by Mr. Vieth

1 Q Okay. And advised him not to give any statements of
2 any kind to anybody until he got an attorney.

3 A I did.

4 Q Right?

5 A I did.

6 Q Now, let's go into the search of your house and ask if
7 you can identify State's Exhibits 27 -- let's see -- 25,
8 26, 27, 28 and 29.

9 Melissa, just take a second and look at those pictures.
10 This is the first time you have seen these, isn't it?

11 A Yes.

12 Q Just take a minute and look at them and see if you can
13 identify those. Can you identify them?

14 A Yes.

15 Q Okay. With regards to -- and let me ask you to tie
16 this in.

17 If you would, look at Exhibits, State's Exhibits 31 --
18 maybe altogether, a Winchester box with shells. I guess
19 these are all 30. I guess all of these come from this
20 container. Another cartridge. Another box. It looks like
21 cartridges in it. And then another box of cartridges. Do
22 you recognize? Can you identify these that are introduced
23 at State's Exhibits 30 and 31?

24 A Yes.

25 Q Okay. All right. Tell us about the ammunition and

Melissa Lyles
Direct examination by Mr. Vieth

1 guns and so forth that may have been in your house. Just
2 tell the jury about those things.

3 A Well, we had a .22 rifle that my husband owned, a
4 shotgun; and he did have an AK-47 and I had a .380. But
5 the 380 and the AK-47 was stolen out of our home a couple
6 of months. I can't remember the exact date, but we had
7 reported that those two guns were stolen. But we did have
8 them in our home and they were reported.

9 Q All right. What was the reason that the guns and
10 ammunition were there? Did someone hunt; did someone enjoy
11 rifles? What was the deal with that?

12 A Well, my husband is a former U. S. Marine, and his M.
13 O. S. was infantry, and he had had the .22 rifle for --
14 well, he had that growing up. He and his father used to
15 hunt.

16 And the shotgun, he probably had that 17 or 18 years,
17 if not longer.

18 And the .380 was for my protection. I used to work in
19 Greenville and I worked at night. And that was for my
20 protection if anything had happened and I was traveling
21 back and forth to work at night, that I would have some
22 protection, because my husband didn't like me traveling
23 that far. It was about a 45-minute drive. So that's why I
24 had -- that was the reason I had the .380 before it was
25 stolen.

Melissa Lyles
Direct examination by Mr. Vieth

1 Q All right. Did you ever use any of the weapons out
2 around your house for any reason?

3 A Yes. In the back of our home we have a pool, and in
4 the back of the pool is a creek. And we -- my husband shot
5 at rats and snakes because they would come up in the yard
6 from the creek. So he has shot at them before with one of
7 the guns.

8 Q Okay. Did you ever have, did you have, a .22 pistol,
9 a small weapon of any kind?

10 A No, no.

11 Q I'm going to ask you then to look at the pictures.
12 You said you recognize them.

13 Tell the jury if you would, picture 29 has a couple of
14 shells looks like on a dresser, and 28 that has a picture of
15 a dresser. Are all of these pictures taken in the same area
16 or is it different parts of a house, or what?

17 A That's in, that's in the same bedroom.

18 Q All of these?

19 A Our spare bedroom, yes.

20 Q Okay. And let's just take a look at Exhibit 25 which
21 is a photograph of a red, looks like a ski mask, and a
22 jacket and some other items to the left of it. What does
23 that depict?

24 A That foo-doo jacket, the blue jean jacket, with the
25 writing on the back, that's my husband's jacket. And the

Melissa Lyles
Direct examination by Mr. Vieth

1 red ski mask is my husband's ski mask. And that was also,
2 like I said, in the spare bedroom. That looks like a
3 picture of our spare bedroom where we kept a lot of stuff
4 because he was going to turn that into the upstairs den.

5 Q All right. The photograph, State's Exhibit 26,
6 appears to be a drawer partially opened, and it looks like
7 maybe one of these rounds, one of these cartridges. It
8 appears like that may be something like this. What is
9 that? Where is that located?

10 A That's beside the bed. That's the nightstand beside
11 the bed.

12 Q In what you call the spare bedroom?

13 A In the spare bedroom, that's correct.

14 Q And were all of these -- is that where all of this was
15 done, all of these photographs?

16 A Yes.

17 Q Okay. Was, were any of these in Lance's room?

18 A No.

19 Q Okay. Did he ever have any of these bullets or
20 weapons or anything in his room?

21 A No.

22 Q Okay. You have been with him now since this charge
23 several months. Has he ever indicated to you anything
24 other than being innocent in this case?

25 A No.

Melissa Lyles
Cross-examination by Mr. Bulsa

1 Q Did you have an occasion based on my request that
2 y'all take some time and listen to tapes that were
3 generated from the jail between Mr. Jeter and any of his
4 family members?

5 A Yes, I did.

6 Q There was a lot of hours. I didn't have the time and
7 asked y'all help to some degree.

8 A Yes.

9 Q Was there a tape that you heard that indicated that
10 Mr. Jeter didn't like Banks or his brother and could get a
11 hit against them?

12 A That is correct.

13 Q That's all of the questions. Answer any questions
14 either counsel may have.

15 CROSS-EXAMINATION

16 BY MR. BULSA

17 Q Ma'am, what school grade was your son in?

18 A Lance?

19 Q Yes, ma'am.

20 A Tenth.

21 Q He was in the 10th grade at the alternative school?

22 A Oh, now?

23 Q What grade was he in at the alternative school?

24 A Ninth. No. He was in the 10th.

25 Q When did he go to the alternative school?

Melissa Lyles
Cross-examination by Mr. Bulsa

1 A October of '03.

2 Q And he was still there in December of '04.

3 A That's correct.

4 Q So he was there over a year?

5 A That's correct.

6 Q Why was he sent there?

7 A Misbehaving, being disruptive in class, not getting
8 his school work done.

9 Q What's the goal at the alternative school? What were
10 they helping to accomplish with him?

11 A Well, we had spoke with the principal on numerous
12 occasions, and he was really concerned about Lance getting
13 back at Dorman. He was --

14 MS. ANDERSON: I would object to what the principal
15 said.

16 THE COURT: Sustained.

17 Q Let me ask you this question. Were you hoping to get
18 him back in regular school?

19 A That is correct.

20 Q Because the alternative school is for troubled kids.

21 A Right.

22 Q Okay. And in the year he was there before the year of
23 2004, he never got sent back to Dorman.

24 A No.

25 Q In fact, he actually got expelled from the alternative

Melissa Lyles
Cross-examination by Mr. Bulsa

1 school, didn't he?

2 A Yes.

3 Q And then he had to go back in the school year of
4 2004-2005.

5 A Well, the way they did it there at the alternative
6 school, it was based on semesters. So that following
7 semester he could have went back to Dorman.

8 Q Okay. So he got suspended at the end of his semester
9 of April of 2004, I believe that is, right?

10 A Yeah. I think that's correct.

11 Q He got expelled from there.

12 A I think that's correct.

13 Q And then he had to go back for the next semester
14 beginning in August of 2004.

15 A Right, that's correct.

16 Q So the decision to send him back had not been made,
17 correct?

18 A That's correct. That wouldn't have been made until
19 the end of the semester of 2004.

20 Q Was he still getting in trouble during that semester?

21 A I think had some minor writeups. I can't remember
22 exactly what it was. But our intentions were to try to get
23 him back at Dorman the following semester.

24 Q I can appreciate that as a parent, but he wasn't
25 actually a star pupil, was he?

Melissa Lyles
Cross-examination by Mr. Bulsa

1 A Excuse me?

2 Q He wasn't actually a star pupil?

3 A No.

4 Q And he was still getting in trouble even at the
5 alternative school?

6 A I think like the early part of the, the early part of
7 the semester, he was. And I had even spoke with one of the
8 teachers that had told me that he --

9 Q Don't get into it.

10 A Okay.

11 Q He had troubles. So it was still up in the air
12 whether he was going to go back to Dorman or not.

13 A That's correct.

14 Q Are you familiar with his friends?

15 A Yes.

16 Q Do you know Josh Jeter?

17 A Yes.

18 Q Did he visit your house?

19 A Yes.

20 Q How long has he been a friend of Lance's?

21 A They have known each other for a couple of years. I
22 don't know the exact amount of time because they played
23 football against each other, so he knew a lot of people,
24 you know, through sports. And he was one of them.

25 Q So he knew him when he was younger and he also knew

Melissa Lyles
Cross-examination by Mr. Bulsa

1 him at the alternative school?

2 A Yes.

3 Q Do you know what kind of person Lance, I mean, Josh
4 was?

5 A Yes.

6 Q And you approved of that relationship?

7 A No. Josh was not allowed at my home.

8 Q When did you stop allowing him at your home?

9 A I don't remember the exact date. I don't know. But
10 we had spoke to Josh, and he was not allowed at our home.

11 Q You still allowed Lance to be with Josh.

12 A He was with him.

13 Q In fact, didn't you give Josh rides home from school?

14 A No, I didn't.

15 Q You didn't?

16 A No.

17 Q Well, did Lance ride home with Josh?

18 A No. Lance's father picked him up from school.

19 Q Okay.

20 A I never took Josh home.

21 Q I understand that. But are you telling me you don't
22 know whether they rode home together or not? Is that what
23 you are telling me?

24 A I never picked Josh up. So I can't answer that
25 because I never took Josh home.

Melissa Lyles
Cross-examination by Mr. Bulsa

1 Q So what I'm hearing is you don't know personally
2 whether he rode home or not.

3 A With my husband.

4 Q Okay, okay. That's fair, that's fair. But they were
5 still friends at school. And Lance would -- even though
6 Josh couldn't come to your house, Lance would still go to
7 Josh's house.

8 A That's correct.

9 Q And did you approve of that?

10 A I didn't like it, no.

11 Q Well, you told Josh not to come to your house. Did
12 you tell your son, Lance, not to go to Josh's house?

13 A We told him that we preferred that he did not be with
14 Josh.

15 Q He apparently didn't listen to you, did he?

16 A No, he didn't.

17 Q And you were upset with your son because of that,
18 weren't you?

19 A I didn't like it. I wouldn't say that I was upset,
20 but he knew that I did not like the friendship.

21 Q Did you know that they would go places together other
22 than just him going to Josh's house?

23 A No.

24 Q You didn't know that he would ride places with Josh?

25 A Well, no, I take that back. I knew that they were at

Melissa Lyles
Cross-examination by Mr. Bulsa

1 Josh's brother's house on occasions and that they had
2 friends in the same apartment complex that Josh's brother
3 stayed in. And I knew that he was there, you know, with
4 friends.

5 Q Tell us a little bit about these gold teeth that Lance
6 would wear. Did you approve of those?

7 A No.

8 Q You didn't like him wearing those, did you?

9 A No.

10 Q But you were upset when he wore them.

11 A I wasn't upset. I just, I didn't like them.

12 Q And he didn't wear them around you, did he?

13 A We told him he couldn't wear them around us.

14 Q So did he wear them around you?

15 A No.

16 Q And so he obeyed you while he was in your presence.

17 A No. We told him that we didn't want him to wear them
18 around us, now, when he bought them, but not to wear them
19 around us.

20 Q And it was okay to wear them around other people?

21 A Yeah. I didn't like it but -- excuse me. The gold
22 teeth I didn't like. I didn't like them around me.

23 Q Okay. But I am asking you did you care if he wore
24 them around other people.

25 A No.

Melissa Lyles
Cross-examination by Mr. Bulsa

1 Q It was fine with you.

2 A It was fine. I just didn't like them.

3 Q Okay. All right. So he was seeing a friend that you
4 didn't care for, going places you only knew of maybe Travis
5 Jeter. Isn't it safe to say, ma'am, that you didn't know
6 what your son was doing when he was away from your house?

7 A That is true.

8 Q You didn't approve of his friendships, so you didn't
9 know what they might be doing together, isn't that true?

10 A That's true.

11 Q Okay. Now, you told Mr. Vieth that all of these
12 shells, these rounds and these -- I don't know if they are
13 in here, but the two rounds on display were all in a spare
14 bedroom?

15 A That's correct.

16 Q Everybody in your house had access to that, didn't
17 they?

18 A Yes. It wasn't locked.

19 Q So some of them could have left without your
20 knowledge, right?

21 A That is correct.

22 Q Okay. What rounds are these that are on the dresser?

23 A Looks like a .380.

24 Q .380. The .380 was yours, wasn't it?

25 A That's correct.

Melissa Lyles
Cross-examination by Mr. Bulsa

1 Q And where did you keep that?

2 A That was stolen from our home.

3 Q I know. But when you had it, where did you keep it?

4 A That was either in my car or in my bedroom.

5 Q In your car or in your bedroom.

6 A It was in my car when I went to work.

7 Q And what are two spent shell casings doing on display
8 in a bedroom?

9 A Because my husband had shot at the rats and the snakes
10 that were coming in from the creek in our back yard.

11 Q And then just put them up there?

12 A I assume because I didn't have them.

13 Q Okay. Where were the rifles kept in your house?

14 A The rifles were kept in our closet in our bedroom.

15 Q And you kept all the ammunition separate.

16 A Some of it was.

17 Q So you had some in the bedroom and then some in the
18 spare bedroom.

19 A Right.

20 Q Now, ma'am, the day of your son's arrest you were
21 telling us that you were afraid for him, right?

22 A That is correct.

23 Q Okay. And I believe you said you were afraid of the
24 police.

25 A That is correct.

Melissa Lyles
Cross-examination by Mr. Bulsa

1 Q Well, when you heard that your son had been
2 arrested -- did you hear that your son had been arrested?

3 A Yes.

4 Q I think you heard it over the police radio.

5 A No. My neighbor. No -- the police. No. We never
6 was told that he was arrested.

7 Q You didn't hear it over the police radio --

8 A No.

9 Q -- while they were searching your house?

10 A No.

11 Q But you heard it and you --

12 A I didn't ever hear. I went to city hall because no
13 one told us anything. So I went to city hall. No one told
14 us that he was arrested. We asked was he arrested, and
15 they never told us. So because I didn't hear or see any
16 police, more officers, I took it upon myself to go on
17 because the police wasn't telling us that he was arrested.

18 Q But you said you heard from your friend.

19 A She called. No. What I heard from my friend was she
20 called and told me that I needed to go home because the
21 police was looking for my son.

22 Q And you went to city hall.

23 A That's correct.

24 Q And what did you see at city hall?

25 A My son was in the -- in one of the rooms. And he was

Melissa Lyles
Cross-examination by Mr. Bulsa

1 sitting in one of the chairs, and along with one of the
2 officers that was in the interrogation room.

3 Q Was he being beaten up?

4 A No.

5 Q Being punched?

6 A No.

7 Q Threatened?

8 A No.

9 Q Yelled at?

10 A No.

11 Q In fact, didn't they give him a Gatorade?

12 A Well, I don't know because I wasn't there. I don't
13 know.

14 Q And they gave him something to drink, right?

15 A I assume. I assume they did.

16 Q Weren't they taking care of your son, the people that
17 you say you were afraid of?

18 A When I got there?

19 Q Weren't they taking care of your son, ma'am?

20 A Yeah, at that time.

21 Q And they didn't keep you from seeing your son, did
22 they?

23 A No, they didn't.

24 Q They allowed you in the room.

25 A That is correct.

Melissa Lyles
Cross-examination by Mr. Bulsa

1 Q And do you remember your reaction when you went in the
2 room?

3 A I sure do.

4 Q What was it?

5 A I was very upset. I was very upset because of all of
6 the things that had led up to when I finally got to city
7 hall. And when I got in city hall -- when I used to get
8 upset I used to have a very bad habit of cussing. And I
9 was very upset because I assumed that something was going
10 to happen to my child before I actually saw my son. And I
11 was afraid because of how I felt like I was being treated
12 before I saw my son, because nobody told me where my child
13 was at. So at that time I was afraid. And when I got
14 there, when I got to city hall and I finally saw my son, I
15 was upset. And so I was cussing.

16 Q Who were you cussing at?

17 A I was cussing really to myself, because, I mean, like
18 I said, when I used to get upset I did have a bad habit of
19 cussing. And it was real bad. And I was cussing.
20 Actually, I was on the phone talking to my husband when I
21 walked in the interrogation room. I was talking to him
22 actually for a while.

23 Q And you were pretty upset.

24 A I was.

25 Q And what was your reaction to your son, ma'am?

Melissa Lyles
Cross-examination by Mr. Bulsa

1 A When I look back at it, when I look back at how it
2 looked, it really hurts because of the way I reacted,
3 because of the way I reacted at a very, very vital time. I
4 was cussing, and that wasn't a time to do that with my son.

5 Q You were cussing at your son, were you not?

6 A No, I was not.

7 Q You were upset with him for wearing the gold teeth,
8 were you not?

9 A I was, I was upset, period.

10 Q And you were yelling at your son.

11 A No.

12 Q You were yelling at your son while the police were
13 taking care of him, isn't that true?

14 A I was cussing, that is correct.

15 Q At your son.

16 A I was cussing.

17 Q Okay. Now, answer the next question. At your son?

18 A No. I was upset with the entire situation.

19 Q Did you watch the video?

20 A I did.

21 Q Okay. And you saw yourself in there.

22 A Yes.

23 Q And you don't -- you were not cussing at your son?

24 A I was cussing, and I can honestly say that I don't
25 remember what all I said, and I may have cussed at him.

Melissa Lyles
Cross-examination by Mr. Bulsa

1 And I won't even say that -- I probably did because I was
2 really upset. I was. I was very upset.

3 Q Yes, ma'am. And your anger in that video appears
4 directed at your son. Is that an accurate statement?

5 A That could be.

6 Q Okay. In fact, you were so angry with him you told
7 him to get those teeth out of his mouth.

8 A I did.

9 Q Yet you just testified here today that it was okay for
10 him to wear them away from you.

11 A Yeah. But he was in my presence.

12 Q You walked into his presence, ma'am.

13 A Well, that's true.

14 Q And you almost took them out of his mouth for him, but
15 you made him take them out. And then you took them with
16 you, didn't you?

17 A Yes, I did.

18 Q Why didn't you give them to the police?

19 A I didn't know I needed to.

20 Q How did the police treat you while you were in the
21 room?

22 A The one officer, the lady officer, she was extremely
23 nice.

24 Q Okay.

25 A I don't remember her name, but she was extremely nice.

Melissa Lyles
Cross-examination by Mr. Bulsa

1 Q And you were treated in a fair fashion.

2 A I was.

3 Q And you were allowed in there to see your son.

4 A That's correct.

5 Q They were take caring of him. The situation was under
6 control, wasn't it?

7 A That's correct.

8 Q Okay. It got excited when you came into the room,
9 correct?

10 A And that's probably true.

11 Q And the police backed off from you, didn't they?

12 A Backed off? Nobody was on me to back up. The only
13 officer --

14 Q They backed away and let you deal with your son, did
15 they not, ma'am?

16 A He was sitting down in a chair.

17 Q They backed away and let you deal with your son,
18 didn't they?

19 A Yes.

20 Q So they were giving you some room.

21 A That's correct.

22 Q They were being nice to you.

23 A That's correct.

24 Q There was nothing to be afraid of, was there?

25 A Not at that time.

Melissa Lyles
Cross-examination by Ms. Anderson

1 Q Isn't it fair to say, ma'am, the only one that was
2 upset in that room and that was yelling and cursing was
3 you?

4 A That's correct.

5 Q And all of your anger was being directed at your son.

6 A Some of it was.

7 Q Thank you, ma'am.

8 CROSS-EXAMINATION

9 BY MS. ANDERSON

10 Q Mrs. Lyles, now, you have two children, correct?

11 A That's correct.

12 Q And you said that when you were talking about the
13 pictures -- I believe these are the ones that you
14 identified right here.

15 A Uh-huh.

16 Q These pictures, this was a spare room?

17 A Yes.

18 Q Okay. But you also testified that your son, Leonard,
19 was living there then. What room was he staying in?

20 A No. When he comes he could stay in that spare
21 bedroom.

22 Q Well, I thought your testimony was that he lived there
23 at the time this incident occurred, he had a room at home.

24 A When we would come back. He was back and forth with
25 us and with his girlfriend.

Melissa Lyles
Cross-examination by Ms. Anderson

1 Q Okay. So how old was he then?

2 A Nineteen -- 19.

3 Q In December of 2004?

4 A 2004. He was born, let me see, in '85. Yeah. He was
5 19.

6 Q Okay. Was he in college?

7 A No.

8 Q Did he have a job?

9 A He was working at Outback.

10 Q Okay. And you testified he had a room at home. Is
11 this the room that you're saying was Leonard's, this spare
12 bedroom?

13 A Yeah, right. So we only had three bedrooms.

14 Q Okay. Now, Leonard has been in trouble also, hasn't
15 he?

16 MR. VIETH: Your Honor, I object to that.

17 THE COURT: Sustained.

18 Q Did Leonard finish high school?

19 A No, ma'am, he didn't.

20 Q Did he drop out or was he expelled?

21 A He was too old, so he didn't drop out. He was going
22 to school. And because he turned 18, they wouldn't allow
23 him to go back. So he was attending the adult learning
24 center.

25 Q But was he expelled?

Melissa Lyles
Cross-examination by Ms. Anderson

1 A No.

2 Q So he would stay in that room sometime?

3 A Yes.

4 Q Okay. Now, where is Leonard now?

5 MR. VIETH: Your Honor, I object to all of this.

6 THE COURT: Sustained.

7 Q Okay. Let me ask you this. You have got two
8 children. And there was testimony that Leonard was
9 arrested the night of this incident, isn't that correct?

10 A That's correct.

11 Q Okay. You have got two children that have been in
12 trouble, because do you go to the alternative school or
13 university school just to go?

14 A I don't understand what you are asking.

15 Q I mean, you have to get in trouble to end up at the
16 university school, isn't that correct?

17 A That is correct.

18 Q In fact, Lance, I believe, had 14 violations at
19 Dorman. Was it Dorman that got him in the alternative
20 school?

21 A I don't remember.

22 Q Okay. In August of 2003, that was when Lance began
23 alternative school.

24 A I'm not really sure about the month.

25 Q Okay. But, I mean, he was in trouble for threatening

Melissa Lyles
Cross-examination by Ms. Anderson

1 teachers, defiance, a lot of defiance to the staff,
2 in-school suspension violations, more defiance to the
3 staff, disturbing class, disrespecting staff, failed to --
4 I think he left the school, defiance. Is that a pretty
5 correct assessment of Lance's behavior?

6 A Some of it sounds correct.

7 Q Would you like to look at it?

8 A Sure. What is this?

9 Q Threatening a teacher.

10 A Okay.

11 Q All right. Are these the things that he got in
12 trouble for?

13 A Yes.

14 Q Okay. So you got him that's in trouble, and you got
15 Leonard.

16 MR. VIETH: Again, I object.

17 Q I think he was arrested the night of the incident,
18 correct?

19 A That's correct.

20 Q And yet you're telling us that you left ammo, all of
21 this ammunition, in a spare bedroom --

22 A That is correct.

23 Q -- that your son Leonard would stay in when he was at
24 home? This was in the spare bedroom?

25 A That was in a spare bedroom. This was not.

Melissa Lyles
Cross-examination by Ms. Anderson

- 1 Q Where was it?
- 2 A That was in the dresser, and it's in the picture.
- 3 Q Yeah. Where was this?
- 4 A This was in our room.
- 5 Q Okay. I'm looking at the return to the search
- 6 warrant. I believe the search warrant is saying everything
- 7 was found in that one room.
- 8 A That's not correct, because these were in our bedroom.
- 9 Q Okay. Seventy-five to 80 .22 mini mag rounds from
- 10 bedroom nightstand; two R. P. shell casings from dresser in
- 11 bedroom; foo-doo denim jacket with red ski mask in left
- 12 pocket; 41 .380 caliber rounds; 41 .40 caliber Winchester
- 13 rounds; and 13 .40 -- can't read that -- rounds. Were you
- 14 there?
- 15 A For some of the search. My husband was there for the
- 16 majority of the search.
- 17 Q Okay. But were these locked up anywhere?
- 18 A No, no.
- 19 Q Although the search warrant seems to indicate they
- 20 were all in the same place, none of this was locked up, was
- 21 it?
- 22 A No.
- 23 Q In hindsight, was that a good idea not to have it
- 24 locked up?
- 25 A Well, it depends on how you look at it. When we --

Melissa Lyles
Cross-examination by Ms. Anderson

1 when my husband needed to get to the, because we have had
2 incidents where people have tried to -- well, actually
3 stole. I had a motorcycle, and it was stolen out of our --
4 out of our driveway. And my husband -- well, actually I
5 wasn't even at home at the time of that.

6 But, you know, the -- I think he had the rifle at that
7 time, and it was close. This ammunition here was close
8 enough to get when he had his rifle because he didn't know
9 what was going to happen. But I wasn't there that night,
10 so I really can't speak a lot about that.

11 Q Okay. Do y'all live in the city limits?

12 A Yes.

13 Q Okay. Isn't it illegal to shoot guns in the city
14 limits?

15 A Yes.

16 Q So when your husband is out shooting the rats and
17 snakes, that was illegal.

18 A Yes, it was.

19 Q Now, so you have all of this ammunition in your house.
20 Was your gun locked up?

21 A The two rifles, they weren't. They were in our
22 closet.

23 Q And the one that you said was stolen, was it locked
24 up?

25 A No.

Melissa Lyles
Cross-examination by Ms. Anderson

1 Q Now, you said, and I want to go back to why Lance was
2 at the alternative school. You don't get put there just
3 for just being disruptive, do you? You have to have some
4 serious problems.

5 A No. If you have enough writeups you will go to the
6 alternative school.

7 Q Okay. But he was even expelled from the alternative
8 school; wasn't he?

9 A That was about the last, probably a week, before that
10 school year was out.

11 Q Let's see. On March 29th he was recommended for a
12 suspension and for expulsion for the remainder of the year.

13 A I don't remember that being in March. I could be
14 wrong, but I thought it was further than that.

15 Q What does this letter from Paul Hughes at the
16 alternative school say?

17 A He was suspended for ten days from March the
18 26th through the 15th. Oh, he was expelled, with
19 recommendation of expulsion.

20 Q And the date of the letter was March 29th.

21 A I didn't look at that.

22 Q Look at the date of the letter, March 29th.

23 A Yeah.

24 Q So he wasn't going back to Dorman the next year,
25 correct?

Melissa Lyles
Cross-examination by Ms. Anderson

- 1 A At that -- the end of that semester, no.
- 2 Q He used a lot of inappropriate language too, didn't
- 3 he?
- 4 A I would say so.
- 5 Q I mean, that was a lot of the trouble he got in, was
- 6 using foul language at school.
- 7 A Yes.
- 8 Q Okay. Now, Mr. Bulsa asked you about your
- 9 conversation with your son at city hall. Almost every word
- 10 out of your mouth was an obscenity, wasn't it?
- 11 A That is correct.
- 12 Q And it was directed at your son, wasn't it?
- 13 A Some of it was, some of it probably was. And some of
- 14 it was probably because of what led up to me getting to
- 15 city hall.
- 16 Q Let me ask you this. When you were talking about when
- 17 they were searching for Lance when he was running, you were
- 18 running all over the neighborhood. Is that what you said?
- 19 A No, I wasn't over my neighborhood. He was in the area
- 20 that I saw the police officers in. That wasn't my
- 21 neighborhood.
- 22 Q Okay. All right. Were you trying to find your son?
- 23 A Yes, I was.
- 24 Q And Lance's grades at the alternative school were
- 25 horrible, weren't they?

Melissa Lyles
Cross-examination by Ms. Anderson

1 A In his math class. He has a very hard time in math,
2 and I can't remember the grades. But I know in math, he
3 struggled in math. And I don't think he was passing math.

4 Q He wasn't passing a lot of stuff, was he?

5 A Well, I haven't seen the grades.

6 Q Let's see. You didn't see his grades?

7 A I don't remember what the grades were. If you could
8 show me, then I could.

9 Q I'm trying to find the ones right before this
10 incident. I can't find the exact grades. Wait a minute.

11 Well, when he began on 9/03, nine of 2003, he had a 66
12 in math; 59 in physical science; 63 in English; a hundred in
13 P. E.; 80 in global. I don't know what that is. Global
14 something. And independent living, 76. So he wasn't a good
15 student at that time, was he?

16 A That's correct.

17 Q But as far as what happened on December the 8th at
18 Rose Hill Apartments, you really don't know, do you?

19 A No. I wasn't there.

20 Q And you really don't know how much time your son and
21 Josh Jeter spent together, do you?

22 A That's correct.

23 Q Thank you.

24 MR. VIETH: I have nothing further.

25 MR. BULSA: May we approach?

1 (Bench conference held off the record in the presence
2 of the jury but out of the hearing of the jury.)

3 THE COURT: All right. Ladies and gentlemen, I have
4 got one matter to address outside of your presence.

5 Please go to your jury room. Don't talk about the
6 case. I will bring you back in just a few minutes.

7 (The following takes place outside the presence of the
8 jury.)

9 THE COURT: All right. Mr. Bulsa.

10 MR. BULSA: Your Honor, the state would move to
11 introduce the video tape of Mrs. Lyles and her son at the
12 police department.

13 Based on her testimony, we feel that she is not being
14 completely honest. We feel it is admissible for
15 impeachment problems.

16 THE COURT: All right. Ms. Anderson, any objection?

17 MS. ANDERSON: I have no objection.

18 THE COURT: Mr. Vieth.

19 MR. VIETH: Yes, sir, Your Honor. We certainly do
20 think at best this Court ought to look at it in-camera and
21 make a decision.

22 She has been -- she said she's cussed. She cussed
23 about every-other sentence. She cussed at her son; she
24 cussed at other than herself. She grabbed teeth out of his
25 mouth, said that she didn't like him wearing teeth.

1 She has done everything. And all they want to do is
2 get this in so the jury can see her conduct and Lance's
3 conduct in the video room.

4 I think it's totally the only reason this is being
5 offered. It's got nothing to do with impeachment. I would
6 ask the Court to look at it in chambers and make a ruling.

7 THE COURT: Well, Solicitor, now, you've indicated
8 that there's information on that tape that is contradictory
9 to the way this witness has testified. Is that a fact?

10 MR. BULSA: Yes, sir. I believe it is specifically
11 relating to the gold teeth.

12 She testified it was okay for her son to wear them
13 outside of her presence. However, we feel there's
14 testimony in there where she is yelling at her son where
15 she told him never to wear those gold teeth and that's why
16 she snatched them out of his mouth.

17 THE COURT: Is that the only part that has some
18 impeachment value or is conflicting with what she's
19 testified to?

20 MR. BULSA: Your Honor, we feel that all the yelling
21 and cursing is directed at her son. She tried to water
22 that down and say, say that it wasn't.

23 THE COURT: Well, I think she did admit to that.

24 MR. BULSA: Well, she admitted to some, but she said
25 not all. If you would like to see it, I will be happy to

Melissa Lyles (In-camera)
Redirect examination by Mr. Vieth
Recross-examination by Mr. Bulsa

1 show it to you.

2 THE COURT: Okay. Set it up.

3 (Video tape marked Court's Exhibit No. 1.)

4 (Whereupon, the tape was played for the Court.)

5 MR. BULSA: Your Honor, it appears my recollection was
6 a little different. We withdraw the motion to play that.

7 THE COURT: Okay.

8 MR. VIETH: May I approach the witness?

9 REDIRECT EXAMINATION

10 BY MR. VIETH

11 Q What is your date of birth?

12 A 7/6/65.

13 RECROSS-EXAMINATION

14 BY MR. BULSA

15 Q Ma'am, have you ever been convicted of a crime?

16 A Yes.

17 Q What?

18 A It was when I was 18. It was a simple assault.

19 Q Anything recent?

20 A No.

21 Q Anything in the last ten years?

22 A No.

23 Q Nothing?

24 A No, yes.

25 Q What's your maiden name, ma'am?

1 A Holloway.

2 Q Thank you.

3 MR. BULSA: That's all on this issue. I do have some
4 additional questions on cross-examination.

5 THE COURT: All right. We are going to take ten
6 minutes before we do that.

7 You may step down. You may not discuss your testimony
8 during this break with any person.

9 Court is in recess for ten minutes.

10 (Whereupon, a recess was taken.)

11 THE COURT: All right. Any matters to address before
12 the jury is brought in?

13 MR. BULSA: Not pertaining to this witness. We do
14 have a matter we have discussed relating to some previous
15 evidence.

16 MS. ANDERSON: Do you want us to bring that up now
17 while the jury is out?

18 THE COURT: Well, we can.

19 MR. BULSA: It's just a matter of stipulation on the
20 dates of the conversations we heard yesterday that were
21 played on the C. D. instead of making us bring a witness in
22 in reply to set the time. It wasn't clear when those
23 conversations took place.

24 THE COURT: So y'all are just going to agree to a
25 stipulation?

1 MR. BULSA: Yes, sir.

2 THE COURT: Okay. Anything else?

3 MS. ANDERSON: Yes, sir. I did want to put on the
4 record that after hearing the portion of the tape number 60
5 that was played yesterday I realized that I did not -- had
6 not heard that tape. This morning Mr. Bulsa and I compared
7 my C. D. number 60 to his C. D. number 60, and it was not
8 the same thing.

9 Now, I don't believe I have it at all, but I just want
10 it on the record that I have not heard that tape prior to
11 yesterday afternoon. And the one that was designated that
12 that conversation was on is not the same as the one that
13 Mr. Bulsa had.

14 I am not making a motion at this time for anything. I
15 am just wanting it on the record that I did not have that
16 one tape.

17 THE COURT: Well, but there may be some inference that
18 that's the failure of the state to properly provide it
19 pursuant to discovery request?

20 MS. ANDERSON: No, no.

21 THE COURT: And based on earlier conversation is
22 that -- that would not be a proper inference, would it?

23 MS. ANDERSON: No. I am not blaming this on the state
24 at all. I received my tapes from the jail, and I am not
25 blaming the state at all in the fact that I did not receive

1 my copy.

2 THE COURT: No. I mean, I knew you weren't blaming
3 the state, but I just want to be certain that the record
4 was clear that this was not a discovery violation that we
5 are talking about.

6 MS. ANDERSON: No, sir.

7 THE COURT: That the tapes that the solicitor has --
8 there were 60 how many?

9 MR. BULSA: Sixty-six.

10 THE COURT: Sixty-six tapes.

11 MS. ANDERSON: I thought there was 67.

12 MR. BULSA: Well, 66 perfect ones. One was a
13 duplicate.

14 THE COURT: So the state had 60 some-odd tapes and the
15 defense had 60 some-odd tapes.

16 The state received theirs from the Spartanburg County
17 Detention Facility. But, as I understand it, the defense
18 also received yours from the detention facility through
19 your own efforts, not with any effort expended by the state
20 to provide them.

21 In other words, the state did not provide those
22 pursuant to discovery. You sought those and obtained those
23 copies of conversations on your own.

24 MS. ANDERSON: Yes, sir.

25 THE COURT: Okay.

1 MS. ANDERSON: Well, I was aware that the state had
2 them. And the jail was willing to provide the copies to me
3 at no cost.

4 THE COURT: I understand.

5 MS. ANDERSON: As opposed to \$15 a C. D.

6 THE COURT: Well, I just want it clear that the state
7 was not involved, or the solicitor pursuant to a discovery
8 request was not involved, in the providing of the C. D.
9 ROM's containing those conversations that were recorded at
10 the Spartanburg County Detention Facility.

11 MS. ANDERSON: That's correct.

12 THE COURT: They have C. D. ROM's containing those
13 conversations, and at your request they would be obligated
14 to provide those to you.

15 MS. ANDERSON: Yes, sir.

16 THE COURT: But I understand that because there was a
17 cost associated with the state providing those C. D. ROM's,
18 that you obtained them yourself directly from the detention
19 facility, and so you did not receive your 67 C. D. ROM's
20 from the solicitor. They are not copies of his 66 or seven
21 C. D. ROM's. They were obtained directly from the
22 detention facility.

23 So, you know, the fact that they're numbered, there
24 are numbers, that doesn't -- in other words, your tapes
25 don't necessarily bear a correlation with the numbers that

Melissa Lyles
Recross-examination by Mr. Bulsa

1 the solicitor has.

2 MS. ANDERSON: Well, they were supposed to, but
3 evidently they didn't. And I think mine is a duplicate of
4 another tape, but that's beside the point. But I did get
5 it from the jail, not from the solicitor's office.

6 THE COURT: And you have 67 tapes.

7 MS. ANDERSON: Yes, sir.

8 THE COURT: I mean, 67 C. D. ROM's.

9 MS. ANDERSON: I have 67 also.

10 THE COURT: Okay. All right. Anything else?

11 MS. ANDERSON: No, sir.

12 THE COURT: Okay. Bring the jury back in.

13 (The following takes place in the presence of the
14 jury.)

15 THE COURT: All right. Ladies and gentlemen, we are
16 going to continue with the cross-examination of this
17 witness by Mr. Bulsa.

18 MR. BULSA: Just briefly, Your Honor.

19 RECROSS-EXAMINATION

20 BY MR. BULSA

21 Q Mrs. Lyles, I believe when Mr. Vieth was going over
22 these photographs and the bullets with you, ma'am, you told
23 him that all of this was found in the spare bedroom.

24 A No. All of those weren't found in the spare bedroom.
25 That was mispacked. All of those weren't in the spare

Melissa Lyles
Recross-examination by Mr. Bulsa

1 bedroom. Some of those were in our bedroom.

2 Q That's what I am getting at. When you testified for
3 Mr. Vieth you said they were all in the spare bedroom. And
4 it was when Ms. Anderson questioned you you changed.

5 A No. Mr. Vieth showed me the pictures of the spare
6 bedroom, and those were the ones that's on the picture that
7 I said was our spare bedroom.

8 Those, that ammunition is not in the pictures that he
9 showed me. Only one thing. I think it was a .22 that he
10 showed that went to the .22 rifle. That was, those are the
11 ones that's in the spare bedroom under pictures. I'm
12 sorry.

13 Q And the two shells, empty shells, were in the spare
14 bedroom.

15 A That's correct.

16 Q When was your pistol stolen?

17 A I don't remember the, I don't remember the exact
18 dates.

19 Q Approximately.

20 A I honestly can't even remember. I really can't.

21 Q One month, two months?

22 A I mean, it was much longer than that, but I really
23 don't remember.

24 Q Three months, four months?

25 A I don't remember.

Melissa Lyles
Redirect examination by Mr. Vieth
Recross-examination by Ms. Anderson

1 Q Did you ever get another?

2 A No.

3 Q Were you planning to get another?

4 A No, because I work closer to home now.

5 Q You just didn't have the opportunity to get rid of the
6 bullets.

7 A That's correct.

8 Q And you never cleaned the two shells off of it.

9 A I just, I just didn't.

10 Q Okay. That's all I have.

11 REDIRECT EXAMINATION

12 BY MR. VIETH

13 Q So there's no misunderstanding on the pistol we are
14 talking about, identify what was stolen.

15 A The .380.

16 Q Thank you.

17 MS. ANDERSON: I have one question.

18 RECROSS-EXAMINATION

19 BY MS. ANDERSON

20 Q Did you know those two shell casings were in that
21 bedroom?

22 A I knew that there was a lot of ammunition that was in
23 there, that was in there. The room was junky, and it was
24 just a spare bedroom with a lot of stuff in it that we
25 had -- it was like we was keeping extra stuff in.

Melissa Lyles
Recross-examination by Ms. Anderson

1 Q These don't look junky. They're just setting out next
2 to a --

3 A I said the room was.

4 Q -- C. D. player.

5 A The room.

6 Q They're just setting on top of a dresser.

7 A That is correct.

8 Q C. D. player. Looks like somebody's clothes over
9 here.

10 A Right.

11 Q Pictures on the walls. Whose hat is that?

12 A Hold it up, please. That looks like my oldest son's
13 hat.

14 Q Okay. So but you're saying this isn't his room.

15 A He stays in there, along with my husband and myself.

16 We both had items in there, clothes and things like that in
17 that spare bedroom.

18 Q Did Lance have things in there?

19 A No. Lance wouldn't have had a reason to have anything
20 in there. He had his own bedroom.

21 Q You had a phone in there.

22 A That's correct.

23 Q Is that cologne?

24 A Yes, it is.

25 Q Is that underwear in the drawers?

Lance Lyles
Direct examination by Mr. Vieth

1 A I can't tell.

2 Q Looks like a t-shirt to me right there.

3 A Well, those are clothes items. We had extra clothes
4 and stuff in that room.

5 Q But you say nobody lived in there.

6 A When my oldest son would come home to spend the night,
7 he would sleep in that room.

8 Q But, again, your testimony is that these were not all
9 found in that bedroom.

10 A That is correct.

11 Q I wonder why the police didn't notate that on their
12 return on the search warrant.

13 A I can't answer that.

14 Q That is all the questions.

15 MR. VIETH: I have nothing further.

16 THE COURT: Step down.

17 MR. VIETH: Call Mr. Lyles, Lance Lyles.

18 LANCE LYLES, having been first
19 duly sworn, testified as follows:

20 DIRECT EXAMINATION BY MR. VIETH

21 Q Mr. Lyles, good morning.

22 A Good morning, good morning, Mr. Rick.

23 Q You are Lance Lyles.

24 A Yes, sir.

25 Q All right. And you are going to need to speak up.

Lance Lyles
Direct examination by Mr. Vieth

1 You are sitting. You are fine, but just make sure we all
2 hear each other.

3 How old are you, Lance?

4 A Seventeen years of age.

5 Q And you had a nickname that I have had an on and off
6 forgetting about, is Banks. Is that what you go by a lot?

7 A Yes, sir.

8 Q B-A-N-K-S, Banks.

9 A Yes, sir.

10 Q Banks, when were you born?

11 A 9/2/88.

12 Q And your parents are in the courtroom now. Your
13 mother just testified..

14 A That's correct.

15 Q And your father has been with you throughout this
16 trial.

17 A Yes, sir.

18 Q All right, sir. And prior to December the 4th of 2004
19 you were in the alternative school.

20 A Right.

21 Q And prior to that you were at Dorman.

22 A Yes, sir.

23 Q Is that right? Okay. Did you play any sports or any
24 athletics in Dorman?

25 A Football and basketball.

Lance Lyles
Direct examination by Mr. Vieth

1 Q And what grade were you in in Dorman, the last grade
2 you were at Dorman?

3 A When I was at Dorman I was in the 9th grade, sir.

4 Q Okay. And then going to the alternative school, when
5 did you go there?

6 A September, between September and October of 2003 until
7 December of 2004.

8 Q All right. Did you know Mr. Jeter? And I'm talking
9 about the codefendant in this case. Did you know him prior
10 to being in the alternative school in any way, shape or
11 form, either through competition or friends or just knew
12 who he was or anything like that?

13 A Yes, sir.

14 Q All right. How did you know him prior to the
15 alternative school? What was the relationship, if any?

16 A You talking about at school?

17 Q At Dorman and beyond. Yeah. Earlier than that. How
18 did the relationship -- let me rephrase it and make it
19 easier for you. Did you have any kind of relationship with
20 him at Dorman?

21 A No, sir.

22 Q Was he an athlete of some sort in another school in a
23 school district of Spartanburg County?

24 A Not to my knowledge.

25 Q So you didn't meet him through sports. It was my

Lance Lyles
Direct examination by Mr. Vieth

1 understanding someone testified y'all competed against each
2 other.

3 A When we was younger.

4 Q You are talking real young.

5 A Yes, sir.

6 Q I got you. All right.

7 Now, Lance, let's just go into the heart of the matter
8 here. Directing your attention to December the 4th --

9 December the 8th of 2004, were you at school that day?

10 A Yes, sir.

11 Q All right. And what was the normal routine of going
12 to school? How would you get there? Who would pick you up
13 and that type of stuff?

14 A Well, my daddy usually picked me up from school and my
15 mom would take me in the mornings.

16 Q Okay. And was this a normal routine day in that
17 regard?

18 A Yes, sir.

19 Q Okay. Did you live at home with your parents?

20 A Yes, sir.

21 Q Lance, I don't know if you even had an occasion to see
22 photographs. Real briefly, we will get back to the day
23 that we are talking about.

24 State's Exhibits marked 24, 26, 28, 25, 27 and 29, take
25 a second and just glance at those and tell me if you

Lance Lyles
Direct examination by Mr. Vieth

1 recognize where those pictures were taken. You can look at
2 them.

3 A That was taken in the spare room.

4 Q You need to speak up.

5 A Those pictures he just showed me, they was taken in
6 the spare room.

7 Q Okay. This was not your bedroom.

8 A No, sir.

9 Q Of course you had access to it. I mean, if you wanted
10 to go into there, you could.

11 A Into the room?

12 Q Yes, sir.

13 A I can go into the room, yes, sir.

14 Q All right. But as far as being what you call my
15 bedroom, that wasn't.

16 A Correct.

17 Q And on the date of this incident that we are talking
18 about, I think it's going to be easier just to let you tell
19 this jury what you remember about the events after you got
20 out of school. What happened throughout the balance of
21 that day? Just take your time and tell them what happened.

22 A Well, it was a regular day, December 8th of 2004. I
23 went to school as any other regular day. My mom takes me
24 in the morning and my dad picked me up at school. He
25 usually come and picked me up around 3:00 o'clock.

Lance Lyles
Direct examination by Mr. Vieth

1 And he came and picked me up and took me home. I
2 stayed at home until later on that evening until I got a
3 phone call from Mr. Jeter saying -- he asked me and my
4 brother would we like to ride with him over to his
5 brother's house, Travis Jeter. And we told him yeah.

6 And so Mr. Jeter came. He got his -- his mama gave
7 him permission to use his car, I mean, to use his mom's
8 car. And he came and picked me and my brother up from my
9 house and took us to Charleston Place where his brother,
10 Travis Jeter, lives.

11 Q About what time of day or night is this?

12 A I would say approximately between 6:00 and 7:00 --
13 6:00 or 7:00 that evening.

14 Q All right. Go ahead.

15 A At that moment it was me and my brother, Leonard
16 Lyles, and Mr. Jeter.

17 We went to his brother's, Travis Jeter, and we was in
18 there, us three, playing the video games -- N. F. L. 2K5
19 with him, with Travis Jeter, and his roommate Tony.

20 And at that moment we stayed in and played the video
21 games a while. And then we went outside. Me, Leonard and
22 Mr. Jeter, we went outside to see just in the parking lot,
23 just stood outside.

24 And the police came through and approached my brother,
25 Leonard, because they had wanted him for an assault charge

Lance Lyles
Direct examination by Mr. Vieth

1 that happened the past November. So they picked him up.

2 And after they picked him up, me and Mr. Jeter went
3 back inside the apartment and sat on the couch. While
4 Travis and Tony was playing the games, we went back inside
5 the apartment.

6 And then after my brother was taken to jail we stood
7 there a while, after a while. And I asked Mr. Jeter would
8 he come with me to see how, so we could go get some weed,
9 because I wanted to buy some weed so we could smoke.

10 Q All right. Let's stop there. You said go to See's
11 house.

12 A Yes, sir.

13 Q Now, who is See to you?

14 A Spicer.

15 Q That's Mr. Spicer who testified earlier in the trial.

16 A Yes, sir.

17 Q Is that his nickname, is See?

18 A Yes, sir.

19 Q Okay. Did he look any different then than he does
20 now?

21 A Well, then he had braids.

22 Q Okay. Had your dad come into the parking lot of where
23 y'all were at Charleston Place?

24 A Yes, sir, because he was looking for my brother.

25 Q Okay. And y'all just exchanged what had happened,

Lance Lyles
Direct examination by Mr. Vieth

1 that the police had come by and seen him and they had taken
2 him for that old assault charge.

3 A Yes, sir. I told him that they came and picked him
4 up.

5 Q Okay. And your dad left.

6 A Yes, sir.

7 Q All right. So y'all are at the house and playing
8 games. And about what -- how much longer did you play
9 games before you decided that you were going to go over to
10 See's house?

11 A I can't remember that.

12 Q That's fine. All right. Just go ahead and continue
13 with what you were saying.

14 A At that moment I asked Mr. Jeter would he come with me
15 over to See's house so we could buy some weed, and he said
16 yeah.

17 But he said we will have to walk because it was only
18 like a two-minute walk from Charleston Place and they
19 wasn't no need to burn any extra gas. So I said okay.

20 And then we walked from Charleston Place to Rose Hill
21 to Mr. See, I mean, to Spicer's apartment. And when we got
22 to See's house I told him to wait on, wait by the balcony
23 while I buy the weed, because Mr. Spicer knows me because I
24 had purchased marijuana from him several times before the
25 incident had happened.

Lance Lyles
Direct examination by Mr. Vieth

1 Q All right. Stop there then. You had been to
2 Mr. Spicer's house before.

3 A Yes, sir.

4 Q Any guesstimate as to how many times?

5 A Around three or four times.

6 Q Was there -- what was the activity like when you went
7 over there on a routine basis, the three or four times you
8 were there? Was there anything usual or unusual?

9 A Well, we honestly, we smoked lots in the apartment.

10 Q Okay.

11 A Smoked weed in the apartment.

12 Q Okay. How did you get to know Mr. Spicer?

13 A Through my brother.

14 Q Okay. Your brother knew Mr. Spicer.

15 A Yes, sir.

16 Q And had you been with your brother on any of those
17 occasions when you went over to his residence, to See's
18 house?

19 A Yes, sir.

20 Q Do you feel comfortable that See knew who you were?

21 A Yes, sir.

22 Q Okay. All right. So let's go back then and revisit
23 where you were and the scene and what took place then.

24 A I told Mr. Jeter to wait on the side while I buy the
25 marijuana, and he said okay. So he stood by the balcony.

Lance Lyles
Direct examination by Mr. Vieth

1 I knocked on the door. See, Mr. Spicer, came to the
2 door, and he came and opened the door. I said what's up,
3 man. He said what's up. I said do you have any weed
4 today. And he was like, nay, I ain't got any right now, I
5 just ran up, so I'm going to have to re-up. And I asked
6 him how long it was going to take, and he said about 30
7 minutes until he go re-up and get some more. And then
8 that's when the commotion and everything just rushed in.

9 Q All right. Did you receive any money from Jeter to
10 buy any marijuana?

11 A No, sir.

12 Q Okay. All right. So go ahead and finish telling us
13 what happened.

14 A During the conversation I was -- I don't know how to
15 say it -- but it happened so fast, it was just everything.
16 I got pounded in by Mr. Jeter because I was talking to
17 Mr. See, and just like a bunch of rambling together and
18 everything.

19 Q Okay. Tell us what you remember of that incident and
20 that altercation. What do you recall?

21 A Mr. Jeter pretty much just overpowered me.

22 Q Did you -- what were you dressed in?

23 A I had on a hoodie.

24 Q A hoodie?

25 A A hood, a sweatshirt with a hood on it.

Lance Lyles
Direct examination by Mr. Vieth

1 Q All right. And what did Mr. Jeter have on?

2 A I really don't remember. I just, I think he had on a
3 regular long-sleeve towel shirt.

4 Q Okay. What about a mask? Where did the mask come
5 into play?

6 A I never knowed him to have a mask to my knowledge. I
7 didn't see any mask.

8 Q You're talking about Mr. Jeter.

9 A Right, yes, sir.

10 Q You didn't see a mask that night?

11 A At -- no, sir.

12 Q Okay. Well, when did you know that there was a mask?

13 A I still didn't see any mask at all, sir.

14 Q All right. So tell us then what happened after. Do
15 you remember hearing a shot?

16 A I heard a firearm discharge, sir.

17 Q Okay. And then what happened?

18 A After that I flee-ed the scene. I got scared and ran.

19 Q Okay. And Mr. Jeter run with you?

20 A Yes, sir.

21 Q All right. Now, where did y'all run to?

22 A Back to Charleston Place where the car -- the car was
23 parked.

24 Q Okay. Did, was, did Mr. Spicer try to close the door?

25 A What, on me?

Lance Lyles
Direct examination by Mr. Vieth

1 Q Well, when y'all were there, when people were there,
2 did he try to close the door on you?

3 A Well, I am not sure, because it happened so fast, and
4 I just got pounded in. I was right in the middle. I was
5 talking to Mr. Spicer. I was in front of the door talking
6 to him and had a conversation with him.

7 Q Okay. Where did you hear a shot? At what point did
8 you hear a gunshot?

9 A When all the rambling was in, and the commotion and
10 everything.

11 Q Okay. Were you trying to force your way into the
12 house?

13 A No, sir.

14 Q All right. Did you see anyone sitting on a sofa or
15 anything like that when you went in there or when you were
16 knocking on the door?

17 A No, sir.

18 Q When the door was knocked on and it was opened, did
19 you get, you know, there's a little step-up about the size
20 of that. Where were you in relation to that step-up?

21 A I was flat, on the flat surface.

22 Q Okay. And where was Mr. Jeter when you actually
23 knocked on the door?

24 A On the balcony, beside the balcony you saw on the
25 overhead.

Lance Lyles
Direct examination by Mr. Vieth

1 Q All right. Did you or Mr. Jeter discuss anything
2 about robbing anybody that night?

3 A No, sir.

4 Q Did you have a weapon with you that night?

5 A No, sir.

6 Q Do you have a, or did you have a, .22 pistol at any
7 time?

8 A No, sir.

9 Q All right. And why did y'all run?

10 A Got scared.

11 Q Okay. And where did you run to?

12 A The car that was parked in Charleston Place by his
13 brother's apartment.

14 Q All right. And at any time did y'all have a
15 conversation about what in the world just happened?

16 A In the car when we ran back to the car, I told him to
17 take me home, and it was a bunch of conflict going on in
18 the car on the way home.

19 Q Conflict between?

20 A Me and Jeter.

21 Q What's, what was the conflict about?

22 A Like what happened, what did you do that for.

23 Q Was anything stolen anywhere?

24 A I don't know.

25 Q Well, let's rephrase it. Did you or Mr. Jeter go into

Lance Lyles
Direct examination by Mr. Vieth

1 the house?

2 A No, sir.

3 Q Did you attempt to rob Mr. Spicer?

4 A No, sir.

5 Q And did you have a weapon of any kind?

6 A No, sir.

7 Q Well, after your conversation with Mr. Spicer when you
8 talked about when you can buy some, what was your intention
9 based on that conversation? Were you going to go back, or
10 was that it for the night, or what?

11 A I don't understand.

12 Q All right. When you had a conversation with
13 Mr. Spicer indicating that he didn't have any weed, you are
14 talking marijuana, right?

15 A Yes, sir.

16 Q And he said he didn't have any and may take about a
17 half an hour, according to what you said.

18 A Yes, sir.

19 Q Okay. Did you have any plans? Do you recall whether
20 you had plans to return, or were you going to leave? What
21 were your plans at that time?

22 A Well, I was going to leave and come back after he, you
23 know, go and get some more. I was going to leave and come
24 back.

25 Q So you knew there wasn't any marijuana there.

Lance Lyles
Direct examination by Mr. Vieth

1 A Right.

2 Q Okay. Have you ever been shortchanged or in any way
3 badly treated by Mr. Spicer?

4 A No, sir.

5 Q Did you have any grudge against him whatsoever?

6 A No, sir.

7 Q Okay. Now, after this incident took place -- you were
8 how old when this happened?

9 A I had just turned 16.

10 Q By about three months?

11 A Three months.

12 Q All right. Were you scared?

13 A Yes, sir.

14 Q When did you hear that someone had died?

15 A When I had found out the next day at school. It
16 happened on a Wednesday night, the shooting, had occurred.
17 But I heard the next day, that Thursday, because the
18 students was talking about it at school.

19 Q Okay. And then the officers came and met with you at
20 the alternative school, is that right?

21 A Yes, sir.

22 Q And you gave a statement at that time that's been
23 introduced into evidence that essentially was a short
24 paragraph that did not address what really happened that
25 evening. Is that fair to say?

Lance Lyles
Direct examination by Mr. Vieth

1 A I don't understand.

2 Q All right. The statement that you gave did not
3 indicate that y'all had gone to Mr. Spicer's residence.

4 A Oh, yes, sir.

5 Q Is that right?

6 A Yes, sir.

7 Q And that statement was not truthful in the extent of
8 going over there to buy weed and what happened and so
9 forth, is that right?

10 A Yes, sir. I was scared. That's why I didn't tell
11 them I went to Rose Hill, because I went over there to buy
12 weed.

13 Q All right. I understand. And then the next day did
14 you -- how did you learn that an arrest warrant was pending
15 against you? How did you learn that they may be after you
16 as a suspect?

17 A Like I said, I had found out the next day, that
18 Thursday, because students was talking about it at school.

19 Q Well, was the students talking about you?

20 A No, sir. They was just saying somebody had got killed
21 in Rose Hill.

22 Q Okay. All right. And at that point did you get
23 concerned in your own mind? Whether the police were after
24 you or not, were you concerned at that point that you may
25 be a suspect?

Lance Lyles
Direct examination by Mr. Vieth

1 A I mean, I knew I was there at the time and I knew
2 something about it. I mean, you know, I was there when the
3 shooting had occurred.

4 Q Yes, sir. All right, sir. And that was the day after
5 or two days after?

6 A When I heard about it?

7 Q Yes, sir.

8 A I found out somebody was killed the Thursday, the next
9 day after.

10 Q Okay. The day after.

11 A Right.

12 Q Okay. And then two days after is when you actually
13 got arrested, is that right?

14 A I got arrested the Friday, two days after, right.

15 Q Okay. And what were you doing the night that the
16 police were looking for you? What were you doing that
17 night?

18 A Well, I was at home later on that evening. The Friday
19 night?

20 Q Yes, sir.

21 A Well, I left out the Friday. Me and my brother left
22 out of the house, and I was headed toward my aunt's house
23 and a red -- as I began walking up the street a red Taurus
24 pulled up beside me and a guy approached me saying come
25 here. So I flee-ed.

Lance Lyles
Direct examination by Mr. Vieth

1 Q All right. What -- was anyone in a marked car?

2 A That's the red. They didn't say they were police. I
3 didn't know. They didn't address themselves as being that.
4 They just said come here.

5 Q Okay. All right. And why did you run?

6 A I was scared. I didn't know who they were.

7 Q Okay. And tell the jury. Just go through where you
8 ran and why you ran and why you stopped and where you
9 stopped.

10 A I ran out through the neighborhood because I was
11 scared. I was hiding from them. I didn't know who they
12 were. And I got up by the old westside library and a car
13 approached me again. It was a blue car this time. And it
14 put on blue lights on me, and I just ran from that also
15 because that's how scared I was.

16 Q Okay. Where did you run to? Where was your
17 destination, if any?

18 A I was still running toward my aunt's house because she
19 stayed behind Charleston Place, and that was close at the
20 time. And also when I ran from the second car, the blue
21 car, I was running towards my house where I had stayed at.
22 And the guy in the blue car said you better stop or I'm
23 going to shoot. And that's when I ran across the street
24 headed towards Baskin-Robbins, because I thought if I ran
25 inside the Bas-Robbins (sic) I was going to be safe in

Lance Lyles
Direct examination by Mr. Vieth

1 there.

2 Q Okay. You wouldn't be shot or harmed in any way in
3 your mind.

4 A Yes, sir.

5 Q Okay. And that's when they arrested you and took you
6 to city hall.

7 A Yes, sir.

8 Q Okay. And you have been in the house arrest since
9 this occasion, or shortly. You first of all went to what,
10 D. J. J. down in Columbia for a while?

11 A Yes, sir.

12 Q And then a bond issue was dealt with, and you have had
13 a bracelet on ever since.

14 A Yes, sir, 11 and a half months.

15 Q And, again, Lance, did you go over to what you call
16 See, Mr. Spicer's, house with any intent whatsoever to do
17 anything other than to buy marijuana?

18 A No, sir. I just wanted to buy weed like I did several
19 times in the past.

20 Q When you went over there in the past were there
21 usually more than one person there?

22 A Yes, sir. As a matter of fact, Brian Durbin was in
23 there one time I was in there.

24 MR. VIETH: Okay. Give me one second, Your Honor.

25 (Pause.)

Lance Lyles
Cross-examination by Mr. Bulsa

1 Q When you left the apartment complex, did y'all leave
2 at the exact same second, you and Jeter? Were y'all
3 running down the stairs at the same time?

4 A Me and Landis (sic), I was just so scared I wasn't
5 even paying attention. I just took off running. I believe
6 so. I am not sure. I just ran.

7 Q Okay. All right. Answer any questions these
8 attorneys may have.

9 CROSS-EXAMINATION

10 BY MR. BULSA

11 Q Mr. Lyles, how long have you known Josh Jeter?

12 A For quite some while.

13 Q Quite some time. In fact, y'all were good friends,
14 weren't you?

15 A Yes, sir.

16 Q Spent time together at school.

17 A Yes, sir.

18 Q Played ball together.

19 A Yes, sir, when we was younger.

20 Q Hung out together after school.

21 A Yes, sir.

22 Q You'd go to his house.

23 A Yes, sir.

24 Q He'd come to your house.

25 A Yes, sir, in the past, right, correct.

Lance Lyles
Cross-examination by Mr. Bulsa

1 Q In the past until he has been locked up.

2 A Right.

3 Q Right. You would see him just about every day,
4 wouldn't you?

5 A Yes, sir.

6 Q Did a lot of stuff with him.

7 A We hung out a lot, right.

8 Q Even went over to his brother's.

9 A Yes, sir.

10 Q Had he ever been with you to Rose Hill before?

11 A He had been with me to Rose Hill before, but not
12 Mr. Spicer's house.

13 Q Because you had only been over there one time yourself
14 with your brother, isn't that right?

15 A I been over there several times with my brother.

16 Q So you'd call Mr. Jeter a good friend.

17 A We was friends.

18 Q You were friends.

19 A Correct.

20 Q And you shared information. You talked a lot.

21 A About what, sir?

22 Q Anything. No?

23 A I don't understand.

24 Q Did you talk to him about things in general?

25 A I mean, we was friends, sir.

Lance Lyles
Cross-examination by Mr. Bulsa

1 Q Yeah. But you spoke to him about things in general,
2 right?

3 A I don't understand about what things.

4 Q Did you talk to him about school?

5 A What about school, sir?

6 Q Did you ever talk to him about things at school?

7 A About what, sir? I don't understand. I mean, you
8 saying, sir, you saying that we talked about school? And I
9 don't understand. Did we talk at school as friends?
10 That's what I don't understand. I don't want to just
11 answer the question I don't know, sir. I mean, you said.

12 Q Did you talk about girls?

13 A We was friends, sir.

14 Q Did you talk about sports teams?

15 A Yes, sir. We played when we was young, sir.

16 Q Did you talk about sports-team football?

17 A Yes, sir.

18 Q Basketball?

19 A Yes, sir.

20 Q Playing video games?

21 A Yes, sir. We played video games together, sir.

22 Q Did you talk about those things?

23 A The things you just mentioned, yes, sir, we did.

24 Q Is that a hard question to answer?

25 A No, sir. I didn't understand it at first. Thank you.

Lance Lyles
Cross-examination by Mr. Bulsa

1 Q What are you afraid of?

2 A Afraid of answering a question I don't know, sir.

3 Q What caused you to be afraid of the police the night
4 you ran for over an hour from them?

5 A At first when they appeared to me -- I'm sorry about
6 that. When they approached me the first time in the red
7 car they didn't address themselves as being police. And
8 they just said come here. And I didn't know who they were.
9 They were like strangers. So I just ran.

10 Q Is that in your nature to run from strangers like
11 that?

12 A Yes, sir.

13 Q Weren't you right at your house?

14 A I was up the street from my house.

15 Q Hadn't you just walked out from your house when this
16 car approached you?

17 A Yes, sir.

18 Q You didn't turn around and go back to your house, did
19 you?

20 A No, sir.

21 Q You just took off running.

22 A Right. Toward my aunt's house.

23 Q And your brother took off running with you.

24 A I am not sure about that. I ran. And I didn't see
25 what he done.

Lance Lyles
Cross-examination by Mr. Bulsa

1 Q You ran. You took off running from your house to your
2 aunt's house?

3 A I was headed towards my house, sir.

4 Q And instead of turning around, because you were afraid
5 to go back to your own house, you continued running to your
6 aunt's house, is that right?

7 A I started running toward my house, right.

8 Q How long does it take you to get to your aunt's house?

9 A I don't know the length, sir.

10 Q Does she live down by Charleston Place?

11 A Yes, sir, in Carriage House, the apartments behind.

12 Q Okay. You had walked to Jeter's house before, hadn't
13 you?

14 A Yes, sir.

15 Q In fact, that's not that long of a distance because
16 it's put all on one map. Showing you State's Exhibit No.
17 22, isn't your house on this map?

18 A Can you show it to me, sir?

19 Q Isn't this Camelot?

20 A I don't know. That's what I asked, could you show it
21 to me.

22 Q This is the Camelot area. That is Camelot Drive.
23 This is W. O. Ezell. You live in this area, do you not?

24 A Yes, sir, I stay in Camelot Subdivision.

25 Q And Mr. Jeter lived over here in these apartments,

Lance Lyles
Cross-examination by Mr. Bulsa

1 correct?

2 A Timbercreek, yes, sir.

3 Q And it's is not that far to walk, is it?

4 A No, sir.

5 Q And you probably made that walk several times, right?

6 A Yes, sir.

7 Q And your aunt lives over where?

8 A Carriage Houses.

9 Q Okay. Well, here's Charleston Place. Where would
10 Carriage House be in relation to that?

11 A Right behind Charleston Place.

12 Q Okay. These right down here?

13 A Where is Charleston Place?

14 Q Charleston Place is right here.

15 A Down here.

16 Q So they would be right here. So let's see. When you
17 would walk to Mr. Jeter's house, what would that take you,
18 five or ten minutes?

19 A Yes, sir.

20 Q Okay. And you took off running. Were you still in
21 Camelot when you saw the police?

22 A When I ran from the police, I was in Camelot, sir.

23 Q Okay. How far from your house were you?

24 A When I first ran?

25 Q Yes, sir.

Lance Lyles
Cross-examination by Mr. Bulsa

1 A On my same street, sir.

2 Q On your same street. Were you more than a couple of
3 houses away?

4 A I was up the street.

5 Q Were you more than a couple of houses away?

6 A Up the street from my house. So that means I wasn't
7 right in front of my house, sir.

8 Q I said more than a couple of houses away.

9 A Can I show it to you?

10 Q Yes, sir. Right here.

11 A I just said if a house right here, sir, I mean, this
12 here is my house right here. Okay?

13 Q Okay.

14 A I'm like up here.

15 Q You were --

16 A No.

17 Q Wait a minute, wait a minute. Your house is -- let me
18 see where my other map is here. It shows Singingwood being
19 this street here. Would that be accurate? Let me see.

20 That's not Singingwood. Singingwood is a little further
21 up. This one right here. It kinda loops around. Got two
22 entrances into Singingwood?

23 A Yes, sir.

24 Q Is that right? Okay. So it's up here. Let's just
25 pick one of these houses. You say this is your house. How

Lance Lyles
Cross-examination by Mr. Bulsa

1 much further down would you have been on Singingwood?

2 A Well, I ran from about right there, sir.

3 Q What?

4 A So I was like a couple of houses up.

5 Q A couple of houses up. Okay. I think that was my
6 question to begin with.

7 And instead of turning around and running two houses
8 back down to your house for safety, you just kept on
9 running.

10 A Yes.

11 Q That's what you did, wasn't it?

12 A Yes, sir.

13 Q Okay. And this area soon became flooded with police
14 officers, didn't it?

15 A Now, I don't know. I didn't see them. I didn't
16 return back to my house.

17 Q Where did you go?

18 A I ran.

19 Q Where did you run to?

20 A Through my neighborhood.

21 Q Tell us where you ran.

22 A Being honest, I don't remember.

23 Q Which direction did you run?

24 A Up the street.

25 Q All right. Which way is up?

Lance Lyles
Cross-examination by Mr. Bulsa

- 1 A Can you show me my house on that map?
- 2 Q It's somewhere on Singingwood here.
- 3 A I ran that way.
- 4 Q You ran up this way, away from your aunt's house.
- 5 A I didn't run away. I ran towards her house.
- 6 Q Wait a minute, wait a minute. You're running up this
- 7 way. We have already established that your aunt lives down
- 8 here. Okay?
- 9 A It looks different from that way, but it's still -- if
- 10 you show -- the way you're showing it on there, it's not
- 11 really like that.
- 12 Q Well, did you run towards Camelot Drive?
- 13 A Camelot Drive?
- 14 Q Yes, sir. This is the main thoroughfare here.
- 15 A I know where Camelot Drive is.
- 16 Q It connects Reidville Road with W. O. Ezell. Did you
- 17 run towards Camelot Drive?
- 18 A I believe so.
- 19 Q Okay. And then where did you go?
- 20 A Towards my aunt's house.
- 21 Q Okay. How did you run? Did you run up Camelot?
- 22 A No, sir, I didn't.
- 23 Q So how did you get there?
- 24 A I ran between streets, sir, in my neighborhood.
- 25 Q You were running between streets in your neighborhood?

Lance Lyles
Cross-examination by Mr. Bulsa

1 A No. Taking different cuts.

2 Q Okay. And why were you doing that?

3 A I was scared because that first car I told you about,
4 that red Taurus.

5 Q You were still afraid at this point because a red car
6 pulled up and a man said come here.

7 A Yes, sir.

8 Q Okay. And you're telling -- and police officers were
9 all in this area, were they not?

10 A I didn't see them.

11 Q Had the helicopter out, had the dogs out, had
12 black-and-whites out, had police officers, detectives out.
13 You didn't run to any of those, did you, and say, hey, some
14 strange man just approached me and I am afraid? You didn't
15 do that, did you?

16 A No, sir, I didn't.

17 Q Because you weren't afraid.

18 A I was afraid, sir.

19 Q Afraid of getting caught?

20 A I was still scared from that night.

21 Q Still scared from that night.

22 A That the incident occurred.

23 Q Okay. So you switched from being afraid of these
24 people to being afraid of being caught at being at that --

25 A I was afraid of the whole situation. I told you when

Lance Lyles
Cross-examination by Mr. Bulsa

1 they approached me I was scared of that also, sir.

2 Q You were fleeing, weren't you, because you didn't want
3 to be caught?

4 A I did run, sir.

5 Q And you had multiple opportunities to stop and tell
6 the police.

7 A I panicked. I had never been in a situation like
8 that, and then it hurt me when I had heard about it at
9 school.

10 Q You brought up to avoid the police?

11 A Sir?

12 Q Have you been brought up to avoid the police, to run
13 away from the police?

14 A I don't understand.

15 Q The police are in a position of authority. Are you
16 brought up to avoid people like that?

17 A I don't understand.

18 Q Certainly, your mama didn't tell you to avoid the
19 police, did she?

20 A She didn't never say that.

21 Q Certainly, your mama would have said if you are in
22 trouble and if there's a police officer around, go to the
23 police, wouldn't she?

24 A Yes, sir.

25 Q Okay. And your daddy too, right?

Lance Lyles
Cross-examination by Mr. Bulsa

1 A Yes, sir.

2 Q So if you're in a position where you're afraid, you
3 should have been seeking out help, shouldn't you?

4 A I was scared. That's why I didn't say nothing to my
5 mama and daddy.

6 Q In fact, you didn't seek to tell your mama and dad.

7 A That's how scared I was, because I didn't -- if I am
8 scared of something I usually tell my daddy and my mama.
9 But this time I didn't even say nothing to them either.

10 Q You were so scared because you were guilty of these
11 charges, right?

12 A No, sir. I went there to buy marijuana.

13 Q You went there to rob Mr. Spicer.

14 A No, sir.

15 Q You put your foot in the door. And when he tried to
16 close the door, you shoved back trying to get in.

17 A No, sir. I never did attempt to break in his house.
18 I never did step up like he's saying. I stood on the flat
19 surface.

20 Q And Jeter was there behind you with a gun and mask.

21 A I never saw a gun and a mask, sir.

22 Q A good friend of yours was acting together with you to
23 commit this crime.

24 A No, sir. I was not a participant.

25 Q And what were you afraid of?

Lance Lyles
Cross-examination by Mr. Bulsa

1 A That somebody had been killed.

2 Q Why does that make you afraid?

3 A I was 16 years old and I never challenged nothing like
4 that and been a part of nothing like that before, never. I
5 mean, I was a kid. I was scared. And it still bothers me
6 to this day about that.

7 Q A kid.

8 A I said I was a kid. Man, somebody lost that --
9 somebody lost a loved one. They lost their son.

10 Q Yes, sir. Officer, I'm so sorry. I was there. I
11 shouldn't have been there. I was buying weed. I saw, and
12 I heard a shot. And the next day I heard that somebody had
13 been killed. I'm sorry, Officer. I messed up. I was
14 trying to buy weed. But I know who shot that man. Is that
15 what you told those officers when they came to see you that
16 next day at school?

17 A No, sir.

18 Q Because you knew about that man had died there, that
19 somebody had lost a loved one. You were so afraid. And
20 the police came, people of authority that your mama and
21 daddy told you to respect. You told them, didn't you?

22 A Could you say that again?

23 Q Of course you didn't tell them.

24 A No, sir. I didn't say nothing. That was how scared I
25 was.

Lance Lyles
Cross-examination by Mr. Bulsa

1 Q It was like nothing was going on with you.

2 A Actually, there was some horrible days. I didn't ever,
3 I didn't --

4 Q You didn't even tell your mama that that the police
5 questioned you, did you?

6 A No, sir.

7 Q No, sir. I didn't think so. Because she would have
8 asked you why. You wouldn't even tell your mother.

9 A I didn't tell neither one.

10 Q That's right. You didn't tell anybody. If you're so
11 innocent, you didn't tell anybody.

12 Tell me about this conflict in the car. Mr. Vieth was
13 talking with you. You told your version of what you say
14 happened. You said there was some conflict in the car.
15 What was that conflict, sir?

16 A I asked them what happened.

17 Q I think you used the question --

18 A Said why didn't --

19 Q Said what did you do that for.

20 A Right.

21 Q Which implied you knew he had done something. You
22 knew he had fired a shot, is that right?

23 A I didn't see him fire a shot.

24 Q Did you know he fired a shot?

25 A I told you I heard a firearm discharge.

Lance Lyles
Cross-examination by Mr. Bulsa

- 1 Q Well, did it discharge in your ear?
- 2 A You know, you hear a gunshot.
- 3 Q Right. Was it that close?
- 4 A I don't know. I mean, I heard a gun go off.
- 5 Q You told us you were pressed in the middle and he was
- 6 overpowering you.
- 7 A I did say that, right.
- 8 Q Was the gun right there at your ear?
- 9 A I don't understand, sir.
- 10 Q Mr. Spicer is closing the door. You are between the
- 11 door and Mr. Jeter who you say is forcing you forward.
- 12 A I got over -- I was overpowered, sir.
- 13 Q I know. And when you were being overpowered did the
- 14 gun go off near your ear?
- 15 A What do you mean? Can I demonstrate, sir?
- 16 Q Yes, sir.
- 17 A I mean, you are saying the gun was by my ear.
- 18 Q No, sir. The gunshot near your ear. It's so close
- 19 that it probably made you hard to hear for a while.
- 20 A I don't know.
- 21 Q You were right there in the middle, weren't you?
- 22 A I mean, a gun went off, sir.
- 23 Q Okay. Well, where did you hear that gunshot? Where
- 24 did it sound like it came from?
- 25 A At the crime scene, at the scene.

Lance Lyles
Cross-examination by Mr. Bulsa

1 Q Okay. Whereabouts?

2 A I don't know, sir.

3 Q Did it sound like it came from inside the house?

4 A I just heard a gun, a gun go off, sir.

5 Q Did it sound like it came from inside the house?

6 A I don't know, sir.

7 Q Did it sound like it came from outside in the
8 driveway?

9 A I don't know, sir.

10 Q Did it sound like it came from the balcony?

11 A I mean, the gun went off, sir. And that's all I know.

12 Q Was it a loud gunshot?

13 A A gunshot, sir.

14 Q You've heard gunshots before, right? You haven't been
15 out in the yard when your daddy shot?

16 A That night.

17 Q You haven't been out in the yard when your daddy shot
18 snakes and rats that come up from the creek?

19 A No, sir. I don't be out there when he's shooting
20 animals.

21 Q Look at State's Exhibit No. 11-B. That's the view you
22 had into the apartment, wasn't it?

23 A I don't understand.

24 Q You were at the apartment, right?

25 A Right. I went over there to buy weed.

Lance Lyles
Cross-examination by Mr. Bulsa

- 1 Q And the door is open, right?
- 2 A I was talking to Mr. Spicer.
- 3 Q Right. You were talking to him at the door.
- 4 A He came to the door and answered the door.
- 5 Q And the door is opened.
- 6 A Mr. Spicer came to the door, and I was talking to him.
- 7 Q And you are looking inside the apartment, aren't you,
- 8 when you were facing it?
- 9 A No, sir. I didn't.
- 10 Q You didn't?
- 11 A I was talking to Mr. Spicer. Me and Mr. Spicer had
- 12 eye contact, sir. I did not look inside the apartment. I
- 13 looked at Mr. Spicer. We was talking.
- 14 Q Is that a view in the apartment?
- 15 A I don't understand.
- 16 Q Is that what the apartment looks like?
- 17 A I been in there. Remember, I told you I been in there
- 18 several times in the past. Me and my brother was in there.
- 19 Q I'm asking you is that what it looked like.
- 20 A I mean, you're talking about that picture right there?
- 21 Q Yeah. Is that how it is? Is that how the furniture
- 22 looks?
- 23 A I don't know, I don't know.
- 24 Q Huh?
- 25 A I can't answer that, sir. I can't answer that because

Lance Lyles
Cross-examination by Mr. Bulsa

- 1 I don't understand that picture.
- 2 Q It's a picture from the doorway. What don't you
3 understand?
- 4 A I mean, you asking me did -- it's like you trying to
5 say have I seen a picture like that. I mean, I don't
6 understand.
- 7 Q I'm asking you have you seen that view from the
8 doorway, because you have been over there.
- 9 A I been in there several times in the past, sir.
- 10 Q In this view you see the couch to the right.
- 11 A I seen the furniture you're showing me, sir.
- 12 Q And if somebody was sitting on the couch to the right
13 you could certainly see them, right?
- 14 A No, sir. I told you Mr. Spicer came to the door and I
15 was talking to him.
- 16 Q You could clearly see if somebody were sitting there,
17 right?
- 18 A I did not see. I told you, sir, I saw Mr. Spicer when
19 he came to the door. We was talking. I did not look
20 inside or nothing. I was making eye contact with
21 Mr. Spicer, and we was talking. We had a conversation
22 about I was buying weed from him, like I told you, sir.
- 23 Q What was the conflict in the car?
- 24 A I told you, sir, what happened, what did you do that
25 for.

Lance Lyles
Cross-examination by Mr. Bulsa

1 Q Okay. And what did he say?

2 A I don't remember, sir. There's a bunch of commotion
3 and conflict going on.

4 Q Well, you need to explain that to the jury if you want
5 us to believe it.

6 A I don't remember, sir, because it happened so fast,
7 and, you know, I don't know, sir. That's all I can
8 remember, sir. I can't make up something, because that's
9 all the stuff I am telling you now what happened, what did
10 you do that for, man, that was basically all I can
11 remember.

12 Q You had a -- you certainly have a good memory of the
13 conversation that you and Mr. Spicer had.

14 A It was a bunch of --

15 Q But you have no recollection of any conversation you
16 and Mr. Jeter had in the car?

17 A Sir, I am telling you all I can remember.

18 Q After you had been through something like that?

19 A I'm telling you everything that I can remember, sir.

20 Q Do you remember seeing the boy on the path?

21 A I was running so fast I wasn't paying. I was just
22 paying attention. I was telling Mr. Jeter to get me home.
23 I was just focusing on getting back home. It scared me so
24 bad, I didn't have time to look and see who was outside or
25 nothing, sir. I just ran straight to the car, sir.

Lance Lyles
Cross-examination by Mr. Bulsa

1 Q Why didn't you just run to your aunt's house?

2 A Talking the night at the scene?

3 Q Yes, sir.

4 A I was scared, sir. I just wanted to get home, sir.

5 Q Now, wait a minute, now. Wait a minute, Mr. Lyles.

6 You were so scared of an officer approaching you at
7 Singingwood, instead of running to your house a couple of
8 doors down you were going to run to your aunt's house way
9 down here.

10 Now, the night you say you witnessed the killing, or at
11 least a shooting, you not only ran with the guy that did the
12 shooting, you got into a car with him instead of just
13 running right around the corner to your aunt's house.

14 A At that moment I was scared. I just wanted to get
15 home, sir.

16 Q Your house, you told Mr. Vieth that all of that stuff
17 was in the spare bedroom. Huh?

18 A Sir?

19 Q You told him that all of these pictures were of the
20 spare bedroom.

21 A Yes, sir.

22 Q Okay. And you had access to it, right?

23 A I mean, it was an extra room.

24 Q So you had access to this coat and this mask.

25 A No, sir. I never seen that.

Lance Lyles
Cross-examination by Mr. Bulsa

1 Q What do you mean, no, sir? You had access. You could
2 go in there and get that if you wanted it.

3 A I don't know nothing about that, sir.

4 Q You can go in that room any time you want to, can't
5 you?

6 A The room was free to enter.

7 Q Right. And you can go in and get stuff out of it,
8 right?

9 A I don't understand that, sir. I mean he, sir, I mean,
10 that mask and stuff, you're saying that I can go in there
11 and get it.

12 Q Yeah. If you wanted to, if you needed it, if you were
13 cold.

14 A No, sir.

15 Q No, sir? You couldn't?

16 A You're saying that I can go in there and get that.

17 Q Yes, sir.

18 A And I'm say no, sir.

19 Q Yes. That's the question. You can't go in there and
20 get this?

21 A No, sir; no, sir.

22 Q You can't go in there and get this.

23 A No, sir. And you're saying, sir, that I can go in
24 there and get a real ski mask. That's what you are saying.
25 I said no, sir.

Lance Lyles
Cross-examination by Mr. Bulsa

- 1 Q I'm saying you can walk in the room --
- 2 A Right. The room --
- 3 Q -- pick up the jacket and walk out with it.
- 4 A That's not my jacket.
- 5 Q But you could certainly go in there and get it and
- 6 wear it if you needed it, couldn't you?
- 7 A What would I need it for, sir? I don't need that,
- 8 sir.
- 9 Q And these bullets in here.
- 10 A What about them?
- 11 Q You could easily go get those if you needed them,
- 12 right?
- 13 A I didn't, I don't -- being honest with you, sir, I
- 14 don't have no access to them.
- 15 Q You had no access to them?
- 16 A I never seen them, sir.
- 17 Q But do you have access to them? You did.
- 18 A That ain't what I said, sir.
- 19 Q You said you never had access to them.
- 20 A You're saying that I can go in and get bullets. I
- 21 can't, sir.
- 22 Q You could have. They were there right --
- 23 A No, sir. I didn't know they was in there, sir.
- 24 Q -- for the taking, weren't they?
- 25 A I didn't know bullets was in there, sir.

Lance Lyles
Cross-examination by Mr. Bulsa

1 Q Just like the ski mask was right there for the taking.

2 A I didn't know the ski mask was in there, sir, and I
3 never had access to that, to any of them.

4 Q When you fled the scene you got in the car with this
5 Mr. Jeter who had just fired a shot. You had some reason
6 to believe it was him that fired the shot, didn't you?

7 A I didn't know, sir. I didn't see who shot or nothing,
8 sir.

9 Q Well, what was the conflict over then?

10 A What happened, you know, a firearm had been
11 discharged.

12 Q Well, why in the world would that cause conflict
13 between you and he if you didn't think he was the one that
14 did it?

15 A I didn't know, sir.

16 Q What?

17 A I didn't know, sir.

18 Q You didn't know what?

19 A You saying that.

20 Q All right. Now, all right. Now, Mr. Lyles.

21 MR. BULSA: I'm sorry to belabor this, ladies and
22 gentlemen.

23 Q But you said there was conflict in the car, which
24 suggests you believe Mr. Jeter shot. Did you believe
25 Mr. Jeter shot?

Lance Lyles
Cross-examination by Ms. Anderson

- 1 A Yes, sir, I did.
- 2 Q Okay. What was so hard about answering that question?
- 3 A I didn't understand the way you was asking me, sir.
- 4 Q So did you see the gun that he had?
- 5 A No, sir.
- 6 Q Did you see the mask that he had?
- 7 A No, sir.
- 8 Q Did he throw them along the path?
- 9 A I don't know, sir.
- 10 Q So what did you ask him?
- 11 A I asked him what happened.
- 12 Q And what did he say?
- 13 A I don't remember, sir.
- 14 MR. BULSA: That's all I have at this time.
- 15 Q Answer any questions Ms. Anderson may have.
- 16 MS. ANDERSON: Just one second.
- 17 (Pause.)
- 18 CROSS-EXAMINATION
- 19 BY MS. ANDERSON
- 20 Q Okay. Mr. Lyles, you said that you went to Dorman,
- 21 correct?
- 22 A Yes, ma'am.
- 23 Q And that you and Josh Jeter were not friends at
- 24 Dorman.
- 25 A I had known him before. But when we -- when I was at

Lance Lyles
Cross-examination by Ms. Anderson

1 Dorman I didn't have any contact with him.

2 Q Okay. You didn't have any contact with Josh Jeter at
3 Dorman, right?

4 A Yes, ma'am.

5 Q But you sure did get in a lot of trouble at Dorman,
6 didn't you?

7 A I had some problems, yes, ma'am, I did.

8 Q Problems with profanity, threatening teachers, is this
9 correct?

10 A Yes, ma'am.

11 Q Did you skip school?

12 A No, ma'am.

13 Q Well, you violated your in-school suspension, didn't
14 you?

15 A I don't remember that.

16 Q Well, what caused you to be sent to the university
17 school?

18 A Well, I had a problem in class one day. They said if
19 I get one referral out of the whole school year, I would be
20 automatically sent to the university school, alternative
21 school.

22 Q So what did you do?

23 MR. VIETH: Your Honor, I am going to object to that
24 as to relevance. He went to the alternative school. We
25 all know that.

Lance Lyles
Cross-examination by Ms. Anderson

1 THE COURT: Sustained.

2 Q All right. So you ended up at the university school,
3 alternative school, correct?

4 A Yes, ma'am.

5 Q And you were expelled from that.

6 A Yes, ma'am.

7 Q Okay. And that's the school where kids go that have
8 problems, correct?

9 A Yes, ma'am.

10 Q Okay. Now, but I just want to make it clear. You had
11 no contact with Mr. Jeter when you were at Dorman.

12 A Correct.

13 Q Okay. When you were already getting in a lot of
14 trouble, correct?

15 A I had some problems, I did.

16 Q Okay. Now, well, let me ask you about these pictures
17 of your house. Did Leonard live with y'all?

18 A I mean, he lived, he stayed with his girlfriend, but
19 sometimes he would come home and spend the night.

20 Q Okay. Where did he stay when he came home and spent
21 the night?

22 A In the spare room.

23 Q Okay. And y'all always called it the spare room?

24 A Well, they was in the process of making it into,
25 making it into a den, I believe.

Lance Lyles
Cross-examination by Ms. Anderson

- 1 Q Okay. But when Leonard lived there was it Leonard's
2 room? Why are you looking over to your daddy?
- 3 A I'm looking at you, ma'am.
- 4 Q No. You're looking over there. I am right here.
- 5 A I am looking at you, ma'am.
- 6 Q All right. When Leonard lived with y'all was that his
7 room?
- 8 A At first it was when he lived there, yes, ma'am, it
9 was.
- 10 Q Okay.
- 11 A When he was in school.
- 12 Q Okay. So when he dropped out of school --
- 13 A He didn't never drop out, ma'am.
- 14 Q Well, when he left school, he left living with y'all?
- 15 A I don't know. Could you say that again for me?
- 16 Q All right. When he left school, finished school,
17 whatever he did, he didn't have that room any more at your
18 house?
- 19 A After all of the schooling, he moved in with his
20 girlfriend. That's when it became the spare room.
- 21 Q Okay. Let me show you this picture of the dresser.
22 Whose cologne is that?
- 23 A I believe that's my dad's, I believe.
- 24 Q Whose C. D. player?
- 25 A My dad's.

Lance Lyles
Cross-examination by Ms. Anderson

1 Q Whose bullet casings?

2 A I don't know because I never had access to any
3 bullets.

4 Q You mean there was a lock on -- I'm showing you a
5 picture of this dresser drawer, this black dresser, and
6 these .22's. This is setting down in that picture right
7 here. Was there a lock on that dresser?

8 A Not to my knowledge.

9 Q Were you told you couldn't go in that room?

10 A The room was freely opened, but I didn't ever, you
11 know, go through all of that.

12 Q You could have gotten these. These weren't locked up,
13 were they?

14 A I don't know because I never seen them.

15 Q Okay. Did you know your parents had guns?

16 A I know he used to shoot at the rats and snakes and
17 animals when they was in the back by the creek.

18 Q Okay. Whose girly magazines?

19 A Whose what?

20 Q Girly magazine.

21 A What is that? Oh, I don't know.

22 Q Okay. That looks like a girly magazine setting on top
23 of -- is that on top of the bed?

24 MR. VIETH: Your Honor, I mean, it may be. But what
25 has that got to do with this?

Lance Lyles
Cross-examination by Ms. Anderson

1 THE COURT: Well, I am not sure, but it's in evidence.
2 Stand if you want to object.

3 MR. VIETH: All right. I'm sorry.

4 Q Okay. So you are saying that although these weren't
5 locked up or put away that you couldn't have gotten to
6 them.

7 A I didn't ever go in them because that's not by
8 bedroom.

9 Q Okay.

10 A I have my own room.

11 Q Where did you keep your pot when you had marijuana?

12 A In a bag.

13 Q What room did you keep it in?

14 A Kept it in my room because it was mine.

15 Q Okay. Now, you said that was a -- December 8th was a
16 regular day, school, correct?

17 A Yes, ma'am.

18 Q And that you called Josh. Is that what your testimony
19 is?

20 A No, ma'am. Josh called me and my brother. Josh
21 called me. I did not call him.

22 Q Okay. You didn't go over to Josh's house.

23 A No, ma'am. Josh came and picked me and my brother up
24 from our residence.

25 Q Okay. Now, you said Travis Jeter was there.

Lance Lyles
Cross-examination by Ms. Anderson

1 A He was what?

2 Q At his apartment.

3 A Yes, ma'am. That's Josh's brother.

4 Q Okay. But there has been no testimony that Travis was
5 there. In fact, there's been testimony that Travis was not
6 there.

7 A He was there.

8 Q Okay. Now, that's what you're saying, that he was
9 there.

10 A Yes, ma'am. He was there.

11 Q Okay. Now, you and Leonard and Josh went outside.

12 A Yes, ma'am.

13 Q Okay. And that's when Leonard was arrested on the
14 assault charge?

15 A Yes, ma'am.

16 Q Okay. What did you and Josh do while Leonard was
17 being arrested?

18 A After he was arrested, after a while, we went back
19 inside the apartment, inside Travis Jeter's apartment.

20 Q Okay. And what did you do in there?

21 A Played the game and sat on the couch.

22 Q Okay. And that's when you asked Josh if he would go
23 to See's house to buy weed with you.

24 A That's when I asked him to go with me.

25 Q Okay. And you knew this man sitting right back here

Lance Lyles
Cross-examination by Ms. Anderson

1 behind Mr. Bulsa. You knew this man right here as See.

2 A Yes, ma'am.

3 Q But at that time he had braids?

4 A Yes, ma'am.

5 Q Okay. And you had been there several times.

6 A Yes, ma'am.

7 Q Okay. Now, and you had actually smoked marijuana in
8 that apartment with him?

9 A Smoke and buy.

10 Q Okay. And you had met him through your brother,
11 Leonard?

12 A Yes, ma'am.

13 Q Now, if you knew him and he knew you, then how come
14 when he testified he said he didn't know you and didn't
15 want to let you in?

16 A He do know me, ma'am.

17 Q So Mr. Spicer was lying.

18 A You can ask him that. Mr. Spicer -- he does know me
19 because I have been inside his apartment in previous times.

20 Q All right. But Mr. Spicer testified that you actually
21 stepped in the doorway of his apartment. And you're saying
22 you didn't.

23 A I didn't.

24 Q Okay. He also testified that he didn't invite you in
25 the apartment.

Lance Lyles
Cross-examination by Ms. Anderson

- 1 A I didn't ever invite myself.
- 2 Q Do you normally buy your marijuana out in the hall?
- 3 A No, ma'am.
- 4 Q When you're buying it don't you normally go inside?
- 5 A Yes, ma'am.
- 6 Q Okay. Now, you testified yourself that you told Josh
- 7 to go stand by the balcony, isn't that correct?
- 8 A Yes, ma'am.
- 9 Q Okay. Why was that?
- 10 A Mr. Spicer knew me.
- 11 Q Oh, you didn't want him to see someone he didn't know.
- 12 A Mr. Spicer knew me, and plus I had the money to buy
- 13 the marijuana.
- 14 Q Okay. Now, you are denying that Josh gave you \$10.
- 15 A He didn't ever give me \$10.
- 16 Q Well, he also said that you had planned to get a big
- 17 bag of weed for his birthday.
- 18 A I never known anything. That's not to my knowledge.
- 19 Q Okay. So you're saying you didn't tell him you were
- 20 going to buy a big bag of weed for him for his birthday.
- 21 A No, ma'am. I just went to buy a \$10 sack, a \$10 bag
- 22 of marijuana.
- 23 Q Okay. And you had \$10 on you.
- 24 A Yes, ma'am.
- 25 Q Now, you're saying that the time that you stood in

Lance Lyles
Cross-examination by Ms. Anderson

1 front of that door -- and you're saying you didn't go in,
2 and you and Mr. Spicer talked. Josh was not there.

3 A Could you say that again?

4 Q I'm saying that you were standing talking to
5 Mr. Spicer in front of his door according to you.

6 According to him, you were standing up on the ledge of the
7 door.

8 A I wasn't never standing on no hill.

9 Q But I'm saying while you talked to him, Josh was at
10 the balcony, correct?

11 A Yes, ma'am, he was.

12 Q And you were making plans to come back and get some
13 marijuana from him?

14 A I was going to come back because Mr. Spicer said he
15 had to re-up and go and get more because he had just ran
16 out.

17 Q Okay. And then your testimony was that's when the
18 commotion started.

19 A Yes, ma'am.

20 Q What's commotion?

21 A All types of body movement.

22 Q What kind of types of body movement?

23 A I don't know. It just happened so fast.

24 Q Well, could it possibly have been your body moving
25 trying to keep the door open?

Lance Lyles
Cross-examination by Ms. Anderson

- 1 A No, ma'am.
- 2 Q Could it have possibly been your hand going and
- 3 pulling your gun out of your back pocket?
- 4 A No, ma'am, meaning in Jeter's.
- 5 Q What?
- 6 A In Jeter's overpowered me.
- 7 Q Josh overpowered you?
- 8 A Yes, ma'am.
- 9 Q Aren't you bigger than Josh?
- 10 A Then I was. I have grown.
- 11 Q Okay. But you're saying that this skinny person right
- 12 here overpowered you.
- 13 A Yes, ma'am.
- 14 Q What did he do to you?
- 15 A Overpowered me.
- 16 Q Well, overpowering people can take many forms. What
- 17 was the form of overpowering you that he did?
- 18 A I don't know. I didn't know. I don't know how to put
- 19 it the way you saying it, but he overpowered me.
- 20 Q Well, did he grab you?
- 21 A I don't know how to put it that way, but I just know
- 22 he overpowered me.
- 23 Q Well, but I need a definition of overpower.
- 24 A I don't know how to put it the way you saying it. I
- 25 really don't.

Lance Lyles
Cross-examination by Ms. Anderson

1 Q I mean, I could stand over you and yell at you. Would
2 that be overpowering you?

3 A Not that. I mean, you know, body contact.

4 Q Body contact. Okay. So did he run and tackle you?

5 A I don't know.

6 Q You don't have much memory of what happened, do you?

7 A It just happened so fast.

8 Q Well, could it be because you're the one that pulled
9 the gun out and shot in the door, is why you can't remember
10 it?

11 A I never had a gun.

12 Q You never had a gun. What about Mr. Scott Hill who
13 didn't know you, didn't know Mr. Spicer, didn't know
14 anybody? He said he saw two men running on the path with
15 two guns.

16 MR. VIETH: Your Honor, I don't know if that's a
17 question. I object to pitting witnesses against each
18 other. If she wants to ask a question.

19 THE COURT: Sustained.

20 A Could you say that again?

21 Q You're saying you didn't have a gun that night.

22 A Right.

23 Q Okay. Now, you're also saying that Josh didn't have
24 on a mask.

25 A I never known him to have a mask to my knowledge.

Lance Lyles
Cross-examination by Ms. Anderson

1 Q You said little Josh overpowered you and you flee-ed
2 the scene, is that correct?

3 A After he overpowered me.

4 Q Okay.

5 A After the -- excuse me for that. But after the, after
6 the firearm had discharged, I flee-ed, correct.

7 Q Okay. Now, you said you don't know who shot the shot.

8 A I didn't ever see anybody shoot.

9 Q Okay.

10 A So I do not know.

11 Q Okay. And who ran first, you or Josh?

12 A I don't know. When the firearm, as I said, as it
13 discharged, I flee-ed. I took off running. I was scared.
14 I don't know who took off first because I don't remember.
15 Because I just fled the scene.

16 Q Okay. But you're also saying you didn't try to force
17 your way in the house.

18 A I never did try to force my way inside.

19 Q Okay. So everything that Mr. Spicer said was not
20 true.

21 A Well, I --

22 MR. VIETH: Your Honor, I again object to the form of
23 the question.

24 THE COURT: Let me see y'all just a minute.

25 (Bench conference held off the record in the presence

Lance Lyles
Cross-examination by Ms. Anderson

- 1 of the jury but out of the hearing of the jury.)
- 2 Q Mr. Lyles --
- 3 A Ma'am?
- 4 Q -- would Mr. Spicer have any motive to say you did
- 5 something? Does he have anything against you?
- 6 A No, ma'am.
- 7 Q Now, you ran after this. You also stated you had no
- 8 gun.
- 9 A That's right.
- 10 Q Okay. And that you went. Did you run to Josh's car?
- 11 A We ran to Charleston Place where the car was parked,
- 12 and I told him to take me home.
- 13 Q Did you go in his brother's apartment?
- 14 A No, ma'am.
- 15 Q Okay.
- 16 A Excuse me. You meaning on the way back from the
- 17 scene?
- 18 Q Yeah.
- 19 A No, ma'am. We did not go inside the apartment. We
- 20 just went to the car, and I told him to take me home.
- 21 Q Okay. Now, you also said that y'all had a
- 22 conversation in the car.
- 23 A It was a conflict.
- 24 Q A conflict. Was it verbal? Did you talk?
- 25 A Conflict, back and forth.

Lance Lyles
Cross-examination by Ms. Anderson

1 Q Talking?

2 A We were not talking. We were arguing.

3 Q Okay. What were you arguing about?

4 A Like I said, was what happened and what did you do
5 that for, what happened.

6 Q You're asking Josh what did you do that for.

7 A And what happened.

8 Q And what happened. Now, two days later when the
9 person approached you -- I'm kind of like Mr. Bulsa -- why
10 didn't you run home?

11 A I don't know. I was scared. I was just trying to get
12 toward my aunt's house.

13 Q Okay. Now, you're saying you didn't know that was a
14 policeman?

15 A No, ma'am. Because they was in a red Taurus, a
16 regular car. And they sounded like regular men when they
17 approached me. They didn't address themselves as being
18 policemen. They just said come here.

19 Q But you just -- you didn't think about going home.

20 A No, ma'am. I just ran.

21 Q Let me ask you. Why were the lights flashing on and
22 off in your house?

23 A I don't remember the lights flashing on and off like
24 that.

25 Q Was your daddy home?

Lance Lyles
Cross-examination by Ms. Anderson

- 1 A No, ma'am.
- 2 Q So your father was not at your house.
- 3 A He was not home.
- 4 Q So the only two people home were you and Leonard?
- 5 A Yes, ma'am.
- 6 Q Okay. Where were y'all heading when you left the
7 house?
- 8 A My aunt's house.
- 9 Q That's where the two of y'all were going.
- 10 A Yes, ma'am.
- 11 Q Okay. Where was your mother?
- 12 A She was at the girl's Dorman's basketball game.
- 13 Q You ran for an hour and 15 minutes.
- 14 A I don't know how long it was.
- 15 Q Made you sick, didn't it? I mean, you threw up after
16 doing your run.
- 17 A Yes, ma'am. I'm dehydrated.
- 18 Q Okay. And did you see the helicopter?
- 19 A No, ma'am, I didn't.
- 20 Q Did you see any police?
- 21 A Yes, ma'am.
- 22 Q Did you see the dogs?
- 23 A No, ma'am.
- 24 Q Okay. Did you believe that they were looking for you?
- 25 A At the time, at the time the second, when the second

Lance Lyles
Cross-examination by Ms. Anderson

1 car had approached me, when he put on his blue lights as I
2 was running, he said you better stop or I'm going to shoot.
3 And then that's when I decided that when I got across the
4 street to run in Baskin-Robbins because I felt safer inside
5 the business.

6 Q Why didn't you just stop when the police said stop?
7 These were policemen.

8 A He didn't -- he said he's going to shoot. That means
9 all of me. And I didn't want to be shot. And I know if I
10 went inside the Baskin-Robbins I wouldn't be harmed.

11 Q Well, you said he said stop or I'll shoot.

12 A When he said shoot, that's being injured, and I don't
13 want to be injured. I ran inside Baskin-Robbins where I
14 thought it would be safe.

15 Q So it really wouldn't have mattered if the first
16 people had been police or not. You weren't going to stop
17 for anybody.

18 A I didn't say that.

19 Q Well, you said the first people weren't, they didn't
20 identify themselves as police and that's why you ran.

21 A I mean, they said come here. They didn't say we're
22 police. They said come here. They didn't say police.

23 Q But that other, the next policeman, that saw you and
24 talked to you said stop or I'll shoot, and you kept on
25 running.

Lance Lyles
Redirect examination by Mr. Vieth

1 A I ran to a stopping point, and that was
2 Baskin-Robbins.

3 Q Okay. After an hour and 15 minutes of running.

4 A I don't know how long it was. I ran.

5 Q Okay. But you're saying that you don't know who fired
6 the shot and that you didn't have a gun and that you had
7 nothing to do with what happened.

8 A No, ma'am. I went to buy weed like I did the several
9 times in the past with Mr. Spicer. That's what I went to
10 his house for.

11 Q But you're the one that asked Mr. Jeter if he would go
12 with you.

13 A Yes, ma'am.

14 Q Thank you.

15 MR.. VIETH: Just a brief.

16 REDIRECT EXAMINATION

17 BY MR. VIETH

18 Q Going back to two years ago, how tall were you? How
19 have you grown in two years, do you know?

20 A I, I really can't.

21 Q You don't know?

22 A I really don't know. But I have grown.

23 Q Okay. That's all I have, Your Honor.

24

25

Lance Lyles
Recross-examination by Mr. Bulsa

1 RECROSS-EXAMINATION

2 BY MR. BULSA

3 Q Mr. Jeter, you said you ran into Baskin-Robbins.

4 A Yes, sir.

5 Q You were trying to climb the wall into Charleston
6 Place, weren't you?

7 A I did, but I stopped that and ran towards, I ran
8 inside Baskin-Robbins.

9 When I climbed up the wall, I mean the fence, I
10 stopped and ran inside Baskin-Robbins because I thought
11 that would be a safer environment.

12 Q So you ran past Baskin-Robbins first to behind the
13 building to climb the wall to try to get into Charleston
14 Place.

15 A I ran.

16 Q That's what you did first, right?

17 A I ran behind Baskin-Robbins. There's an ally behind
18 there, and there's a fence right in front like where the
19 ally is.

20 I climbed. When I ran down the ally, I ran and
21 climbed up the fence. I got down and thought of it better
22 and where I needed to be in at the time.

23 Q Your thinking was that clear at that point?

24 A When somebody says you better stop or you're going to
25 get shot, you're going to want to be somewhere where it's

1 safe.

2 Q Right. And you passed up many places to run into to
3 be safe before you tried to climb that wall, didn't you?

4 A I thought Baskin-Robbins would be a safer place, and
5 that's why I went in there.

6 Q You were wearing gold teeth that night, weren't you?

7 A I believe so.

8 Q And your mama didn't approve of the gold teeth, did
9 she?

10 A Say that again.

11 Q Your mama didn't approve of those teeth, did she?

12 A I can't remember, sir. That's been a while.

13 Q Do you remember when she ripped them out of your mouth
14 in the city hall?

15 A Yes, sir. I remember she had took them from me.

16 Q You remember that. She didn't approve of them, did
17 she?

18 A Like she told you, she don't like me wearing them in
19 front of her.

20 Q So every time you came home with those she would rip
21 them out of your mouth?

22 A I didn't wear them in front of her, sir.

23 Q Is that a common occurrence, if she saw them in your
24 mouth she would rip them out?

25 A I don't understand, sir.

Lance Lyles
Recross-examination by Mr. Bulsa

1 Q Okay. You were wearing them the night of the
2 shooting, weren't you?

3 A I believe so.

4 Q And you were in a hurry to get home. Did you take
5 them out of mouth before you walked in the door to tell
6 mama?

7 A I don't remember, sir; I really don't remember, sir.

8 Q Do you remember mama ripping them out of your teeth
9 when you got home that night?

10 A Like I said, sir, I don't remember any. I don't
11 remember that, sir.

12 Q Was your mother home that night?

13 A I believe so.

14 Q Okay. So of course you went in there and told her
15 what had just happened.

16 A I never told her what happened. That's how scared I
17 was, sir.

18 Q Weren't you acting scared when you got home?

19 A Actually, I was. I had a hard time sleeping.

20 Q You had just been involved in a killing.

21 A I was never involved, sir.

22 Q If your story is that you are just going to buy
23 marijuana from the local neighborhood marijuana dealer,
24 what's the problem with him seeing Mr. Jeter?

25 A Mr. Spicer knows me. I've bought marijuana from him

Lance Lyles
Recross-examination by Mr. Bulsa

1 several times before, and plus I had the money. I'm the
2 one that had the money and was going to buy the marijuana.

3 If you don't have any money, you can't buy it, sir.

4 Q Well, what's wrong with Mr. Jeter standing at the door
5 with you?

6 A I just told him to stand to the side while I bought
7 the marijuana, sir, because I'm the one who had the money.

8 Q That doesn't make sense. If all you're doing is going
9 over there for a friendly purchase of marijuana, there's no
10 reason for him to stand over to the side out of view. What
11 was he doing, putting on his mask and pulling his gun?

12 A I don't know, sir.

13 Q Is that why you seen him over there?

14 A I told him to wait to the side while I bought the
15 marijuana, sir.

16 Q And if you've been over there several times before
17 buying marijuana and been inside the apartment, there's no
18 reason not to admit that you stepped in the doorway when
19 you were talking to him, is there?

20 A I never did step on the hill that you're talking
21 about, sir. I was flat surface, on the flat surface.

22 Q You are not admitting to anything, are you?

23 A Sir, I can't answer any questions that I didn't do,
24 sir. I am not going to lie, sir.

25 Q When the police said come here, were they threatening

Lance Lyles
Recross-examination by Mr. Bulsa

1 you?

2 A They said come here. That's what they said, sir.

3 Q Come here.

4 A They was in a red Taurus and they was dressed as
5 regular people. I mean, they came up to me and said come
6 here. I mean, if you see them like that, they didn't
7 approach theirselves as being police, and they was just like
8 regular people. And I just ran, sir.

9 Q Just like regular people.

10 A Right. I mean they said come here. They was in a red
11 Taurus. They said come here. I ran. I didn't know them.

12 MR. BULSA: Mr. Vieth, did you intend to put his
13 written statement into evidence?

14 MR. VIETH: His statement?

15 MR. BULSA: Yes, sir.

16 MR. VIETH: I don't intend to.

17 MR. BULSA: Well, I mean, I know we put in Mr. Jeter's
18 after we redacted them.

19 MR. VIETH: I have no objection.

20 MR. BULSA: I'd like to go ahead and enter that.

21 MS. ANDERSON: I have no objection to it.

22 MR. BULSA: We'll find it if we need to get it marked.
23 I don't need to use it. I just wanted to make sure it got
24 put in. I mentioned that statement. I don't think we can
25 find it. I will look for it.

Lance Lyles
Recross-examination by Mr. Bulsa

1 Q But when Sergeant Taylor was talking to you at the
2 school, do you remember him?

3 A Yes, sir.

4 Q He doesn't look scary, does he?

5 A I remember one of the officers, Officer Hearst. He
6 said I told him I didn't want to talk at first. He said,
7 well, if you don't talk we're going to take you to the city
8 hall. That's what Mr. Hearst had said.

9 Q So now you're telling us your statement you gave is
10 not voluntary?

11 A I did make a statement, sir.

12 Q Okay.

13 A The reason I made the statement, because I didn't want
14 to go to the city hall, that he had threatened to take me
15 down there if I didn't make a statement.

16 Q Well, that goes to whether it's voluntary or not.

17 A I did make a statement, sir.

18 Q Did you -- why didn't you run from them?

19 A I was at school.

20 Q You went back to class?

21 A Sir?

22 Q You're going back to class.

23 A I didn't know that at the time, sir.

24 Q Mr. Watson was in there with you, wasn't he?

25 A He called me from the office. He was in there with

Lance Lyles
Recross-examination by Mr. Bulsa

1 them at the time.

2 Q This is the last point I'm going to get to. This
3 officer was in there asking you questions.

4 A Yes, sir.

5 Q And you told them that you went over to Travis' house
6 with Josh and y'all played video games and then you went
7 home.

8 A Right. I told them everything except for going to
9 Rose Hill because I was scared to tell them that I went
10 over other to buy marijuana. I told them I went to Travis'
11 house, like I did, and I told them I went home. I skipped
12 telling them that I was going to Rose Hill because I didn't
13 want to tell them about my attempt to purchase drugs.

14 Q And Rose Hill was brought up in the conversation,
15 wasn't it?

16 A I believe so, sir.

17 Q So you were provided an extra opportunity to come
18 clean.

19 A I didn't want to tell them about buying drugs.

20 Q Do you want this jury to believe you were more scared
21 about getting in trouble about buying drugs than being
22 there when somebody got killed?

23 A I don't understand.

24 MR. BULSA: Nothing further.

25 MR. VIETH: I don't have anything.

1 THE COURT: You may step down.

2 MR. VIETH: Nothing further.

3 Your Honor, that's the defense's case with regards to
4 Mr. Lyles.

5 THE COURT: Okay. Let me see y'all just a minute,
6 please.

7 (Bench conference held off the record in the presence
8 of the jury but out of the hearing of the jury.)

9 THE COURT: Ladies and gentlemen, that is all of the
10 testimony and evidence to be offered by the defendant
11 Lyles.

12 We are going to recess for lunch at the present time.
13 I'm going to ask you to report back at 2:00 o'clock, at
14 2:00 o'clock this afternoon.

15 Keep in mind, don't discuss the case. Don't conduct
16 any research; don't allow yourselves to be exposed to any
17 type of media coverage, including television, radio and
18 newspapers.

19 Do have a good lunch. Please report directly to your
20 jury room at 2:00 o'clock this afternoon, 2:00 o'clock.

21 (The following takes place outside the presence of the
22 jury.)

23 THE COURT: Mr. Bulsa, did you say that the
24 original --

25 MR. BULSA: It's got to be somewhere. I just --

1 THE COURT: -- statement is that not there, or it is?
2 MR. BULSA: I am sure it is. I believe it is No. 5.
3 THE COURT: 5-A is admitted without objection?
4 MS. ANDERSON: Yes, sir.
5 MR. VIETH: Yes, sir.
6 (Witness interview form marked State's Exhibit No.
7 5-A.)
8 THE COURT: All right. Court is in recess until
9 2:00 o'clock.
10 (Whereupon, a recess was taken.)
11 THE COURT: Everyone is present. Is there any reply
12 testimony or other evidence to be received, Mr. Bulsa?
13 MR. BULSA: Yes, a stipulation mentioned earlier.
14 THE COURT: Okay. Mr. Vieth, do you and Ms. Anderson
15 want to make some motions?
16 MR. VIETH: Your Honor, I simply renew all the motions
17 for a directed verdict that I made at the end of the
18 state's case.
19 THE COURT: All right. The defendants' motions are
20 denied.
21 MS. ANDERSON: I too renew my motions.
22 THE COURT: All right. Each of those motions are
23 denied.
24 Are there any requests for jury instructions?
25 MR. VIETH: Your Honor, I handed you up six of them, I

1 think.

2 THE COURT: All right. Ms. Anderson.

3 MS. ANDERSON: I didn't hand any up, but I join in
4 with Mr. Vieth in his that he's handed up. And you have
5 said you would charge manslaughter.

6 THE COURT: I said what?

7 MS. ANDERSON: Will you charge manslaughter?

8 THE COURT: Well, what evidence is there that would
9 fit that definition?

10 MS. ANDERSON: Mr. Spicer's testimony that the gun
11 went off when the door was shut.

12 THE COURT: All right. Solicitor, do you want to be
13 heard on that?

14 MR. BULSA: Yes, sir, Your Honor. Actually, I don't
15 know what manslaughter you're talking about.

16 MS. ANDERSON: Voluntary.

17 MR. BULSA: Voluntary? There's been no evidence of
18 voluntary manslaughter.

19 THE COURT: I don't believe there's any evidence of
20 heat of passion. If there is, it's not provoked by any
21 sufficient legal provocation. So I decline your request
22 for a voluntary-manslaughter charge.

23 MS. ANDERSON: Thank you, Your Honor.

24 MR. BULSA: Your Honor, I also submitted some. In
25 chambers I questioned you on whether you would charge

1 attempted burglary due to the fact that the jurors might
2 get confused or concerned that the full body never entered
3 the residence.

4 THE COURT: All right. What's the position of
5 Mr. Jeter?

6 MS. ANDERSON: I have no problem with attempted
7 burglary.

8 THE COURT: All right. Mr. Vieth.

9 MR. VIETH: No, sir. I don't think I have any problem
10 with that.

11 THE COURT: Okay. No objection to it.

12 All right. What else, Mr. Bulsa?

13 MR. BULSA: I guess I need a ruling on one of my
14 charges, felony-murder language.

15 THE COURT: Well, are you just requesting an
16 instruction that malice may be inferred from the death of a
17 person that is caused by criminal acts committed during the
18 course of the commission of a felony?

19 MR. BULSA: The substance of that, yes, sir. Set it
20 out in more detail than the request.

21 THE COURT: Well, I understand.

22 MR. BULSA: One of my arguments, of course, malice was
23 going to be the felony-murder doctrine.

24 THE COURT: Well, let me see y'all just a minute.
25 (Bench conference held off the record.)

1 THE COURT: All right. Bring the jury back.

2 (The following takes place in the presence of the
3 jury.)

4 THE COURT: Good afternoon, ladies and gentlemen.

5 Is there any reply evidence to be offered by the
6 state?

7 MR. BULSA: Your Honor, only that, and we have entered
8 into a stipulation with defense attorneys that, the two
9 portions of the C. D. that the jury heard were recorded
10 from conversations made September the 10th of 2005. That
11 date was mentioned, but they just need to understand that
12 that's the date.

13 THE COURT: Everyone is in agreement?

14 MS. ANDERSON: Yes, sir.

15 MR. VIETH: Yes, sir.

16 THE COURT: All right. Ladies and gentlemen, the
17 purpose of a stipulation, it's an agreement as to a fact.
18 In other words, everyone agrees that that is a fact.

19 You don't have to be concerned about whether or not
20 the evidence supports the finding of that fact, because
21 each of the parties in the case have agreed that is a fact.
22 So you can simply accept that as being a fact without any
23 further proof or any necessity of deciding whether or not
24 it is, in fact, true. They have agreed that is a fact.

25 That's all of the testimony and evidence to be

1 received during the trial of the case. What remains to be
2 done are the lawyers' final summations, after which I am
3 going to instruct you on the law, and then you will be
4 required to go back and begin with your deliberations in
5 the case.

6 Now, before we can do that I've got some legal matters
7 that I have to address with the lawyers.

8 I also have a prior scheduled commitment for this
9 afternoon that's going to take me about 45 minutes to
10 accomplish. I wouldn't have scheduled that had I known
11 that the trial would have been of this length, but,
12 nevertheless, I can't avoid it. I have to honor the
13 commitment.

14 So because of that timeframe and the time it's going
15 to take for us to conclude -- we have got three lawyers to
16 argue.

17 The way that's done, by the way, is that the state
18 will go forward first. They will open and explain to you
19 in some fashion the law that they are relying upon in
20 bringing these charges against these defendants.

21 It's not intended to be a full explanation of the law
22 that I am going to provide you and it's not intended to be
23 an instruction on the law that I will provide you.

24 It's simply the prosecutor's position as to what they
25 are claiming these defendants have done that is in

1 violation of the law. And he will explain to you what law
2 he's relying upon. But I'll give you the detailed
3 explanation and instruction as to the law that you must
4 apply in your deliberations and in your determination as to
5 the proper verdicts in this case.

6 But the state will go forward first with that opening
7 on the law that they are relying upon. And after the
8 solicitor concludes with that, each of the defense counsel
9 has an opportunity to address you and to discuss the case
10 with you, and the evidence and the law perhaps.

11 After they've conclude, then the prosecutor gets to
12 close, that is he gets to respond to those arguments that
13 have been made by the defense and present his own position
14 as to the case and what your verdict ought to be.

15 Of course you have to decide what the verdict is going
16 to be based upon your own common sense examination of the
17 evidence, evaluation of testimony, determination of fact
18 from that evidence, and then apply the law that I provide
19 you. And you determine whether or not a defendant is
20 guilty of any crime the state has claimed that they have
21 committed.

22 Now, because that's going to take some time, and I
23 don't want to scare you about the length of it, but,
24 nevertheless, it will take some time. And then of course
25 following those arguments and my instruction to you on the

1 law, you will have to go back and begin with your
2 deliberations.

3 It's likely, based upon the timeframe of this
4 afternoon, that that would take us well into the evening.
5 And as I have told you earlier, I try not to impose upon
6 your evening hours like I do your daytime hours if it can
7 be avoided. And it can in this instance because we can
8 simply have you come back in the morning at 9:00 o'clock to
9 conclude. So that's what we are going to do.

10 I'm going to ask that you continue to follow my
11 instruction. That is you are not to discuss the case with
12 anybody in any fashion whatsoever. Do not permit any
13 person to discuss or try to discuss the case with you. Do
14 not permit yourselves to be exposed to any type of media
15 coverage, whether it be television or radio or newspaper
16 articles.

17 Your verdict has to be based upon what you saw and
18 heard during the trial of the case, and you are not to
19 permit yourselves to be influenced by any outside
20 consideration.

21 So with that, have a good afternoon. Please report
22 directly to your jury room at 9:00 o'clock in the morning,
23 at 9:00 o'clock in the morning just as you did this
24 morning. Have a good afternoon.

25 (The following takes place outside the presence of the

1 jury.)

2 THE COURT: All right. Now, so far as the jury
3 instruction requests are concerned, what I suggest we do is
4 we come back at 3:30, at 3:30, and we will discuss any
5 requests that you have and determine what is going to be
6 instructed. Okay. Court is in recess until 3:30.

7 (Whereupon, a recess was taken.)

8 THE COURT: All right. Ladies and gentlemen, we have
9 had a charge conference in chambers.

10 The result of that is I have informed the lawyers that
11 I intend to charge the law as it relates to the crimes of
12 murder, attempted armed robbery, burglary in the first
13 degree and attempted burglary in the first degree,
14 possession of a pistol by a person less than 21, aiding and
15 abetting or accomplice liability, criminal-intent
16 instruction, circumstantial-evidence instruction and that
17 general instruction given in virtually every criminal case
18 relating to credibility of witnesses and the like.

19 All right. Any other requests by the state, or any
20 exceptions?

21 MR. BULSA: No, sir.

22 THE COURT: Any other requests by the defendant Jeter,
23 or exceptions?

24 MS. ANDERSON: Again, we renew our request for an
25 instruction on involuntary manslaughter.

1 THE COURT: And --

2 MS. ANDERSON: And manslaughter, either one. But I
3 realize it would probably come closer to fitting
4 involuntary.

5 THE COURT: You request an instruction on voluntary
6 manslaughter and involuntary manslaughter?

7 MS. ANDERSON: Yes, sir.

8 THE COURT: The state's position is what, Mr. Bulsa?

9 MR. BULSA: We don't feel that either one is
10 appropriate based on the facts of the case.

11 THE COURT: All right. I think -- my understanding of
12 the law as it applies to the facts of this case is that
13 voluntary manslaughter and involuntary manslaughter would
14 not be applicable.

15 MS. ANDERSON: Thank you.

16 THE COURT: Any other requests or exceptions?

17 MS. ANDERSON: No, sir.

18 THE COURT: All right. Mr. Vieth.

19 MR. VIETH: Your Honor, with regards to the
20 involuntary manslaughter, we would also request a charge on
21 that, specifically language of this nature. The
22 unintentional killing of another without malice is
23 involuntary manslaughter if a homicide results from the
24 reckless disregard of another. And I would like for the
25 Court to consider that charge as well.

1 THE COURT: All right. Does that come from -- is that
2 specific language from a case?

3 MR. VIETH: Your Honor, it's a statutory cite, and I
4 will review the statute overnight and see if I can present
5 that to you in the morning.

6 THE COURT: Okay. All right. Anything further?
7 Court is in recess until 9:00 o'clock.

8 Let me share something with y'all before you go.

9 END OF PROCEEDINGS MARCH 16, 2006
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1 (Proceedings March 17, 2006)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: All right. Everyone is present. Any
5 matters to address before the jury is brought in?

6 MR. BULSA: Your Honor, I believe earlier in the trial
7 we had a discussion regarding the statements when the state
8 entered them in, and then the defense entered in the actual
9 statements. We had a discussion about Your Honor
10 explaining to the jury that process.

11 I didn't know when you wanted to handle that, if you
12 want to do it now or during the charge.

13 THE COURT: Well, I will do it whenever y'all want to.
14 Do you think there is any reasonable possibility the jury
15 is confused about that?

16 MR. BULSA: I thought they might have a question.
17 I'll address it.

18 THE COURT: Talk about what?

19 MR. BULSA: I thought they might be confused. Maybe
20 now it's been cleared up. But I was going to address that
21 in my opening. I know we talked about it, and you said you
22 would.

23 THE COURT: Well, what's the defense's position?

24 MS. ANDERSON: I think it needs to be explained as to
25 why there were two statements, one the typed-written and

1 then one the actual statement. I don't think they would
2 understand.

3 THE COURT: Well, as I understood it, the redacted
4 statements have been withdrawn and the original statements
5 have been admitted.

6 MR. BULSA: I believe the decision was to substitute
7 the originals for the redacted.

8 THE COURT: All right.

9 MS. ANDERSON: But I still believe an explanation
10 needs to be made.

11 THE COURT: Well, I guess what I'm asking is, I assume
12 y'all are going to talk about that in your closing
13 statements.

14 Do you think they need an explanation from me, or do
15 you think your explanation will be satisfactory?

16 MS. ANDERSON: I think they need it from you.

17 THE COURT: Okay. You don't think you can explain to
18 them about a redacted statement and original statement
19 based upon the fact that the defendant may or may not
20 testify? I will explain it to them.

21 MS. ANDERSON: Thank you.

22 THE COURT: Are y'all ready for the jury?

23 MR. VIETH: Your Honor, just simply to renew the
24 motion of last night, to ask the Court to consider charging
25 involuntary manslaughter. And of course the only -- the

1 reason for the request is the criminal negligence, reckless
2 disregard for the safety of others.

3 We just simply feel the defendants are entitled to a
4 charge on involuntary where the evidence shows a reckless
5 disregard for the safety of others, and we would ask the
6 Court to charge that.

7 THE COURT: All right. Well, as I understand the
8 present state of the law, in order for a defendant to be
9 entitled to an instruction on involuntary manslaughter with
10 regard to a reckless disregard for the safety of others, it
11 would have to be shown that there was an unintentional
12 killing of another without malice while engaged in a lawful
13 activity with a reckless disregard. And I think the
14 evidence in this case clearly shows that the defendants
15 were not engaged in a lawful activity.

16 If they're engaged in unlawful activity, then what is
17 required in order for an involuntary manslaughter
18 instruction to be appropriate is that it must -- there must
19 be evidence that it was an unintentional killing without
20 malice while engaged in unlawful activity that does not
21 amount to a felony and which does not naturally tend to
22 cause death or great bodily harm.

23 In this particular case, while each of the defendants
24 deny having committed any act that would support the charge
25 of murder, the evidence reflects that the person that is

1 responsible for the death of Mr. Howze and the other
2 codefendant were both, based upon the evidence, pointing
3 and presenting firearms.

4 Pointing and presenting a firearm is a felony, and
5 pointing and presenting firearms does tend to naturally
6 cause death or great bodily harm.

7 So based upon the facts of this case, I don't find
8 that the instruction as to involuntary manslaughter is
9 applicable or appropriate. So that request is declined.

10 All right. Any other matters to address before the
11 jury is brought in?

12 MS. ANDERSON: I just want it on the record that I
13 joined in Mr. Vieth's request for that charge.

14 THE COURT: Okay. Put that on the record, that
15 Ms. Anderson has joined in Mr. Vieth's request.

16 Anything further?

17 MS. ANDERSON: No, sir.

18 THE COURT: All right. Bring the jury in, please.

19 (The following takes place in the presence of the
20 jury.)

21 THE COURT: Good morning, ladies and gentlemen.

22 As you know, when we recessed yesterday all of the
23 evidence had been received, and what remained to be done
24 was the final summations of the lawyers, after which I will
25 provide you the instruction on the law. And then you will

Closing arguments

1 be asked to begin with your deliberations in the case.

2 As I told you, the way the final arguments are
3 accomplished, the state will open, what's called an opening.
4 They'll be talking to you about the law that they are
5 relying upon in bringing these charges against each of these
6 defendants.

7 It's not intended to be a complete instruction on the
8 law that you will apply that I'll provide you at the end of
9 the case, but he simply will be giving you a brief
10 understanding as to what law he is relying upon in bringing
11 these charges.

12 After he's concluded with that opening statement
13 relating to the law, each of the defendants' counsel will
14 provide you with a closing statement or argument, after
15 which Mr. Bulsa will be permitted time to make a final
16 argument in response to their statements; and then I'll
17 instruct you fully on the law that's applicable. And then
18 you'll be asked to go back and begin your deliberations in
19 the case

20 So please give the lawyers your attention now as they
21 give you their final summations.

22 Mr. Bulsa.

23 MR. BULSA: Thank you, Your Honor.

24 Ladies and gentlemen, I thank you for your attention.
25 I know you've paid close attention. As I stated in my

Closing arguments

1 opening, this is a vital part of our system and government
2 we live in to keep law and order in this land.

3 As the judge told you, I'm going to first speak on the
4 law as I see it. I want to tell you that, and the judge
5 has told you that, he will charge you at the end of the
6 case. He's the expert on the law. He is the judge of the
7 law, just as you are the judge of the facts.

8 That's your role. You listened. You heard the
9 testimony. You heard the witnesses and saw the exhibits.
10 You go back and decide the facts of the case, and you apply
11 the law as it is given to you.

12 It's my opportunity now to present to you what I
13 believe the law is and what I believe the Court will
14 instruct you on, and then I will come back at the, after
15 defense counsels speak to relate to you how the facts fit
16 those laws and how you should find each defendant guilty of
17 each charge. To assist me, I have some overheads I want to
18 use.

19 As a matter of procedure, ladies and gentlemen, the
20 judge has also told you about what roles the lawyers have.
21 We present our positions. We relate the evidence to you as
22 we believe we heard it, as we believe it fits the facts and
23 the law on the case.

24 If you, going back and deliberating amongst
25 yourselves, think the lawyers have misrepresented something

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1 and think you heard something differently than the lawyers
2 say, then you have the right to ask the Court to hear
3 testimony over. You cannot get transcripts of testimony.
4 You can only hear the playback from the court reporter of
5 witness testimony. That's your prerogative if you feel you
6 need to do that.

7 The same is for questions of law. After I relay this
8 law to you and His Honor does at the end of the case, if
9 you have further questions and you need further explanation
10 of the law, you have the right to ask questions to further
11 clarify any questions that arise during your deliberations.

12 I'm going to go ahead and speak now on another
13 procedural matter that may have confused you at the time in
14 the case.

15 When the state presented statements from each
16 defendant we presented typed-written statements. There is
17 a rule of evidence that required us to do that, because in
18 each defendant's statements they talked about the other
19 defendant.

20 And there's a rule of evidence that says if you join
21 two defendants together for trial and they gave statements
22 against their own interest, as well as against their
23 codefendant's interest, then we have got to redact or
24 remove the portions of those statements that relate to the
25 other person. We can only present to you the portion of

Closing arguments

1 their statement that relates to themselves. And that's the
2 way that was done.

3 But because each defendant took the witness stand and
4 testified, you heard us talk about substituting the
5 original statement for the typed-written statement.

6 What you're now going to have with you is the actual
7 written statements that the officers wrote, and I believe
8 in one case Mr. Jeter wrote himself, about what they say
9 happened. Okay. It's just another procedural matter I
10 wanted to address with you.

11 Now, the judge I believe will begin with some general
12 charges. And those general charges will be terms you've
13 heard before but may not quite understand. But he will
14 give a detailed explanation.

15 Of course the defendant, the defendants, come in here
16 presumed innocent. It's our job. We have the burden of
17 proof, the state, to prove them guilty beyond a reasonable
18 doubt.

19 The judge will charge you about the credibility of the
20 witnesses that you've heard, some things that you can take
21 into account in deciding whether you believe them and what
22 you want to believe of their testimony.

23 You can believe part of their testimony; you can
24 believe all of it; you can believe none of it. You can
25 believe one witness over others; you can believe many over

Closing arguments

1 one. It's as simple as that. The judge will give you more
2 instructions on that.

3 He will also instruct you on what we call direct and
4 circumstantial evidence. Direct evidence is evidence such
5 of an eyewitness nature, someone actually foreseeing
6 something with their own senses.

7 Circumstantial evidence is circumstances which taken
8 together tend to point to a conclusion. It's an inference
9 that you can infer that a fact occurred. And I will be
10 speaking about those kinds of evidence as I speak about the
11 facts of the case later.

12 He's also going to address what's called accomplice
13 liability, and that is the theory that the state has been
14 operating under.

15 I told you in my opening statement this case is about
16 the hand of one is the hand of all. When two or more
17 people combine together, agree together, participate
18 together in a criminal act, they are each equally
19 responsible for every act of the other party.

20 Even though something may not have been intended to
21 happen, if the other person does it, the other guy's just
22 as guilty because they agreed to go into this act together.
23 The judge will further explain that in his charges, but
24 that's the main theory of this case. I think you followed
25 that throughout this.

Closing arguments

1 The other principle is the natural and probable
2 consequences of your actions. Just because you go and have
3 one intention to rob someone and something else might
4 occur, someone is killed, if you go and wield a gun it's a
5 natural and probable consequence that that gun might go
6 off, that something might happen that caused that gun to go
7 off or that trigger to be pulled. You are responsible for
8 that natural and probable consequence of this act.

9 The defense has argued in their opening statement to
10 my recollection that their man was merely present. That is
11 a defense. If you find that they were just there and
12 didn't have any participation and didn't know what was
13 going on, then that's a reason to acquit him. I will argue
14 later that we don't feel that's the proper course to take.

15 Now, at the beginning of the case the judge read the
16 indictments to you. I'm going to now set out the law. I
17 think I addressed it briefly in my opening statement.

18 First, I will go with the burglary. Zoom out a little
19 bit. Burglary in this case is the entry into a dwelling.
20 An apartment is a dwelling. A dwelling is somewhere
21 somebody can live. Without consent. Nobody allows you,
22 invites you in. You go in without consent. And you have
23 the intent to commit a crime inside. That's the first
24 part.

25 And you also have to have a second. Those are the

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1 three elements that first had to exist. But then you each
2 have to have one of these others. While affecting entry,
3 while you're going into the house, either defendant, or the
4 other one, is armed with a deadly weapon or causes physical
5 injury to any person who is not a participant to the crime
6 or displays what appears to be a pistol or other firearm;
7 or you can have any of those in your mind; or it occurs in
8 the nighttime.

9 I submit to you in this case, because you heard the
10 facts of each of those four subsets, so to speak, all
11 exist.

12 The judge will also charge you with attempted
13 burglary, and I wrote attempt down there. Attempt to
14 commit a crime. But the act is not completed. Just you
15 have to break the plane or the door or a window, some plane
16 into the dwelling. If you put your hand in, that's enough
17 for burglary.

18 But if for some reason you don't believe that that was
19 done, the gun was outside the door when it was fired, you
20 can find attempted burglary. The stepping of the foot
21 inside the door is enough for a burglary. If for some
22 reason you don't feel that a foot was in the door, they
23 were pressing on the door trying to get in, you can find
24 attempted burglary versus the burglary.

25 We have also charged him with armed robbery. We

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1 believe this is a crime they were going over there to
2 commit. It's actually attempted armed robbery because they
3 never left something. The same theory as attempted
4 burglary, the attempt to commit a crime but the act was not
5 completed.

6 Robbery is almost self-explanatory. Armed robbery is
7 a robbery while armed with a deadly weapon. Robbery is
8 larceny or stealing something from the person or presence
9 of someone through the use of force or intimidation.

10 The state has created statutes concerning possessions
11 of firearms and pistols. In our state they have set out a
12 statute that requires you to be over 21 in order to legally
13 possess a firearm. And those are two simple elements,
14 possession of a pistol when you're 21, and you violate that
15 law.

16 The main thrust of this case of course has been the
17 death of Tavaris Howze. It's been a murder. We will be
18 arguing on these other charges as well. But mainly the
19 thrust has been on the murder. And everybody knows why.
20 That's the most serious offense.

21 Murder as I see it, and I believe the judge will
22 charge language similar to this, is the killing of another
23 person with malice aforethought, and that malice is either
24 expressed or implied.

25 What is malice? As I said, the judge will go into

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1 detail, probably much more detail than I have here. Simply
2 it's a hatred, ill-will or hostility toward another person.
3 It can be a general malignant recklessness concerning the
4 lives and safety of others; or it's a state of mind that
5 indicates extreme disregard for human life.

6 We feel the mere wielding of a weapon fits all of
7 those elements of malice. But I have further added things
8 that the state believes may apply, which that you can infer
9 malice. Of course an intentional homicide with an intent
10 to kill.

11 If you find they deliberately went there intending to
12 kill somebody, that malice can be inferred from that. The
13 intent to do serious bodily harm. When they put the gun in
14 the door and fired a shot, they intended to hurt somebody,
15 but maybe not kill them. If the other person dies, you can
16 infer malice.

17 Number three is a depraved-heart murder. That's where
18 an act is committed resulting in a death accompanied by
19 extreme recklessness. And I touched on this briefly in my
20 opening statement, and I will touch on it further with the
21 facts of the case.

22 But if you go wielding a gun and point it, we feel
23 that that's a depraved-heart murder. That is malice. If
24 you waive a gun in the presence of people, natural probable
25 consequence that gun might go off, that's malice in your

Closing arguments

1 heart. You are acting in extreme recklessness. And also
2 just the mere use of a deadly weapon. You can infer
3 malice.

4 And, lastly, you can look at the overall nature of the
5 acts surrounding the whole incident. I will be speaking to
6 that as well in the fact portion of my argument.

7 Now, I am going to end with this. The judge is not
8 going to charge you, ladies and gentlemen, on the law of
9 accident.

10 In South Carolina homicide is broken down into three
11 categories -- justifiable, excusable and criminal.

12 Justifiable homicide is a homicide like, that's
13 committed during war time, execution by the state.
14 Excusable homicide would be something like an accident.

15 Okay. And in order for you to excuse this as an
16 accident, I submit to you, the law as set forth, which
17 elements, now, you won't hear the judge say. That's
18 because accident doesn't apply in this case.

19 I am putting it up here because I anticipate each
20 attorney through their opening statements, and questioning,
21 they tried to infer and imply that this was just a terrible
22 accident.

23 Well, it is a tragedy because someone died, but it is
24 not an accident. It is not a legal accident that would
25 excuse either man from being guilty of murder, because the

Closing arguments

1 killing had to be unintentional and the defendant had to be
2 acting lawfully and the due care had to be exercised in the
3 handling of a weapon. They weren't acting lawfully and
4 they weren't using due care in the handling of a weapon.

5 You may believe the killing was unintentional, but it
6 doesn't have to be intentional to be murder, as we just saw
7 on the previous slide, if you've got malice.

8 Ladies and gentlemen, once again, I thank you. I will
9 turn this off. I don't know if the defense counsel wishes
10 to use it.

11 I will come back and probably use it in my closing
12 argument.

13 Please give them their due attention and respect.
14 Thank you.

15 MS. ANDERSON: First of all, I would like to thank
16 y'all. This has been a very long trial. Y'all have paid
17 such good attention to everything that's been said, and I
18 appreciate that. I thank you on behalf of my client and
19 his family. As I said in my opening, y'all are the reason
20 that our system works.

21 Y'all have got a big job on your hands. The way I
22 look at this incident, this whole thing, is it's a tragedy.
23 There is no good result in any of this. It's a tragedy for
24 the Howze family. They lost a son who was watching a
25 movie. You know, they lost a son.

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1 We have a tragedy where we have the -- well,
2 Mr. Jeter's family, his mother, Sherry Hardy, and his
3 relatives in here, they have had a 16-year-old charged with
4 murder, attempted robbery, burglary in the first degree and
5 possession of a firearm by a minor.

6 The Lyles family, the same thing. Two 16-year-olds
7 charged with these horrible, horrible crimes. It's your
8 job to decide and decipher and pick and choose from what
9 you've heard to come to the truth of the matter. And
10 that's a very difficult job, because y'all have heard a lot
11 over these past four days.

12 I think that some of it has been confusing because we
13 had our, the investigators on the stand reading statements
14 to y'all. And then we put in the real statements.

15 And the judge will explain this to you, but when you
16 have two codefendants, until you know they're going to
17 testify, they can't implicate the other. Every mention of
18 the other codefendant has to be taken out of the statement.
19 That's why you heard those first statements.

20 You have, and these are in evidence, the statements,
21 the four by Josh and the one by Lance Lyles. You will have
22 these. You will have the opportunity to read these when
23 you are deliberating.

24 The statements that are called redacted statements,
25 which means they have taken out the name of the

Closing arguments

1 codefendants, they won't even be given to you to look at.
2 What you'll have is what these boys turned in.

3 And what I would like to do is just go over a little
4 bit about what you've heard this week with the different
5 witnesses.

6 Number one, you had Clearance Spicer. Mr. Spicer has
7 been sitting here all week. You heard both of the boys,
8 both Josh Jeter and Lance Lyles, said they were going to
9 buy marijuana from Mr. Spicer.

10 Now, Mr. Spicer didn't say that, but I didn't expect
11 him to say that, that that's what was going on. But that
12 is what both boys told y'all they went to do.

13 Mr. Spicer gave a statement about what happened and
14 pretty consistently said that the man with the hoodie
15 pulled it off. Said he didn't recognize it at that time
16 but later on recognized him as someone who had been to his
17 house, and said that he'd tried to push his way in the door
18 and actually came up on the step and was pushing his way in
19 the door. And then another person that he didn't know came
20 around and pointed a firearm, a little silver gun. Now,
21 that was what Mr. Spicer said.

22 Okay. He admitted he knew Lance later. He didn't
23 know Mr. Jeter. He said Mr. Jeter had on a mask.
24 Mr. Jeter admitted he had on a mask and he admitted he
25 pulled a gun, but he said he didn't fire his gun. He said

Closing arguments

1 he didn't have bullets in it, which I know sounds
2 ludicrous, but you have got to remember he's a 16-year-old
3 here.

4 You have Scott Hill who has no connection to anybody
5 in this case, and he said that he saw two boys, men, two
6 boys, men, running on the path that everybody used and both
7 of them had guns, one silver and one black with rust on it.

8 Y'all saw the photo. It was light enough from the
9 parking lot lights too that I believe he could have seen
10 that.

11 Brian Durbin really knew nothing. He was there.

12 Mr. Howzer talked about what a wonderful son he had,
13 and I agree he had a wonderful son.

14 You had Officer Swanlund who was the first to respond.

15 And Dr. Wren said the -- did the autopsy -- said he
16 died from a gunshot wound and that the fragment that he
17 found was consistent with a small caliber gun.

18 David Hogsed came in, and he was one of the detectives
19 from the public safety office. And he did the diagram of
20 the crime scene.

21 When you go back I do want you to remember on the
22 diagram, if I can find it, that he did leave off when he
23 was listing what was in the -- when he was listing what was
24 found, what he left off on number four was a -- let me make
25 sure I word it right -- a partially-smoked, hand-rolled

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1 cigarette with green leafy material. That's not on here.
2 But that was what was found in number four, which was right
3 in the living room.

4 Talanges, Officer Talanges, also took pictures of the
5 crime scene. Officer Guthro was right. He was the one
6 that went to Lance Lyles' house to watch the house while
7 they were obtaining the warrant for murder against Lance
8 Lyles. He said that the lights were going on and off for
9 20 minutes.

10 I asked Mr. Lyles about that. He said he didn't know.
11 But I believe the testimony was the only two people there
12 were Lance Lyles and his brother, Leonard. But the lights
13 were going on and off.

14 Now, the mother said the father was home. So I don't
15 know. That's, again, your job to determine what was the
16 truth here.

17 Now, Lance and his brother ran. Why didn't they just
18 turn around? As Mr. Lyles said, he was afraid of the men
19 in the red Taurus. He was two houses away from his home.
20 Why didn't he run home? Wouldn't that be what most people
21 would do, run home, if someone threatened them or they felt
22 threatened by someone? Mr. Lyles ran and ran and ran for
23 an hour and 15 minutes.

24 And Officer Guthro talked about how many people were
25 involved in this search for Lance Lyles. I think he said

Closing arguments

1 30 people were involved at least. They had the K-9 units
2 out, the dogs, all the patrol officers, the helicopter. It
3 was a massive search for Lance Lyles who said he ran
4 because he didn't know who the men in the red cars were and
5 he was scared of them.

6 Lieutenant Lamb, Steve Lamb, again talked about Lance
7 running, that, and he is the one that testified, I guess,
8 that it was an hour and 15 minutes and 30 people were
9 involved.

10 Officer Porter executed the search warrant at Lance
11 Lyles' home. He testified that all of the ammo was found
12 in one bedroom, I believe. And, as you saw, it was quite
13 an arsenal in that bedroom.

14 I don't think anything was mentioned by Mrs. Lyles
15 about that they hunted or anything. They said they used it
16 to shoot rats and snakes and for her protection.

17 Dan DeFreese, very important witness, from SLED. He
18 said the possible gun was a .22 short or long caliber gun.

19 Now, the bullets that were found at Lance Lyles' home
20 were tested, along with the fragment, that were found in
21 Mr. Howze. And Dan DeFreese said the bullets at Lance
22 Lyles' home were consistent with the fragments found in the
23 victim. I think that is a very important part of evidence,
24 piece of evidence here, that you have to take into
25 consideration when you are looking at this.

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1 Sergeant Chris Taylor interviewed Lance Lyles and Josh
2 Jeter at school. While I think that they had two young
3 boys who were scared to death, and I don't believe that
4 they thought they had a choice of whether or not to talk to
5 the officers, neither one of them admitted they had been at
6 Rose Hill.

7 Chris Taylor also talked, I believe, about Mrs. Lyles
8 snatching Lance's gold teeth out of his mouth.

9 Stacy Watson who was the school counselor said that he
10 never told the boys they didn't have to talk to the police.
11 He also said Lance appeared nervous. They said Josh kept
12 changing his story. But he did write a statement.

13 David Hearst interviewed Lance and Jeter at the
14 university school. Also, he was in some of the interviews
15 with Josh Jeter.

16 Investigator Brewster was in charge. She questioned
17 Josh three different times, and she explained to you that
18 her technique was that it was an accident and that she kept
19 telling him we know this was an accident, we know you
20 didn't mean to kill anybody, to get him to talk.

21 If Josh, and I think she admitted this, if Josh had
22 not come back on his own on December 14th of 2004 he might
23 not have been sitting --

24 MR. BULSA: Objection, Your Honor.

25 THE COURT: What's the nature of the objection?

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1 MR. BULSA: She is implying that perhaps he would
2 never be arrested. She's speculating as to what further
3 evidence might have --

4 MS. ANDERSON: I asked Investigator Brewster that.

5 THE COURT: Overruled.

6 MR. BULSA: I objected at that time also.

7 THE COURT: Overruled.

8 MS. ANDERSON: Josh came in on December 14th of 2004
9 and gave a statement to Officer Brewster, that had he not
10 come in and given that statement he might not have been
11 arrested in this. I think you need to give consideration
12 to that.

13 I believe you will remember that Officer Brewster said
14 they didn't have any plans to call him back in at the time.
15 But he came in and told Officer Brewster what happened.

16 When Josh was on the stand, as you know, he gave three
17 different statements, four different statements.

18 The first statement he gave at the school just said
19 that he went over to his brother's. You will have this.

20 The second statement said that he, Leonard Lyles,
21 Banks, excuse me, Lance Lyles who is called Banks and
22 Leonard came over to his house and that he borrowed his
23 mom's car and they went over to his brother's place. Okay.
24 Didn't say anything about going to Rose Hill. This is the
25 December 11th. This is when they brought him from home to

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1 give this statement. The police picked him up.

2 On December 14th he gave a statement that says that
3 Lance asked me to go with him to some dude's house over at
4 Rose Hill to get some marijuana and that he went over there
5 and that he did have on, he said he had on, the mask, and
6 when Mr. Spicer saw him that he was trying to shut the door
7 on Lance, and that Lance was pushing the door back. And
8 then Lance shot off into the apartment with a little .22
9 gun. Said it was black with rust on it; and that they ran
10 back, got in the car and he took him home. He said he did
11 have a mask on all the time.

12 He also gave another statement on September 14th.
13 Y'all will have this, and you will be able to read all of
14 these. He talks about how he bought his gun from a man
15 named Calvin in this. You will get to look at all of
16 these.

17 But I want you to try to remember everything that Josh
18 said. He didn't come up with going over to this man's
19 house. He didn't know this man. Lance Lyles said let's go
20 buy some weed.

21 Now, they get over there. And if you'll remember, he
22 went over to the balcony, and Lance was talking to
23 Mr. Spicer.

24 Now, Josh testified that he came over because he knew
25 when you go buy marijuana you don't stand outside to buy

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1 it. And he didn't know why Lance hadn't gone in. And so
2 he goes over there, and he sees Lance pulling his gun out
3 of his pocket. So he pulls his gun. Now, he testified he
4 pointed it at his feet. And then he said that the gun went
5 off. Lance's gun went off. They both ran.

6 You get to Mrs. Hardy, going back. I am trying to go
7 through it as they came down. And Mrs. Hardy's had her
8 child in jail since December 14th of 2004. There was
9 testimony that she could not afford the bond to get him
10 out.

11 Now, Lance Lyles has been out since he was arrested
12 for all of these crimes, but Josh Jeter has been in jail.

13 The portion of the tape you heard was just a small
14 portion of a lot of tapes. The jail records every
15 conversation anyone has.

16 I don't know what is in anyone's mind about what they
17 do. I know that my client told me he bought the gun from
18 Calvin. He told y'all he bought the gun from a man named
19 Calvin and that he kept it in a shoe box in his room. And
20 that's where his mother testified that she found it, in his
21 room. And they turned it in.

22 Now, Mrs. Lyles got on the stand. Got two children in
23 trouble. And she told her child not to talk, not to say a
24 word.

25 MR. VIETH: Your Honor, at this point --

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1 MS. ANDERSON: I am sorry about that. But it was in
2 testimony.

3 But she has two children who have been in trouble, and
4 they have an arsenal of bullets in the house that are just
5 laying around not locked up?

6 They kept calling this room the spare room. But where
7 did the other brother live? They said he used that room,
8 but there was no lock on that door. There was no lock on
9 the dresser. Those, that ammunition, ammunition that was
10 consistent with the fragment found in Mr. Howze, ammunition
11 was in that house that was accessible to Lance Lyles.

12 Lance gets up and testifies. Now, Lance had been in a
13 lot of trouble. That was, that came out on the stand. He
14 had been sent from Dorman, along with Josh. Joshua had to
15 go to the university school too.

16 But Lance got in trouble at Dorman, when he testified
17 he didn't hang out with Josh Jeter, said they played ball
18 together when they were really young. But they didn't hang
19 out together at Dorman. But Lance got sent out of Dorman
20 and sent to the university school on his own. In fact, he
21 got expelled from the university school.

22 So I think when we're trying -- Mrs. Lyles was trying
23 to say that Josh was such a bad influence on Mr. Lyles,
24 Mr. Lyles had had his own share of problems and gotten into
25 a lot of trouble without being involved with Mr. Jeter.

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1 Again, Lance testified that he didn't know there was
2 ammunition in that room, he didn't know that there was
3 anything in there.

4 Well, I mean you see in the pictures. There was a
5 girly magazine in the room. That's in one of the pictures.
6 I say that Lance probably went in and out of that room
7 right much and probably knew exactly where that ammunition
8 was.

9 He admitted that he asked Josh to go buy marijuana at
10 Sees's, called him See, but said that that was Clearance
11 Spicer. Said he had been there several times and had
12 smoked marijuana there.

13 But then he says he's there and he's talking with See,
14 and See's saying he had to re-up, that he was out and it
15 was going to be 30 minutes before he got some more. And
16 then he says all of a sudden there was this commotion and
17 it happened so fast, and he was overpowered by Mr. Lyles, I
18 mean, by Mr. Jeter.

19 I mean, Mr. Jeter is a little fellow. He said
20 Mr. Jeter didn't have on a mask and he said he didn't know
21 what happened, he just flee-ed the scene. That's a quote
22 there. And then they had conflict in the car..

23 Mr. Lyles, Lance Lyles, is the one that said let's go
24 over to Clearance Spicer's house, let's go over there and
25 buy some marijuana. He can remember everything in great

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1 detail except what happened that night.

2 I tell you. I believe that Lance Lyles is the one
3 that shot in that apartment. I think that Mr. Jeter went
4 along with him to buy the marijuana. And while that is a
5 crime, it's a petty crime compared to attempted robbery,
6 burglary, everything else.

7 Now, he did point a firearm, which is a very serious
8 offense. But I tell you that Lance Lyles is the one that
9 pulled the trigger.

10 He had access to the ammunition. They had a .22 rifle
11 at that house, I believe, was the testimony. But it had
12 been several days since this incident had occurred.

13 I don't know where the gun is that caused the death of
14 Mr. Howze. It was never found.

15 I think that Mr. Lyles' memory, which is so bad about
16 the incident, is because Mr. Lyles is the one that went
17 over there. He had been shorthanded on marijuana by
18 Mr. Spicer before, and he was the one over there to get it.
19 And I believe that he tried to get, I think, I mean, Mr.
20 Spicer said himself that the second guy didn't come in the
21 room. Mr. Spicer also said the guy was left-handed.

22 You know, but, again, when we looked at the scene, if
23 you look at the door, I mean, well, we don't have one, but
24 we have the door here, and the door opens this way. And if
25 Mr. Lyles is standing right in front of it and Josh Jeter

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1 is over here and comes here, I don't think there is any way
2 that Mr. Jeter knew anybody else was in that house. I am
3 not sure that Mr. Lyles knew anybody else was in there.

4 I know the judge isn't going to tell you the law on
5 accident in this, but I do not believe that anyone meant to
6 kill anybody that night.

7 I think the state has not proven its case in malice
8 aforethought. These boys went to buy pot. They didn't go
9 there to kill anybody at all. I don't think the state has
10 proven.

11 I mean, they're going to say, yeah, they had at least
12 one gun they know of and that could be inferred that it's
13 malice. Well, when something is inferred it's just one
14 little piece of evidence. It doesn't mean that you have to
15 believe that it's malice because there was a gun.

16 You just take it. This is the difference between an
17 inference and something that is presumed. It's not
18 presumed that there's malice.

19 The state had to prove to y'all beyond a reasonable
20 doubt that there was malice aforethought, otherwise you
21 can't find them guilty of murder.

22 I would like for you to consider mere presence with my
23 client. He was there. I mean, he admitted he had a gun.
24 You know, no bullets, but he had a gun. He didn't have to
25 go in and give this statement.

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1 You know, I do believe, as the judge will tell you,
2 nobody, no defendant has to testify. They don't have to
3 get up here. You can't hold it against them if they don't.
4 But both of the defendants have testified.

5 And the judge is going to tell you you don't have to
6 find the same verdict for either one. You can find one
7 guilty of burglary; one guilty of murder. You can do any
8 number of combinations.

9 But I would tell you that Mr. Jeter is not guilty of
10 murder. He didn't know this person; this person didn't
11 know him.

12 He thought they were going to buy some marijuana.
13 That's what he was told.

14 He did have a gun. That's possession of a firearm by
15 someone under 21. He's guilty of that.

16 His body, none of his body, went into that room. He
17 did not try to -- nothing was stolen. Nothing. There
18 could be -- my client could not have committed or attempted
19 a burglary.

20 Mr. Spicer himself said he never came in the
21 apartment, although he said that Lance Lyles did. I
22 believe my client was there with Mr. Lyles to buy marijuana
23 and it went terribly, terribly wrong.

24 I believe that Mr. Lyles got mad because he didn't.
25 Mr. Spicer wasn't going to give them the marijuana. He had

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1 shorted him, and he shot in the apartment.

2 Whether he -- I don't know that he meant to kill
3 anybody. He probably just meant to scare Mr. Spicer. But
4 it was terrible. It was a terrible act, because Mr. Howze
5 was sitting out of sight.

6 And there was no testimony that the gun came in the
7 side. There was testimony that the door struck the gun,
8 hand with the gun. And to me that's a possibility as to
9 how Mr. Howze was shot, because otherwise how could he have
10 been?

11 They would have had to be standing at -- if this is
12 the door, again, over here to shoot that way. It makes
13 more sense, as Mr. Spicer said, the door struck the arm.
14 The arm went that way, and Mr. Howze was shot.

15 As I said, y'all have a very hard job ahead of you.
16 You're going to listen. This is the only time I get to
17 talk to you.

18 Mr. Vieth will get to talk to you and argue his case,
19 and then Mr. Bulsa will get to argue for both again. He
20 will get to argue again. The judge is going to tell you
21 the law. And then y'all have got to go back and do your
22 job.

23 Again, I say this is such a tragedy for all three
24 families, but I do not believe that you can find my client
25 guilty of murder. I do not believe the state proved that

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1 he had malice aforethought.

2 I think that he was merely there. And, as I said,
3 just, it's very important that y'all listen carefully to
4 the judge, because y'all have great memories, and y'all are
5 going to have these documents and these, this, these pieces
6 of evidence. And you will be able -- it's your job to find
7 the truth in the matter.

8 You've heard a lot of conflicting statements, and I
9 just ask that you try your best to find the truth in this
10 matter. Thank you.

11 MR. VIETH: Do you want to continue our arguments?

12 THE COURT: Mr. Vieth.

13 MR. VIETH: May it please the Court.

14 Madam Forelady, and ladies and gentlemen of the jury,
15 it's been a long week for all of us, and I realize that,
16 and I will try to be short. But it is an extremely,
17 extremely serious case. So I am not going to take any more
18 time, probably maybe at least as much time. And so I hope
19 you will bear with me. And I understand it's Friday. And
20 I understand you will be ready to go home. But you've got
21 a choice to make in some people's lives.

22 It's almost like changing channels with your remote
23 sometimes. You hear one version, and you switch over and
24 hear another version. And it gets more difficult all the
25 time.

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1 One thing that Ms. Anderson mentioned in her argument,
2 which I think is fundamentally correct, and that is we
3 really don't have much evidence that Mr. Jeter knew
4 Mr. Spicer.

5 So probably one of the latter-part of the things she
6 mentioned, and it caught my attention as being a pretty
7 good revelation in this case when you get right down to it,
8 is that who knew Mr. Spicer. Who had been over to his
9 house before? Who had sat there in his house before and
10 either, A, played games if you believe Mr. Spicer, or, B,
11 smoked marijuana if you believe Lance?

12 In any event, that's probably consistently true. So
13 the question begs itself that if you intended to go rob
14 somebody would you prefer to rob someone you didn't know or
15 would you prefer to rob someone you did know.

16 And if you preferred to rob someone you did know,
17 would you prefer to go over there with no mask on and pull
18 your hood back so the person could identify you?

19 Now, something's got to say where is the sense of
20 this. Where does it make sense that if a person was the
21 instigator of a robbery or a killing or anything else, why
22 would you go to your buddy's house or a buddy of your
23 buddy's house who knew you?

24 Why would I go to one of my group that I play golf
25 with's house if I intended to rob him and pull my mask off

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1 to identify myself, which Mr. Spicer said he did, and rob
2 that person and not kill him if I was going to do it at
3 all?

4 On the other side of the coin, if I had a friend that
5 didn't know the friend and that friend decided this is a
6 good place to rob, it's a drug house, and you just suddenly
7 do it, then does that not make more sense?

8 And that was a very -- I didn't even think about that
9 until Ms. Anderson brought it up in the last couple of
10 minutes. And I am sitting there thinking, dadgum, she's
11 right.

12 Why in the world would a guy that someone go rob them
13 and not hide their face while someone that did know him hid
14 their face? And that was almost a bell ringer that says
15 that's what I haven't been able to figure out, and that's
16 what happened.

17 So let's go back and say now let's take a bigger
18 picture of this thing. And I am not going to go through
19 all of these officers and so forth, but you're going to
20 have a recollection of everything you want.

21 But we know what the law is going to be to give to
22 you, and you're going to have to become a quasi attorney.
23 Sometimes it's even hard for us to understand all of the
24 laws and how they apply.

25 But if two of us, two people, drove into, say, a Hot

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1 Spot, someone got out to buy some beer and bought the beer
2 and when the cash register opened they grabbed the money
3 with a gun and ran and got in the car and the driver of the
4 car drove off and it was all captured on video right there
5 at Hot Spot, does one automatically say the driver is
6 guilty? Is the driver automatically guilty of armed
7 robbery at that Hot Spot?

8 You have learned a lot in a week. Maybe the
9 perception is all the time, yeah, the hand of one, the hand
10 of all, I've learned that this week.

11 Or what if the driver didn't know that the passenger
12 was going to do anything more than buy beer? And all of a
13 sudden the passenger realizes a golden opportunity, sees a
14 couple of hundred dollar bills and grabs them and runs in
15 the car and says let's get the heck out of here. And it
16 happens.

17 Well, certainly if they get caught, the video tape
18 will catch the license tags and everything else, that
19 driver is going to be charged. And they are going to be
20 sitting in here some day saying, gosh, is it the hand of
21 one, or is mere presence a viable defense in the law, I was
22 present, I was there, but I was not aiding and abetting
23 anybody?

24 Now, the fact that I don't pick up or call 9-1-1 and
25 say, hey, guess what my buddy just did, he just robbed Hot

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1 Spot, he just shot into an apartment complex, that may mean
2 you might be guilty of something like obstruction of
3 justice or something for not telling the cops if they ask
4 you what happened, maybe you can be charged with some
5 collateral crime, but it doesn't make you guilty of the
6 robbery and it doesn't make you in this case guilty of a
7 robbery or a shooting or anything else.

8 You're going to have to find beyond a reasonable
9 doubt, not going back there and saying, look, these kids
10 went to the alternative school together, these kids played
11 sometimes together, these kids may have smoked grass
12 together, so therefore whatever they do, we are going to
13 say the hand of one, the hand of all. That would be an
14 easy way to spend your weekend. You'll be out of here.

15 You know, back in the early days when I first started
16 practicing law smoking was allowed in these buildings. And
17 I would have probably said don't go back and light a
18 cigarette and if you think they're all guilty, just go back
19 and write a verdict.

20 But you're going to be smarter than that and you're
21 going to deliberate this case thoroughly. And use your
22 common sense. Think about those issues about who would rob
23 who, where is the motive and the common sense to rob
24 someone you know and expose your face. And these are the
25 things you get into with the aiding and abetting.

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1 There is some issues on gold teeth. I don't know what
2 that deal is about. I haven't figured out. But everybody
3 has tried to make it an issue. And I don't know what it
4 is. So I am trying to think and make sure I detect that.
5 And the only thing I can think is some kind of identifier.

6 Well, let's look at what Mr. Spicer said. And, again,
7 the solicitor is exactly right. If we say something to you
8 and you think Rick Vieth has made a mistake and he's trying
9 to mislead me, then you've got a right to ask this Court to
10 play back anything you want, because I'm not trying to
11 mislead you, and I'm sure no one else is.

12 But it's your -- you know, you guys are the triers of
13 the fact. So if you think it's different, then you say we
14 want to hear something.

15 But Mr. Spicer clearly, clearly indicated that my
16 client when he knocked on the door pulled back his hood. I
17 asked him did he recall whether he said he was video-taped.
18 And I said do you recall the video tape, whether you said
19 he had two hands or one when he pulled it back. He said I
20 don't remember. It might have been one.

21 We know that. We know it's factual. He did it. He
22 didn't pull it down. Pulled it up.

23 We know Mr. Spicer also said that he believed it's
24 very possible that when we went to close the door that the
25 gun discharged.

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1 We also know that Mr. Spicer, and I believe the
2 officers correctly said this, up reflection -- I mean, you
3 can't -- luckily, I've never been the victim of any of this
4 stuff and hopefully we won't, but you can't probably
5 conceive of what it is like.

6 And so within two hours or so of this horrifying
7 situation he's able to say the one that exposed himself,
8 the one that had the hood off, was not the one with the
9 gun. Unquestionable. No question. There is no gray area
10 here.

11 Mr. Spicer two hours later around 10:00 o'clock or so
12 that night giving a report said the one that had the gun
13 had the mask, and the one that didn't have the mask didn't
14 have a gun. Never wavered from that statement. Never has.
15 Didn't do it a year later in the trial. So we know he
16 didn't have a gun.

17 Now, I will deal with the eye-witness guy in the woods
18 in a second, but let's just deal with the guy that's
19 capturing this that's got the Kodak moment of opening the
20 door and seeing this, and he is saying a conversation takes
21 place. It's either going to be very brief or it's going to
22 be up to 30 seconds.

23 I stopped in the middle of the trial to say let's see
24 what 30 seconds feels like. It can feel like a long time,
25 and everything is quiet in here. It may not have been that

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1 long. And no one's sitting there looking at a watch where
2 he can tell me honestly it's 30 seconds.

3 I'm not trying to confuse him on that point. I just
4 wanted to know what happened. We know something happened
5 to the point of someone saying what's up, what's up.

6 And even Mr. Spicer said there was some other little
7 bit of conversation but he didn't recall what it was.

8 Well, the conversation may have been about something. Who
9 really cares?

10 It may have been what Lance said. It may have been do
11 you have any drugs or something or something. No, I don't.
12 Going to have it in about a half-hour. It may have been,
13 well, who won the ball game last night. It don't matter.
14 But there was a brief conversation there, exposing himself,
15 not pulling out a gun. And that's uncontradicted. That's
16 the state's evidence, not mine. We just corroborate it.

17 Now, when he was identified, he was identified by a
18 lineup. Okay. Now, this lineup, I guess, becomes
19 important to me because it shows no gold teeth. Mouths
20 were closed.

21 So what does that tell us? It tells us he certainly
22 wasn't identifying a guy in a mask because he had gold
23 teeth and that the mask covered everything but his mouth
24 and eyes and when I saw the mask, the thing I noticed was
25 gold teeth, because if he had identified him by gold teeth

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1 he couldn't have identified him by this picture, because if
2 he was masked he wouldn't have known which one of these
3 people had gold teeth, correct?

4 So we know he didn't have a mask on, absolutely
5 positively, because he didn't identify anyone in this
6 picture as a result of gold teeth. So he must have
7 identified the person as a result of his facial features or
8 the mask would have covered it.

9 So that kind of takes care of two birds in one stone
10 right there, the eye witness coming from the woods that
11 said he saw two masks and two guns.

12 Now, eye witnesses are people that see things. We all
13 are witnesses to things that happened this week. If I said
14 what did I have on two days ago, what kind of clothes did I
15 have on two days ago, you may get 12 different answers, 12
16 different people honestly believing they're being truthful.

17 People can make mistakes but believe honestly. May
18 ask what did you have on two days ago. Might get 12
19 different answers. You don't know. But that don't mean
20 someone's lying. It's just a perception. We know
21 perception in this case with the eye witness through the
22 woods is an action to a full extent. And I'm not talking
23 about any intent to lie or any trying to see. I think he
24 is trying to be an honest guy. Seventeen-years-old.

25 But we know there wasn't any mask. We know that. And

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1 it doesn't make any sense to say, well, he must have put
2 his mask on after he left the house and ran to the woods.
3 And that kind of makes anyone look kind of ridiculous to go
4 rob a place without a mask and then throw the mask on so
5 you can run through the woods.

6 So the eye-witness issue then becomes, well, do we
7 believe, not that he tried to deceive but that he might
8 have made a mistake. We know he made a mistake. We know
9 two people didn't have on masks unless you want to take the
10 position that he threw that mask on while he was running.

11 Now, if we are going to believe that you've got to
12 believe the eye witness when he said the difference between
13 the woods and that apartment is about to that courtroom
14 over there. It wasn't very far. And there is a road
15 somewhere, and there is a light over here on the right that
16 can illuminate to some degree this wooded path.

17 And it's nighttime. It's December. It's dark. He is
18 walking back minding his own business and obviously gets
19 scared to death. You hear what he said was a few gunshot
20 wounds, or not wounds, a few gunshots.

21 Then he came back about a second later and said it was
22 two gunshots and I saw two people running, two people with
23 masks, one with a silver gun and one with a black one. And
24 the black one hit me right off the bat to say it was dark,
25 how do you know if you got anything in your hand, I mean,

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1 how can you see black in dark? I just, I had a hard time
2 with that, and I am not saying he's wrong with what he
3 thinks he saw. But he thinks he also saw two masks. And
4 it wouldn't be a very long period of time. Those guys are
5 running.

6 So I submit to you when someone's got to prove
7 something not by suspension but by proof beyond a
8 reasonable doubt, that isn't going to convict anybody one
9 way or the other. It's just part of the evidence that
10 identified two people, a silver article may be easier to
11 see. I don't know. My guess would be silver is going to
12 be something you can glance at.

13 You know, I walk in the morning once and a while. I
14 live near a golf course. And sometimes I'll walk the nine
15 holes at predawn when it's just getting light. And if
16 someone's jogging toward me on the same cart path, you
17 look, but you don't really see that they have a stick in
18 case a dog attacks or their golf club they had in their
19 hand. You know, you just don't, you're not paying that
20 much attention. You're looking but you're not seeing all
21 the detail.

22 And I thought this fellow did a good job saying he saw
23 two people running. And I think that's about where it is.
24 You can believe him when he said he saw -- you can believe
25 whatever you want. But we know he didn't have two masks.

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1 And if he didn't have two masks and then confident beyond a
2 reasonable doubt that he saw two guns, and I will leave it
3 at that.

4 You get to kind of post-arrest issues. We know he
5 ran. I admitted that to you from the get-go. You know, we
6 talk sometimes about having a jury of your peers. I don't
7 know.

8 You know, it's fundamentally fair sometimes to say
9 should a jury of someone's peers be someone 16, 17, 18, 19
10 years old. I don't know that. I'm sure not in the real
11 world.

12 But you wonder what goes through their mind when
13 they're running like this and doing things. And I can't
14 answer that. I can't do that at my age. I may not be able
15 to do it at their age. But they ran. He didn't tell his
16 mother and he didn't tell his father. Things that I may
17 have done in my past I would not have wanted to tell my
18 mother and father, I mean, only part of it, whether I was
19 innocent or not innocent, whether I was present when
20 someone shoplifted in Belks 40 years or not. I may not
21 have wanted that stuff known.

22 So post arrest or kind of running, you can infer
23 innocent people don't run. You can infer that if you want
24 to.

25 But I submit to you, ladies and gentlemen, that one

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1 thing that's impressive too is not that he ran for an hour
2 and something back in December of '04 but that he is
3 sitting there in March of '06. Now, he has been on house
4 arrest.

5 MR. BULSA: Objection, Your Honor.

6 THE COURT: Well, let me see y'all just a minute.

7 (Bench conference held off the record in the presence
8 of the jury but out of the hearing of the jury.)

9 THE COURT: Go ahead.

10 MR. VIETH: In any event, he's been here and he's not
11 in San Diego or Santa Domingo or somewhere on the run. He
12 stood here to face his day with y'all.

13 So and I am not saying that means he's innocent any
14 more than if a prosecutor says he runs means he's guilty.
15 You just have to take all of these facts when you start
16 thinking upon this. And that's why I bring it up, because
17 they are going to make a big deal of the running. I feel I
18 have the appropriate situation to say he's there. He could
19 have run any time. He could have been gone anywhere he
20 wanted to if he wanted not to face you people and get this
21 thing resolved.

22 Now, the bullets. Obviously DeFreese was important.
23 DeFreese is a SLED agent, good agent. We know that a .22
24 apparently was the killing fragment. That's what did it.
25 We know there's .22's in the house. But of course DeFreese

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1 was honest and he said it could have been from here but it
2 may not have been. There's a list of things it could have
3 been, and no one positively in any way, shape or form can
4 say the .22 that killed Mr. Howze came from here. There is
5 no evidence that that was reality.

6 There is evidence that could be consistent I guess if
7 you went and bought any of these shells from any K-Mart or
8 anywhere else. The agent would have said the same thing,
9 it could have been. But that's as good as he can say, is
10 it could have been.

11 And when you're talking about, again, proof beyond a
12 reasonable doubt, that just falls way by the wayside. No
13 one would want to be convicted on a could-have-been shell.
14 So I am not even going to address that. It's not worth it.

15 Now, the fact that he had access to his whole family's
16 house is no big deal. I don't know whether he understands
17 what the word access even means, but I asked him on my
18 examination. I said could you have gone in there if you
19 had wanted to, and he said yes. And that answered the
20 question. He certainly could have.

21 But do you want to not believe his parents, his
22 mother? You have got a right to believe or disbelieve
23 anybody you want. She said it was a right. What we had in
24 there, we had a reason, my husband was retired military and
25 he had weapons.

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1 A lot of people have weapons. That doesn't mean
2 anybody kills somebody with them. It's an -- if you want
3 to look at it that way, then let's say, okay, the search
4 warrant didn't take place for two days.

5 If I'm a killer and I had the weapon and I got rid of
6 the weapon, why ain't I getting rid of the bullets? Makes
7 sense, doesn't it?

8 Why leave the bullets so a search warrant can come?
9 They've already talked to him at the university school.
10 They know. I'm going to be a suspect. I know that. So
11 why don't I go home and get rid of these suckers if I think
12 I did something wrong? You don't get rid of half of it.
13 You don't get rid of the weapon and leave the bullets.

14 So we're getting down to now something to do with
15 these tapes from the jail. I think it goes without saying
16 the 25 that was submitted the day of Mr. Jeter's other
17 trial that didn't get off the ground has nothing to do with
18 this case except by helping him the day of that trial.

19 We listened to these tapes where they were clearly
20 concocting a story about let's say it was Aunt Lillie's gun
21 or something like that. And if you don't want to do that,
22 let's say it was a guy in the park's gun.

23 People don't remember sometimes when that little
24 interlude comes on in these phone calls and they say some
25 of these tapes can be monitored. You forget.

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1 And they can't communicate except by phone in jail,
2 and they just forgot. And they get in there, and told this
3 tale of how we are going to submit a .25 caliber because we
4 know it ain't the murder weapon and we can't use an
5 automatic.

6 We know that because an automatic discharges shells,
7 and there wasn't shells there, or cartridges or whatever
8 you call it. There wasn't on the scene. We can't do an
9 auto. You heard it on there. Now, he's only got autos.

10 If that weapon had been worth a flip in this case this
11 solicitor's office would have had it in evidence and would
12 have been telling you. They're good, and they know and I
13 know that that .25 caliber had nothing to do with this case
14 except smoking mirrors to try to say, believe you, I didn't
15 have the murder weapon, it must have been Lance over here,
16 and here it is.

17 And when was that thing given to them? In September
18 of '05, the day a jury had been picked, is when that came
19 out. There had been a lot of effort to make that pistol
20 show up on the day of the trial, and that's a pretty good
21 effort. But, luckily, they were caught pretty easily on
22 the tapes that we played.

23 Now, we all had access to these tapes. I told you
24 that when we were cross-examining. We had all of this
25 discovery. One of those tapes Lance's mother testified to

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1 said that Mr. Jeter says that he could put a hit out on
2 Lance. That chilling kind of statement, I can't answer how
3 it impacts someone when they get on the witness stand. I
4 can't say whether it does or doesn't.

5 But if Lance is scared to say much more than what he
6 said, could that impact that, what might happen at the end
7 of this trial? Will there be a hit? Will there not be a
8 hit? Is it something that can chill someone's testimony?
9 I don't know.

10 I have no reason to believe there's a hit out. I have
11 no reason to believe anything like that. But it's on the
12 tape that he and his dad had to listen to while they were
13 helping me listen to tapes.

14 So I don't know what happened, but it might be a
15 little alarming to get up there and say, yeah, I saw
16 Mr. Jeter take the gun out and put the mask on in the steps
17 and before I knew what happened he was coming in that door
18 and the gun discharged and we ran and ran and ran and
19 didn't tell anybody. And now I've listened to tapes and it
20 may be bad, no matter what I do.

21 His testimony was different from most people in this
22 trial as far as the mask goes. He says on my examination,
23 I said when did you see the mask, and he said I never did.
24 That makes sense to some degree if you look, think about
25 the perception of the case. He's knocking on the door and

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1 he's talking. He don't see a mask. When his buddy and him
2 come up the stairs there ain't no mask.

3 Of course the 2005 statement by Mr. Jeter said he had
4 a mask on the whole time, but if you take this positioning
5 of it that he goes up the stairs and they are both going to
6 buy marijuana, I mean, he even says he gave him \$10 to buy
7 marijuana.

8 And if you go up these stairs and knock on the house
9 of someone who has constant traffic going in and out, it's
10 a perfect opportunity to put, quick, up on a mask and go
11 rob it and get out of there. And that Lance was there,
12 knew what happened as it was happening but not as an
13 active, willing aider and abetter, participant.

14 And this is getting to the core of what you're going
15 to think about, is whether he was, because all of this
16 other evidence that I've tried to give you a perspective on
17 would indicate that there's plenty of reason to believe he
18 was no more than there and that he was there to buy drugs.

19 He wasn't identified by gold teeth. He had no mask
20 on. He wasn't there to do anything unlawful. You don't
21 knock on the door of your buddies and go robe them with a
22 mask.

23 Now, I know the solicitor's argument is going to be to
24 the effect of saying, well, that's what he did. He knocked
25 on the door in case someone looked through a peephole. I'm

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1 anticipating that. You're not going to open the door on a
2 peephole and see someone with a mask and open the door.

3 So, you know, that gives a reason to do this.

4 You've all the reasons. It's a complicated issue.

5 But when the day is done you're going to have to decide has
6 the state met the burden of proving guilt beyond a
7 reasonable doubt that Lance Lyles was an active participant
8 in this situation, aiding and abetting.

9 He will give you an instruction of mere presence.
10 You're going to be absorbing a lot of information. You've
11 got to listen to these charges. I don't have, I don't
12 think the lawyers, don't put charges up on boards. The
13 judge will tell you that. So you listen to these charges
14 because they are important.

15 I don't want to spend more than a second, a minute or
16 two, on malice because my client's position is that I had
17 nothing to do with this. So I don't want to insult you
18 guys and say, well, if you don't believe that, then believe
19 this. That's not what I am doing. But I have got to say
20 one issue about malice if you should find anybody at fault
21 in this case.

22 That is the burden of proving malice aforethought in
23 any case of murder, and it may be a very difficult call to
24 say we don't find malice. And that's a tough one to make,
25 because we have got someone that has passed away. But if

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1 there is malice it's going to be inferred. We didn't have
2 actual where you're just sitting there saying I'm going to
3 kill you or laying in the bushes or something. It is going
4 on inferred.

5 If I say it is sunny when we came in here today, then
6 you can infer it's sunny when we go out. If we walk out
7 and there's a thunderstorm that came up, we've missed the
8 inference. So it's not something you have to find. You
9 can find any way you want.

10 But at the end of the day my client says that's not
11 really an issue in my case. My case is I didn't know this
12 was happening, I wouldn't. I wouldn't have been -- I would
13 have been hiding bullets. I would have gone with the mask.
14 I would have done all, numerous things. But none of these
15 things sound reasonable to me to say that I took part in
16 this situation.

17 It is unfortunate that it happened. But the law still
18 has to imply. And I think at the end of the day we have
19 got plenty of evidence that indicates that he should be
20 found guilty in this case. Thank you.

21 THE COURT: Does any juror need a short break before
22 we continue?

23 Okay. Let me ask the jury to please go to your jury
24 room. Don't yet talk about the case. I will bring you
25 back in just a few minutes.

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1 (The following takes place outside the presence of the
2 jury.)

3 THE COURT: Court is in recess for ten minutes.

4 (Whereupon, a recess was taken.)

5 THE COURT: All right. Bring the jury in, please,
6 sir.

7 (The following takes place in the presence of the
8 jury.)

9 THE COURT: All right. Mr. Bulsa.

10 MR. BULSA: Thank you, Your Honor.

11 It's about over, ladies and gentlemen. It has been a
12 long week. And as both attorneys said, this is a very
13 important case.

14 You have met Ernest Howze who testified -- the mother
15 of Tavaris and the father of Tavaris. The mother of
16 Tavaris is seated beside him. You have seen Mr. Spicer.
17 He has been here all week. Imagine how he must feel. His
18 friend was shot and killed in his apartment.

19 I submit to you, ladies and gentlemen, what you have
20 heard this week is a tale of two friends, two groups of
21 friends. You have got Tavaris, Clearance and Brian doing
22 something they do or did on an everyday basis almost. They
23 visited with each other. They enjoyed each other's
24 company.

25 Clearance was working. He had been working the same

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1 place for about five years, he testified.

2 Tavaris come from Chester to attend school, further
3 his education, here to Spartanburg. And Brian, also
4 student at S. M. C. Brian and Tavaris became friends in
5 school. Tavaris and Clearance became friends because of
6 where they lived. They were neighbors. It's not unusual
7 for these three men to just get together and hang out.

8 And then you have the other set of friends, these two.
9 They have known each other since they were little playing
10 ball together; been to school together at the alternative
11 school; hung out together.

12 We heard at least one mother didn't approve of the
13 other one. That didn't keep them from seeing each other.
14 It didn't keep them from riding around with each other and
15 going places together.

16 That relationship in itself, I suggest to you, can be
17 used as evidence by you to believe what they were doing
18 that night. They were acting together. Just a mere
19 relationship. Hang around with somebody, go places with
20 somebody, you are doing things with them. But that's not
21 all we have.

22 We know, ladies and gentlemen, what happened from
23 Clearance. Brian had left to go get something to eat, and
24 there was a knock on the door. Clearance had been
25 expecting him. He thought he was coming back. He wasn't

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1 expecting anybody else. So Clarence opens the door. And
2 who does he see? Someone he didn't recognize.

3 Use your common sense and your life experiences, and
4 you can clearly understand how he later in reflection
5 realized I did know that guy, I had seen him before.

6 He didn't know his name. He didn't even know his
7 brother's name. So it was a distant, distant vision. It
8 was an accurate, we know. But he saw someone he did not
9 recognize.

10 A comment was made, a step into his apartment was made
11 against Clarence's wishes. He did not invite that person
12 to come into the apartment. If it had been as the defense
13 wants you to believe, it would have been an open door, come
14 on in, yeah, good to see you again. No, it wasn't that
15 way. Clarence didn't want the man in there.

16 I submit to you Mr. Jeter with the mask and the gun
17 that was personable with the gun acted a little too
18 prematurely in this set of circumstances. He moved a
19 little too quick because he hadn't gained enough entry.
20 Came around to the door showing his gun.

21 Ladies and gentlemen, this defense of mere presence,
22 what you're hearing about, exists because Clarence was able
23 to close that door. If he did not have the leverage and
24 the foresight to react as he did, he may too have been
25 dead. He may too have been dead had they gotten in there.

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1 He was able to force them out of this apartment.

2 Tragically, his son was, his friend was killed as he did
3 that.

4 Nobody asked him, I would imagine. If he had to do it
5 all over again, he would just have opened the door and
6 backed up and said take whatever you want. He was reacting
7 as any human would do trying to protect himself, his
8 friend, his property. Closed the door.

9 As I told you, this is not excusable as accident.
10 Please don't consider that.

11 The defense argues there's no malice. I put the law
12 up there. The judge will not put the law up there like
13 that. That was a tool that I was able to use because of
14 the rules of the court.

15 I submit to you when someone, persons go to someone's
16 residence, they went, Clarence, they went armed. They went
17 with a weapon displayed. They went using force to try to
18 gain entry.

19 All of those circumstances suggest implied malice in
20 and of itself. That's the malice and the nature of the
21 act. The reckless discharging of that weapon, the depraved
22 heart.

23 They didn't have to know anybody also was in there.
24 The mere discharge of a weapon into a living space can
25 imply malice. Just the handling of a gun can imply malice.

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1 Malice clearly exists, clearly exists. This is a murder.

2 Ladies and gentlemen, Ms. Anderson went through each
3 witness and explained what they did. Mr. Vieth talked
4 about a few of the witnesses. And they each gave you their
5 version -- I am going to call it a spin -- on the evidence.
6 And they each pointed to those pieces that they wanted to
7 use to try to show that their clients aren't guilty.

8 I, being the prosecutor, I introduced all of this
9 evidence, so I am going to use it in the closing argument.
10 I introduced the overhead, the aerials, to show you the
11 closeness of the two apartment complexes, to show the ease
12 of access in and out. There was a path which readily
13 connected an avenue of escape out of this complex. They
14 went to the building, to the back of the complex.

15 We introduced the photographs of the scene so you
16 could visualize to the best of your abilities what might
17 have occurred.

18 We put up a diagram of the scene listing the items
19 that were recovered, and the items did not show any shell
20 casings. So we know an automatic wasn't used. We know a
21 .22 gun was used.

22 So as Mr. Vieth on his spin of the evidence would
23 simply discard this and say there's nothing to it, ladies
24 and gentlemen, you can use this to draw an inference that
25 perhaps Josh Jeter was correct in that Lance pulled his gun

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1 and fired a .22.

2 The basis of this case though, ladies and gentlemen,
3 is the hand of one is the hand of all. So if Josh pulled
4 the trigger, Lance pulled the trigger. If Lance pulled the
5 trigger, Josh pulled the trigger. That's the basis of the
6 law.

7 We introduced a Mr. Hill who was identified, ladies
8 and gentlemen, remember, by the police after they canvassed
9 this complex. They were looking for evidence; they were
10 looking for witnesses. And they found one. Unfortunately,
11 at this point we had someone had seen something. Mr. Hill,
12 high school student just like those two guys, a senior at
13 Dorman walking home.

14 You heard his testimony. You judge his credibility.
15 He seemed fairly certain as to what he saw.

16 Mr. Vieth goes through this recitation about it
17 doesn't make sense that you would put a mask on as you're
18 fleeing. Well, you can spin it just the other way, that if
19 you were just at the scene of a shooting and you had a
20 mask, whether you had it rolled up as a toboggan or in your
21 coat pocket, it makes just as much sense to cover your face
22 and hide your identity in case someone sees you fleeing
23 from the location. It's a spin on the evidence.

24 Mr. Hill saw, says he saw, two guns. Both of them had
25 guns. Both men were involved. But he did. He testified

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1 he did. Mr. Vieth says you can believe him -- you can't
2 believe him. That's true. That's true. That's one of the
3 few things we agreed on.

4 Mr. Jeter says he had a gun. We know from the
5 evidence that he had access to rounds that could have been
6 a round, same rounds that killed Tavaris. So you have got
7 to link these together. That's the circumstantial
8 evidence.

9 So all of this evidence we put in has something to do
10 with this case. Just because Mr. Lyles chose to come to
11 court, I submit to you, does not mean you should disregard
12 what he did the night the police were trying to arrest him.

13 We are going to go more specifically into his
14 testimony, but, ladies and gentlemen, he ran for over an
15 hour in a relatively confined area. If he were trying to
16 get somewhere in particular, he would have got there within
17 an hour. If he were as afraid as they said he was of this
18 man that called him over to the car, he would have easily
19 run to a police officer that he saw in this area.

20 That's what the overhead is for, is to show you those
21 locations. And not only -- I mean, it even shows his
22 aunt's place where he said he was trying to get to.

23 His friend's house is right near there too. We have
24 got this Exhibit No. 23 that helped you identify streets
25 and road names and locations.

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1 Mr. Vieth talked about the tape, the C. D. from the
2 jail, regarding Mr. Jeter. He's correct. We don't believe
3 that's the gun that Mr. Jeter had. We believe what we
4 heard on that C. D. But there was some collusion going on.
5 He was trying to somehow get himself off.

6 It's interesting that Mr. Vieth also mentioned the hit
7 man. We didn't hear that one, did we?

8 Mr. Lyles testified. I believe Ms. Anderson brought
9 it up in her questioning, that it appeared that Mr. Lyles
10 kept looking in this direction.

11 Well, you can put a bunch of different spins on that.
12 Maybe he was looking at Mr. Vieth; maybe he was looking at
13 mama; maybe he was looking at daddy; maybe he was even
14 going to look at Mr. Jeter, the friend that that hit was
15 going to come out on. What makes sense? Use your common
16 sense.

17 But as I reflected back on Mr. Lyles' testimony it
18 struck me as to how calculated his answers were, how
19 resistant he was to answer simple questions, how odd it was
20 that he consistently used the term Mr. Jeter, Mr. Jeter,
21 Mr. Jeter, Mr. Jeter. Mr. Jeter asked. I asked Mr. Jeter
22 to go over there and get marijuana with me.

23 What does that suggest to you? It became clear from
24 the beginning of his cross-examination, ladies and
25 gentlemen, that he wasn't going to tell us virtually

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1 anything. He wasn't going to admit to anything. So the
2 process of cross-examination became how much is he going to
3 deny. He wound up denying everything. He wouldn't admit
4 to even seeing Josh Jeter with a mask.

5 He claims to have this great recollection of what was
6 said at the door but then can't recall what was said in the
7 car. I submit to you that if there was a conversation in
8 the car it probably was about what's our story going to be.
9 I submit to you that's the case.

10 And what was their story, ladies and gentlemen?
11 You've got it. These are the original statements of
12 Mr. Jeter first that are replaced with typed-written ones.
13 Take them back, share them, read them.

14 Look how similar the first statement is of each of
15 theirs. They weren't interviewed together at the
16 university school. They were interviewed separately.

17 Look at the similarity of them, and then also while
18 Mr. Jeter's second statement is a little bit longer, look
19 at the similarity of it with the first statement.

20 They weren't saying anything. They weren't saying
21 anything because they had been involved in a crime and they
22 were acting together. They committed the crime of burglary
23 because they stepped into the building, into the doorway
24 and tried to force their way in as they wielded a gun
25 trying to commit a robbery on Mr. Spicer. And a shot was

Closing arguments

1 fired, and they learned the next day a man had been killed.

2 Use your common sense, ladies and gentlemen. You're
3 just over somewhere and somebody died and you knew about
4 it. Your common sense is going to tell you that when the
5 authorities come knocking to go ahead and tell them.

6 Mama and daddy. Maybe you don't tell mama and daddy
7 right away. I say that's not even common sense if you've
8 got a good relationship with mama and daddy. But when the
9 police come knocking and say, hey, we heard you were in
10 this area, what do you know about this, it's just like I
11 told you when we were cross-examining. You would have
12 told. But, no, he didn't tell them. Neither one told
13 them. And Mr. Lyles fled when they came after him because
14 they knew he had told them a lie. He knew he told them a
15 lie.

16 Mr. Jeter comes in again and on -- this is on the
17 14th, and tells them a little more. Ms. Anderson wants you
18 to, I guess, disregard some of this stuff and sympathize
19 with him, because Detective Brewster used the technique of
20 trying to submit it was an accident and see if they could
21 tell them what really happened from their perspective.

22 Well, if you read through this he doesn't call it an
23 accident. He calls it deliberate. Lance pushed the door
24 back and Lance shot off in the apartment with a little .22.
25 Josh was the one wearing the mask.

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1 Then the last statement that followed the turning in
2 of the gun, the most interesting thing about this
3 statement, ladies and gentlemen, September 14th of 2005,
4 some nine months afterwards, is the first mention by
5 anybody that we went over there to buy weed.

6 I submit to you both men testified to that to slander
7 Mr. Spicer, to make you feel less. He never said it. If
8 that's all either one was going over there to do, and the
9 other one went crazy and did something on their own, if all
10 you're doing is going to buy some marijuana, which wouldn't
11 even have resulted in a charge because he didn't get any,
12 you couldn't even be charged with possession of marijuana.
13 He would have told the police.

14 That is evidence that they were acting together, that
15 they committed a crime together, they were hiding it
16 together, they were colluding together.

17 And now they want, well, Mr. Jeter is doing this. I
18 don't know where Mr. Lyles' finger is. I guess it's at
19 Jeter. He wouldn't admit it all the way. Maybe it's that
20 hit man he's afraid of.

21 This is a tale of two sets of friends. As this warms
22 up, I told you how lawyers can spin testimony and evidence.
23 And you might think I did the same thing, and that's fine,
24 because we do put our version on it.

25 But you know what, ladies and gentlemen? That version

Closing arguments

1 of what happened was recorded just moments after it
2 happened.

3 (Whereupon, the C. D. was played for the jury.)

4 MR. BULSA: They, they, they. Clarence, were they
5 acting together? Yes. You didn't get to see him in
6 person. You saw his picture. You heard his daddy.

7 There's Tavaris. A tale of two sets of friends,
8 ladies and gentlemen. Tavaris, a college student visiting
9 his friend who lived upstairs; Brian, who was visiting with
10 them left to go get some food.

11 Tavaris and Clarence stayed there watching television.
12 Knock on the door. Few moments later shots rang out.

13 We don't even know if Tavaris knew what happened. We
14 know he got a bullet to the left side of his head. Perhaps
15 he glanced to see what the commotion was about; perhaps he
16 was looking at the T. V.

17 But what's become of his life, ladies and gentlemen,
18 because he became a stick drawing from a crime scene
19 sketch? It has been whited out of a picture of the crime
20 scene.

21 This case is about two sets of friends, one set
22 enjoying the evening, the other set bent on crime. Perhaps
23 that crime wasn't to kill, but it was to rob, and it led to
24 death. Two young black males shot and killed another black
25 male. It's a tragedy.

Jury charge

1 I ask you, ladies and gentlemen, do your duty. Listen
2 to the law. Find these men guilty as charged, because that
3 is the true and just verdict that should be rendered for
4 each of them.

5 Would you like for me to move this, Your Honor?

6 THE COURT: I think it is all right.

7 All right. Ladies and gentlemen, you of course have
8 heard and seen all of the evidence, as well as the final
9 summations of the lawyers. And therefore it now becomes my
10 duty to instruct you on the law that's applicable in the
11 case, and then you will be asked to go back and begin with
12 your deliberations.

13 It is your exclusive duty to determine what the facts
14 are. You do that through your own common sense examination
15 and evaluation of all of the testimony and the other
16 evidence received during the trial of this case.

17 You 12 jurors alone will decide what weight, value and
18 effect to give to any particular testimony or other
19 evidence in the case. Your sole objective is to simply
20 reach the truth in the matter, and by doing that you will
21 have fulfilled your obligation as jurors, and that is to
22 simply give both the state and each defendant a fair and
23 impartial trial.

24 Now, in this case, as you know, the state through the
25 prosecutor has accused each of the defendants, Joshua Jeter

Jury charge

1 and Lance Lyles, with four separate and distinct offenses
2 that the state alleges arose out of one particular event or
3 occurrence that the state claims occurred on or about
4 December the 8th of 2004.

5 The charges that have been brought against each of
6 these defendants are set forth in documents called
7 indictments. And I explained those to you before and after
8 your selection in the case.

9 The indictments are simply legal documents. They're
10 not evidence of anything. They're not proof of anything.
11 They do set forth the charges brought against each
12 defendant. And it's as to each of those separate charges
13 that you are going to be called upon to arrive at a
14 decision, that is whether or not that particular defendant
15 has been proven guilty beyond a reasonable doubt as to that
16 particular charge.

17 The indictments however are not evidence of anything.
18 They're not proof of anything. They will be in the jury
19 room, because it is on the back of each separate
20 indictment, Madam Forelady, you're going to be asked to
21 indicate the jury's unanimous decision as to that
22 particular defendant and as to that particular charge.

23 As, as I told you, each defendant's charges will be
24 considered separately. Your verdicts may all be the same;
25 they may be different. That will depend upon your

Jury charge

1 determination of fact and your application to the law as I
2 will have provided it to you.

3 But in this case each of the defendants are charged
4 with the crime of burglary in the first degree. And the
5 state alleges that on or about December the 8th of 2004
6 each of these defendants did wilfully and unlawfully enter
7 without consent and with the intent to commit a crime
8 therein the dwelling of one Clarence Spicer located here in
9 Spartanburg County.

10 The state further alleges by way of this indictment
11 that while in effecting entry or while in the dwelling the
12 defendant or some other participant in the crime was armed
13 with a deadly weapon or displayed what appeared to be a
14 deadly weapon; and they further allege that physical injury
15 was caused to one Tavaris Howze; and they further allege
16 that this event, this burglary, occurred in the nighttime.

17 The state also alleges by way of a separate indictment
18 that each of these defendants did here in Spartanburg
19 County on or about December the 8th of 2004, did attempt to
20 rob one Clarence Spicer while armed with a pistol or other
21 deadly weapon.

22 Each defendant is also charged with having committed
23 the crime of unlawful possession of a pistol by a person
24 under the age of 21.

25 The state alleges by way of separate indictments that

Jury charge

1 each defendant did on or about December the 8th of 2004
2 unlawfully carry a pistol about his person by virtue of the
3 fact that he was under the age of 21 years and had no legal
4 authority to carry a pistol under those circumstances.

5 And each of the defendants is further charged in
6 separate indictments with the crime of murder, the state
7 alleging that on or about December the 8th of 2004 the
8 defendant did wilfully and with malice aforethought kill
9 one Tavaris Howze by means of a gunshot and that Tavaris
10 Howze did die as a proximate result of that gunshot wound.

11 Now, as to those allegations and as to each of those
12 charges each of the defendants has entered a plea of not
13 guilty. And, as I told you, that plea of not guilty
14 therefore places upon the state the burden of proving the
15 allegations that they have set forth in each indictment,
16 the burden of proving each of the essential elements that
17 make up the crimes of possession of a pistol, attempted
18 armed robbery, burglary in the first degree and murder; and
19 therefore the burden is upon the state to establish each
20 defendant's guilt to the satisfaction of you 12 jurors
21 beyond a reasonable doubt before any verdict of guilty
22 could be returned.

23 Now, the burden is never upon a defendant or a person
24 who is accused of a crime to prove that they are not guilty
25 or to prove that they are innocent, because in many cases

Jury charge

1 that might not be possible. The burden is always upon the
2 state in bringing a charge against another to prove that
3 person's guilt beyond a reasonable doubt.

4 You are instructed that it is a vital, important and
5 cardinal rule of law that every defendant in a criminal
6 trial, and it doesn't matter how serious the offenses might
7 be, is always presumed innocent of those charges.

8 That presumption of innocence remains with any
9 defendant, as it does with these defendants, from the time
10 that they are placed under arrest and throughout the course
11 of the criminal process and even throughout the course of
12 the actual trial in the case.

13 That presumption of innocence will be with each of
14 these defendants even at the time that you go back into
15 your jury room to begin with your deliberations in this
16 case.

17 That presumption of innocence will be with him there,
18 and it will remain with them forever, unless you 12 jurors
19 determine that they are no longer entitled to that
20 presumption of innocence.

21 That is after you have carefully considered all of the
22 evidence in the case, and from that evidence you have
23 decided the facts as you believe the facts to be as they
24 relate to this incident, if you determine that a
25 defendant's guilt has been proven beyond a reasonable doubt

Jury charge

1 as to a particular charge, then that defendant would no
2 longer be entitled to that presumption of innocence as to
3 that charge. But it is only if, unless and until you are
4 satisfied of that person's guilt as to that charge beyond a
5 reasonable doubt that that defendant would no longer be
6 entitled to that presumption of innocence.

7 Now, while the state does have the burden of proving a
8 defendant's guilt beyond a reasonable doubt, that doesn't
9 mean that the state has to prove a person's guilt beyond
10 all doubt or beyond any possible doubt. But the state does
11 have the burden of proving a defendant's guilt to your
12 satisfaction beyond a reasonable doubt.

13 The term reasonable doubt should be given its plain
14 and ordinary meaning. A reasonable doubt is the kind of
15 doubt that would cause a reasonable person to hesitate to
16 act upon the information that has been provided.

17 A defendant is entitled to any reasonable doubt that
18 arises from the evidence or lack of evidence in a case.
19 And if, upon any factual issue essential to a finding of a
20 verdict of guilty you have some reasonable doubt as to how
21 that issue should be resolved, it would your duty to
22 resolve that reasonable doubt in favor of that particular
23 defendant.

24 And therefore if upon your consideration of the whole
25 case you have a reasonable doubt as to a particular

Jury charge

1 defendant's guilt as to a particular charge, then it would
2 be your duty to resolve that reasonable doubt in his favor
3 and to return a verdict of not guilty as to that particular
4 charge.

5 And, on the other hand, after you have carefully
6 considered all of the evidence in the case, decided the
7 facts and applied the law, if you have no reasonable doubt
8 as to a defendant's guilt as it relates to a particular
9 charge, then of course it would be your corresponding duty
10 to convict the defendant or to find him guilty of any crime
11 that the state has proven was committed by him to your
12 satisfaction beyond a reasonable doubt.

13 Now, the same law that provides that you are the
14 judges of the facts also provides that I am the judge of
15 the law. And that simply means that no one is going to
16 tell you how to arrive at your determination of fact in
17 this case.

18 You do that, as I have stated, through the exercise of
19 good judgment and common sense conscientiously applied to
20 the testimony and evidence in this case.

21 You must however under your oath as a juror accept the
22 law as I give it to you as being the law that is applicable
23 in this particular case.

24 You are never to concern yourself with what you
25 thought the law was before you came to serve as a juror or

Jury charge

1 what you think the law ought to be. Under your oath you
2 must simply accept the law as I give it to you as being the
3 law that is applicable in this particular case. And then
4 you simply take that law and you apply it to the facts as
5 you 12 jurors determine those facts to be based upon your
6 common sense examination of the evidence in the case.

7 Now, because you are the sole judges of the facts in
8 this case, as I have stated, you are therefore necessarily
9 the sole judges of the credibility, that is the
10 believability, of each witness that has testified during
11 the trial of this case. You 12 jurors alone will decide
12 what weight, value and effect to give to any particular
13 witness' testimony or even a portion of a witness'
14 testimony.

15 Now, there are a number of factors which you should
16 consider in arriving at your assessment as to a particular
17 witness' credibility or believability, and I am going to
18 list those factors for you.

19 You may consider the demeanor of the witness, that is
20 how the witness appeared to you as the witness testified
21 from that witness stand. Was the witness straightforward
22 in responding to questions that were asked of the witness,
23 or was the witness hesitant or evasive in responding to
24 questions that were asked of that particular witness? In
25 other words, did the witness appear to you to be telling

Jury charge

1 the truth and to have knowledge of the facts to which that
2 witness has testified?

3 You may also consider whether or not the testimony of
4 a witness is consistent, or is it inconsistent with that
5 witness' own testimony, and whether it be testimony or
6 statements made in court or out of court. And you may
7 consider also whether or not the testimony of a witness is
8 consistent, or is it inconsistent with other testimony or
9 other evidence received during the trial of the case.

10 You may also consider how the witness came to know the
11 facts to which that witness has testified. That is what
12 was that particular witness' opportunity and ability to
13 perceive the existence of those facts to which they have
14 testified by having previously perceived them or used their
15 senses in perceiving those facts, and then be able to come
16 into court and to accurately recollect to you as to what
17 they have previously seen or heard, or felt for that
18 matter.

19 You may also consider any bias or prejudice or
20 interest that you find a witness might have in the outcome
21 of the case. In other words, do you find some reason that
22 a particular witness would come into court and would
23 testify one way or another to help or to hurt one side or
24 the other; and you may consider any interest that a witness
25 might have in the outcome of the case if you determine that

Jury charge

1 a witness does have such an interest and that that interest
2 would bear upon that particular witness' believability and
3 credibility as a witness.

4 You may also consider whether or not the testimony of
5 a witness is strengthened, or is it weakened by other
6 testimony or other evidence received during the trial of
7 the case.

8 Now, because you are the sole judges of the facts in
9 this case and because you are the sole judges of the
10 credibility of each witness that has testified during the
11 trial of this case, you 12 jurors alone will decide what
12 weight, value and effect to give to any particular witness'
13 testimony, or even a portion of it.

14 So you can believe everything that a witness testified
15 to; and you may choose to believe none of it. You may
16 believe one portion of a witness' testimony and reject some
17 other portion of that same witness' testimony.

18 You may believe one witness as opposed to several, or
19 several as opposed to one. Whatever your good judgment and
20 common sense tells you is the most believable and credible
21 testimony is the testimony you should accept. And you
22 should reject any testimony or other evidence that you find
23 not to be credible or believable. Again, your sole
24 objective is to simply reach the truth in the matter, and
25 by doing that you will have fulfilled your obligations as

Jury charge

1 jurors in the case.

2 Now, while there are various forms of evidence such as
3 testimony, documents, photographs, charts and other types
4 of physical exhibits, there are really only two types of
5 evidence. Either or both of those types of evidence may be
6 used to prove some fact in issue. And those two types of
7 evidence may be used singly or collectively in proving a
8 particular fact. But the two types of evidence are direct
9 evidence and circumstantial evidence.

10 Now, direct evidence is the testimony of a person who
11 testifies from actual knowledge of a fact. It's testimony
12 by a person who has perceived the existence of some fact by
13 his or her senses and then comes into court and testifies
14 as to what they have previously seen or heard or felt.

15 Circumstantial evidence, on the other hand, is the
16 proof of some other fact or set of facts which taken either
17 singly or collectively may prove the existence of a fact in
18 question as a necessary consequence, that is through an
19 inference.

20 An inference is simply a deduction of fact which may
21 logically and reasonably be drawn from the proof of some
22 other fact or set of facts. In other words, it's a fact
23 which is not proven by the direct testimony of a witness
24 based upon personal perception, but it is a conclusion
25 which might reasonably be drawn from the proof of other

Jury charge

1 facts. In other words, you may infer that a particular
2 fact exists or that a particular event occurred based upon
3 proof of sufficient factual circumstances which would
4 reasonably warrant your arriving at such a conclusion.

5 Now, the law however makes absolutely no distinction
6 between the weight or the value to be given to
7 circumstantial evidence as opposed to direct evidence, nor
8 is a greater degree of certainty required of circumstantial
9 evidence as opposed to direct evidence.

10 Whatever the type of evidence used to prove any fact
11 in issue, you should consider all of the evidence presented
12 during the trial of the case. And after carefully weighing
13 and considering that evidence in your minds if you are not
14 convinced of the guilt of a defendant as to a particular
15 charge beyond a reasonable doubt, then you must resolve
16 that doubt in his favor.

17 Now, during the trial of this case you have heard
18 testimony relating to statements which were made by each of
19 these defendants in response to interrogation or
20 questioning by some law enforcement official.

21 You have also been made aware by the lawyers, I
22 believe, that when this trial began the actual statements
23 given by each of the defendants pursuant to that law
24 enforcement questioning were redacted in some fashion.

25 The reason that they were redacted -- I am certain

Jury charge

1 that you've heard of the term hearsay evidence or hearsay
2 testimony. And the purpose of a hearsay rule as to
3 testimony is because you don't allow, generally speaking,
4 other people to testify as to what somebody else said.

5 That's simply because the person who actually made the
6 statement is not subject to being questioned by the lawyers
7 in a case, and the jury is not afford the benefit of having
8 that person take the witness stand and testify and have
9 them undergo, and the jury observe, that cross-examination
10 of that witness in order to try to develop the truth of the
11 matter or to arrive at the truth in the matter and to
12 assess that particular person's credibility or
13 believability.

14 Now, in a case, as I believe I told you, a defendant
15 never has to take the witness stand and testify during the
16 trial of a criminal case. So where a defendant provides a
17 statement, that statement can be introduced against that
18 particular defendant, but it can't be introduced against
19 any other defendant.

20 In other words, if one defendant says something that
21 might be incriminating about another defendant, that
22 portion of that defendant's statement has to be removed,
23 because you don't have the opportunity to examine the
24 person giving the statement unless they take the witness
25 stand. So it is still hearsay, you see.

Jury charge

1 Now, once they take the witness stand, then they are
2 subject to being examined. And the jury has the benefit of
3 that examination, direct and cross-examination. So in that
4 event, then when the witness does take the -- makes a
5 decision, the defendant makes the decision to take the
6 witness stand and testify, he would be subject to
7 examination on what he said in that statement.

8 So at the time that the state introduced those
9 particular statements the state doesn't know whether a
10 particular defendant is going to testify or not. And since
11 he would not be subject to cross-examination if he did not
12 testify, those portions of the statement that refer to
13 another defendant cannot be presented in the state's case
14 in chief.

15 So, as you will recall, during the state's
16 presentation in chief the witnesses referred to statements,
17 but they were only portions of the actual statements that
18 those defendants made. When the defendants took the
19 witness stand and testified, then the entire statement was
20 allowed to be introduced, because then that defendant was
21 subject to cross-examination.

22 So you are going to have in the jury room, rather than
23 the redacted statements you are going to have, the actual
24 statements that were provided by the defendants to law
25 enforcement pursuant to some examination.

Jury charge

1 Now, while it is the function of the Court to
2 determine the admissibility of evidence, it is always the
3 jury's decision as to what weight, value and effect to give
4 to that particular evidence.

5 So with regard to statements that have been introduced
6 that are attributed to each of the separate defendants, you
7 are instructed that before you may consider that statement
8 as against that particular defendant you must determine
9 whether or not that statement was freely and voluntarily
10 made.

11 In other words, you must be satisfied beyond a
12 reasonable doubt that any statement given by a defendant
13 was freely and voluntarily made, considering the totality
14 of the circumstances that surround the making of that
15 particular statement.

16 Now, in making your determination as the voluntariness
17 of any statement you must consider a number of factors
18 relating to the characteristics of the particular defendant
19 giving a statement, as well as the circumstances
20 surrounding the giving of that statement.

21 Some of the factors that you must consider are whether
22 or not the accused was advised of or understood his
23 constitutional rights to remain silent where that statement
24 is given to a law enforcement official when that defendant
25 is in actual custody.

Jury charge

1 You may consider whether or not he was advised of his
2 right to remain silent, that anything he said might be used
3 against him in court, that he had a right -- that he had
4 the right to have a lawyer present and if he could not
5 afford a lawyer, then one would be appointed for his
6 benefit before any questioning was commenced; and further
7 that if he wished to answer questions he could stop that
8 questioning at any time.

9 You must also consider evidence relating to the
10 defendant's age, intelligence, education, capacity and
11 experience, as well as the nature of the interrogation
12 itself, including whether or not there were any threats or
13 promises or coercion made which resulted in the giving of a
14 statement.

15 Now, if, after your consideration of the totality of
16 the circumstances relating to the giving of a particular
17 statement if, you are not satisfied beyond a reasonable
18 doubt that that statement was made freely and voluntarily,
19 then you may not consider that statement in any way against
20 a defendant.

21 Should you find beyond a reasonable doubt that any
22 statement made by a defendant was given freely and
23 voluntarily, then you may consider that statement as you
24 deem appropriate just like you do any other testimony or
25 evidence. You may accept it or reject it based upon your

Jury charge

1 exercise of good judgment and common sense.

2 Now, as you are aware, there are four separate charges
3 that are brought against each of the defendants. I'm going
4 to instruct you on the law as it relates to each of those
5 separate charges.

6 I will begin with the law as it relates to the charge
7 of possession of a pistol or firearm by a person under 21,
8 after which I will instruct you on the law as it relates to
9 burglary in the first degree, after which I will instruct
10 you on the law as it relates to the crime of attempted
11 armed robbery, after which I will instruct you on the law
12 as it relates to the crime of murder.

13 Now, Section 16-23-30, it's a statutory provision.
14 The legislature passed it. It prohibits certain conduct.
15 And that particular statute provides that it is unlawful
16 for a person under the age of 21 years to possess or to
17 acquire handguns within this state.

18 So in order for a defendant to be found guilty of a
19 violation of this particular statute it would be necessary
20 that the state has satisfied you beyond a reasonable doubt
21 that a defendant was under the age of 21 years and that
22 that defendant did possess or did acquire a handgun.

23 The next charge that has been brought against each
24 defendant is burglary in the first degree. That's also a
25 statutory offense, which just means the legislature defines

Jury charge

1 what the term is and provides for a punishment or penalty
2 if a person is found guilty to have violated that
3 particular statute.

4 But please understand that the jury is never to be
5 concerned with punishment or penalty. The jury is only to
6 be concerned with whether or not a person's guilt has been
7 proven beyond a reasonable doubt.

8 If there is to be any punishment or penalty imposed,
9 that's something for the Court's discretion and
10 consideration and not for the jury's consideration. So you
11 are not to be concerned with the consequence of any
12 decision that you make. You are simply called upon under
13 your oath to determine whether or not a defendant's guilt
14 as to a particular charge has been proven beyond a
15 reasonable doubt.

16 Now, burglary in the first degree is a criminal
17 offense that is set forth in Code Section 16-11-311. And
18 that particular code section provides as follows: A person
19 is guilty of burglary in the first degree if a person
20 enters a dwelling without consent and with the intent to
21 commit a crime therein.

22 Then one other additional factor has to be present.
23 And that is when in effecting entry or while in the
24 dwelling or in immediate flight therefrom he or another
25 participant in the crime is armed with a deadly weapon or

Jury charge

1 causes physical injury to a person who is not a participant
2 in the crime, or displays what appears to be a knife, a
3 pistol, a revolver or other firearm, or the entering or the
4 remaining occurs in the nighttime.

5 Now, based upon the foregoing statute, before you
6 could return a verdict of guilty as to the crime of
7 burglary in the first degree it would be necessary that the
8 evidence has proven to your satisfaction beyond a
9 reasonable doubt the following four essential elements:

10 Number one, it must be proven that a defendant entered a
11 dwelling.

12 Now, entry is an indispensable element in the crime of
13 burglary. Entry is the act of going into the dwelling. It
14 is not necessary however that the entire body of a person
15 shall get into the dwelling.

16 The least entry is sufficient, and it may be
17 accomplished by any part of the body or even by some
18 implement or other instrument at the direction of the
19 perpetrator.

20 It is not necessary that actual force may be used to
21 accomplish the entry, nor does any door, window or other
22 barrier necessarily have to be opened or removed in order
23 to effect an entry.

24 And, as I have stated, the entry must also be into a
25 dwelling. And a dwelling is defined as a building or a

Jury charge

1 structure which is used or normally used for sleeping,
2 living or lodging by any person.

3 Now, secondly, there must be an entry of a dwelling
4 without consent. Entering without consent means to enter a
5 dwelling without the consent of the owner of the property
6 or the person who is otherwise in lawful possession of the
7 premises.

8 The third element is there must be an entry without
9 consent and with the intent to commit a crime therein.
10 There must be an intent to commit a crime, whether or not
11 the crime is actually committed, accomplished or completed.
12 The mere entering of a dwelling without an intent to commit
13 a crime does not constitute the crime of burglary.

14 It is only when there is an entering of a dwelling
15 accompanied with an intent to commit a crime that the crime
16 of burglary is complete. And a crime of any grade or
17 severity is sufficient to satisfy this particular element
18 of the crime of burglary.

19 It is essential that the intent to commit a crime
20 exist at the time of the entry into the dwelling, and it is
21 not sufficient that the intent is formed after the entry
22 has been accomplished.

23 On the other hand, where the intent to commit exists
24 at the time of the entering of a dwelling, it is no defense
25 to a charge of burglary that the intent was abandoned after

Jury charge

1 the entry.

2 Intent means the state of a person's mind which
3 directs his actions towards a specific object or goal. So
4 therefore the entry of a dwelling without consent and with
5 the intent to commit a crime therein completes the crime of
6 burglary.

7 However, for the crime of burglary to be burglary in
8 the first degree there is one additional element that has
9 to be proven beyond a reasonable doubt. And that
10 additional element is that when in effecting entry or while
11 in the dwelling or in immediate flight therefrom the
12 defendant, or a defendant, or another participant in the
13 crime was armed with a deadly weapon or causes physical
14 injury to a person who is not a participant in the crime,
15 or displays what is or appears to be a knife, a pistol, a
16 revolver or other firearm, or the entering or the remaining
17 occurs in the nighttime.

18 Now, in this particular case the state is alleging
19 that the crime is burglary in the first degree because the
20 state alleges the burglary was committed a person who was
21 armed with a deadly weapon and who caused physical injury
22 to a person who is not a participant in the crime and that
23 the burglary was committed by a defendant who displayed a
24 pistol, revolver or other firearm, and further that the
25 burglary occurred in the nighttime.

Jury charge

1 Now, while the state has alleged those four additional
2 factors which are, which may make a burglary a burglary in
3 the first degree, the state is not required to prove more
4 than one of those factors. The state must prove however at
5 least one of those factors in order for the burglary to be
6 a burglary in the first degree.

7 The state may prove all four, but it's not necessary
8 that they prove all four, but they must prove at least one
9 of those additional factors in order for the crime to be
10 burglary in the first degree.

11 Each of the defendants in this case is always charged
12 with the crime of attempted armed robbery. And that's also
13 in a particular code section. And that's set forth in
14 Section 16-11-330, Subsection B.

15 It provides that any person who attempts to commit the
16 crime of robbery while armed with a pistol, dirk,
17 slingshot, metal knuckles, razor or other deadly weapon
18 would be guilty of the crime of attempted armed robbery.

19 So I am going to define for you the term armed
20 robbery, and then I'll define for you the term attempt.

21 Armed robbery includes the lesser offenses of larceny
22 and of robbery. And so I am going to define for you
23 larceny and robbery, and then armed robbery.

24 Larceny is referred to as stealing. In the law it's
25 defined as the taking, the stealing and the carrying away

Jury charge

1 of the personal property of another person without their
2 consent and with the intent of converting that property to
3 the taker's own use.

4 A robbery is often referred to as a larceny by force.
5 That is a robbery is defined in the law as the taking and
6 the stealing and the carrying away of the personal property
7 of another from the person or from the presence of any
8 person without that person's consent by using force or
9 violence or by the threat of the use of force or violence,
10 that is by way of intimidation.

11 Now, forcing a person to surrender property from fear
12 and intimidation through the use of force or violence or
13 the threat of the use of force or violence with an intent
14 to steal is a robbery under the law.

15 And, as I've stated, an armed robbery would be a
16 robbery committed while a person is armed with a pistol,
17 dirk, slingshot, metal knuckles, razor or any other deadly
18 weapon.

19 Now, where a person is charged with the commission of
20 a crime but the state fails to satisfy you beyond a
21 reasonable doubt that the crime has been accomplished or
22 completed, then you may consider whether or not the state
23 has proven beyond a reasonable doubt that a particular
24 defendant did attempt to commit a particular criminal
25 offense.

Jury charge

1 An attempt to commit a crime is the commission of an
2 overt act done in furtherance of an intent to do a specific
3 thing which tends towards the accomplishment of the
4 intended goal but which falls short of completion.

5 An attempt to commit a crime means the making of an
6 effort or the doing of an act towards the commission of the
7 crime intended to be committed.

8 To constitute an attempt to commit a crime there must
9 be shown more than mere preparation and intent that the
10 crime be done. But, in addition, there must be proven some
11 act done that directly moves towards the completion of the
12 commission of the crime.

13 There must be the intent to commit a specific criminal
14 offense accompanied by some act towards its completion
15 which would become part and parcel of the criminal offense
16 if it had been completed, and which, except for some
17 intervening cause preventing the completion, would have
18 resulted in the completion of the crime.

19 Now, each of the defendants is also charged with the
20 crime of murder in separate indictments.

21 Murder is also a statutory offense. Murder is set
22 forth in Section 16-3-10. And that particular section
23 defines murder as the killing of any person with malice
24 aforethought, either expressed or implied -- the killing of
25 any person with malice aforethought, either expressed or

Jury charge

1 implied.

2 Now, in order for you to find a defendant guilty of
3 the crime of murder, it would be necessary that the
4 evidence in this case has established to your satisfaction
5 beyond a reasonable doubt that a defendant or any
6 accomplice did commit some act or acts which proximately
7 caused the death of Tavaris Howze and that the killing was
8 done by a defendant with malice aforethought. Malice
9 aforethought is an essential element of the crime of
10 murder.

11 Malice is defined as a term connoting an ill will and
12 an intent to do harm. It is a technical term importing
13 wickedness and excluding just cause or legal excuse.

14 It is something which springs from depravity, from a
15 heart devoid of social duty and fatally bent on mischief.
16 Malice may be likewise defined as a state of mind which
17 indicates a formed purpose and design to do a wrongful act
18 under circumstances that exclude any legal right to do it.

19 Now, the words expressed or implied malice do not mean
20 different kinds of malice but only the manner in which
21 malice may be shown to have existed, that is to say by
22 either direct evidence or by circumstantial evidence
23 inferring or implying the existence of malice.

24 Now, as I have told you, an inference is simply a
25 deduction of fact which may logically and reasonably be

Jury charge

1 drawn from the proof of some other fact or set of facts.

2 Now, malice may be expressed malice as where there is
3 an expressed threat to kill or there is a lying in wait or
4 where the circumstances show directly that an intent to
5 kill was entertained by the person committing the crime.

6 Malice may be inferred, though no expressed intent to
7 kill is proven by direct evidence, where the facts and the
8 circumstances which have been proven by the evidence in the
9 case satisfy you beyond a reasonable doubt that malice was
10 present in the mind of the slayer at the time any killing
11 took place.

12 Now, the existence of malice may be inferred from the
13 circumstances shown to have existed at the time of the
14 event. And under the law you are permitted to infer the
15 existence of malice from proof of an unlawful and
16 intentional killing of another person without justification
17 or legal excuse.

18 You may infer the existence of malice from proof of a
19 wrongful intent to injure another person through the
20 infliction of serious bodily harm indicative of a wicked or
21 depraved spirit.

22 You are permitted to infer the existence of malice
23 from proof of the intentional use of a deadly weapon which
24 results in death to another, or you are permitted to infer
25 the existence of malice from proof of the intentional

Jury charge

1 commission of an act which is inherently dangerous to human
2 life. And you are permitted to infer the existence of
3 malice from proof of the intentional commission of criminal
4 acts resulting in the death of another person during the
5 commission of a felony which is dangerous to human life, or
6 where the circumstances of the crime create a substantial
7 foreseeable risk to human life.

8 You are instructed that the crimes of burglary in the
9 first degree and attempted armed robbery are classified as
10 felonies under the law of this state.

11 You are also permitted to infer the existence of
12 malice from proof of the commission of reckless acts which
13 are inherently dangerous to human life and which are done
14 so recklessly and in such a fashion as to manifest a
15 depravity of mind signifying an extreme disregard for or an
16 extreme indifference to human life.

17 Now, malice which is an essential element of the crime
18 of murder does not necessarily import or require an ill
19 will or any hatred toward the particular individual who has
20 been killed, nor is it necessary that an actual or a
21 specific intent to take human life at all be proven.

22 But rather, the malice necessary to prove the crime of
23 murder may be described as the state of a person's mind
24 signifying a general malignant recklessness and an extreme
25 disregard for or indifference to human life.

Jury charge

1 Now, even if the facts proven are sufficient to raise
2 an inference of malice, such an inference is simply an
3 evidentiary fact to be taken into consideration by you 12
4 jurors along with all of the other evidence received during
5 the trial of the case, and you may give such inferences
6 such weight, if any, that you determine they should
7 receive, in any.

8 Simply stated, you are permitted to infer the
9 existence of malice based upon proof of any one or more of
10 those circumstances that I have just described for you, as
11 well as from any other evidence in the case reasonably
12 tending to prove such a fact. But you are in no way
13 required to make that inference if you do not find it to be
14 reasonable and appropriate based upon your view of the
15 facts in the case.

16 The state is required to prove malice just as it must
17 prove any other essential element of the crime beyond a
18 reasonable doubt, and it is for you 12 jurors to determine
19 whether or not malice has been proven based upon your
20 consideration of all of the evidence received during the
21 trial of the case and any reasonable inferences that might
22 be drawn from that evidence.

23 Now, it's also essential that not only malice be
24 proven, but malice aforethought must exist. Now, the law
25 does not require that malice must exist for any appreciable

Jury charge

1 length of time before the commission of an act which
2 proximately causes a fatal result. Indeed, it may be
3 conceived at the very moment that the fatal act is, in
4 fact, committed.

5 It is sufficient in the law so long as the state
6 proves to your satisfaction beyond a reasonable doubt both
7 the existence of malice and the commission of an act or
8 acts by a defendant which proximately caused the fatal
9 result.

10 Now, while the state must prove beyond a reasonable
11 doubt that a killing did occur and that it was accompanied
12 by malice aforethought in order to establish the crime of
13 murder, it is not necessary that the state prove any motive
14 for the killing, although there may be evidence relating to
15 such a fact introduced in the trial of the case.

16 Now, you are further instructed that when a person is
17 accused of a crime such as burglary in the first degree,
18 such as attempted armed robbery, such as murder, that a
19 person may be found guilty of those crimes either as a
20 principal or as an accomplice.

21 An accomplice is a person who knowingly and
22 voluntarily and with common intent with the principal
23 offender unites with the principal offender in the
24 commission of the crime. An accomplice is often referred
25 to as an aider and an abetter.

Jury charge

1 Now, in this case the state is alleging that each of
2 these defendants is guilty of the crimes of burglary first
3 degree and attempted armed robbery and murder under the
4 legal theory of principal and accomplice liability.

5 Now, with regard to accomplice liability, you are
6 instructed that the law provides that where two or more
7 people acting together with a common intent and purpose
8 combine, conspire, plan or otherwise agree to the
9 commission of a crime, each person who is present to aid,
10 abet, assist or otherwise participate in the commission of
11 that crime is equally guilty. The hand of one becomes the
12 hand of all, and the act of one becomes the act of all.

13 Any person who joins with another to accomplish an
14 illegal purpose is held to be criminally responsible for
15 everything done by any other person which occurs as a
16 natural and probable consequence of the facts done pursuant
17 to and in furtherance of the common plan and purpose.

18 Now, prior knowledge by a defendant that some person
19 is intending to commit a crime without more is not
20 sufficient to make that person guilty of the crime of which
21 he may be shown to have knowledge.

22 Likewise, the mere presence of a defendant at the
23 scene of a crime or in close proximity thereto, even with
24 knowledge that another is intending to commit a crime, is
25 not sufficient standing alone to prove that defendant

Jury charge

1 guilty of the crime as an accomplice.

2 In order for a defendant to be found guilty of a crime
3 under the legal theory of accomplice liability it must be
4 proven beyond a reasonable doubt that that defendant was
5 actually present at the scene of the crime with the
6 intention of aiding, abetting, assisting or participating
7 in the common plan or scheme which culminates in the
8 commission of a crime.

9 Under the legal theory of accomplice liability two or
10 more persons may be found guilty of an unlawful homicide
11 even though only one person actually commits the act which
12 is directly responsible for the death of another.

13 The law provides that when two or more persons combine
14 or conspire or agree to the commission of a felony such as
15 burglary in the first degree, as well as armed robbery, and
16 in the commission of criminal acts done in furtherance of
17 that crime or crimes a homicide is committed by one of the
18 participants in that crime or those crimes, which is a
19 natural and probable consequence of those acts done in
20 furtherance of the common plan, then all who are present
21 and participating in those criminal acts are equally as
22 responsible as the one who actually commits the fatal act.

23 Now, the common purpose may not have been to kill
24 anyone at all, but if, during the commission of a felony
25 such as burglary in the first degree or armed robbery, a

Jury charge

1 homicide is committed by one of the participants which is a
2 natural or probable consequence of the acts done in
3 furtherance of the common plan, then each person who is
4 present aiding, abetting, assisting or participating in the
5 common plan is equally guilty of any homicide accomplished
6 thereby and which is a natural and probable consequence of
7 those criminal acts.

8 And therefore an accomplice or an aider and abetter
9 would be just as responsible for that unlawful homicide as
10 that person who is directly responsible for committing the
11 fatal act. Again, under the law the act of one is the act
12 of all, and all are guilty thereby.

13 You are further instructed that where a person with a
14 criminal intent attempts to unlawfully kill a particular
15 individual but by mistake or by accident in such an attempt
16 kills a different unintended victim, the law provides that
17 the assailant is nevertheless responsible for the unlawful
18 homicide by merely transferring the criminal intent from
19 the intended victim to the person who was actually killed.

20 The degree of guilt under the law is the same as it
21 would have been had a defendant's conduct resulted in the
22 death of the person at whom such conduct was aimed and
23 against whom such acts were intended, because the result is
24 the same.

25 Now, a criminal intent is also a necessary element

Jury charge

1 which must be proven beyond a reasonable doubt. Intent
2 means the state of a person's mind which directs his
3 actions towards a specific object or goal.

4 Intent would include those consequences which
5 represent the very purpose for which an act is done, as
6 well as those consequences which are known to be
7 substantially certain to result, whether actually intended
8 or not.

9 And criminal intent is a state of mind that operates
10 jointly with an act in the commission of a crime. Criminal
11 intent is a mental state of conscious wrongdoing. And
12 intent may be proven by acts, declarations and conduct of a
13 defendant, as well as from any other circumstances which
14 are established by the evidence in the case from which you
15 may naturally and reasonably infer any intent.

16 Now, Madam Forelady and ladies and gentlemen of the
17 jury, I am not in any way concerned with what your
18 decisions are, but I do tell you that any verdict rendered
19 must be unanimous. That is all 12 of you must be in
20 agreement before any decision may be returned, whatever
21 that decision may be.

22 Madam Forelady, as I indicated to you earlier, you are
23 going to be asked to preside over the jury deliberations
24 simply to ensure that they are carried out in some orderly
25 fashion. But of course all jurors are intended to

Jury charge

1 participate, because the decision of a jury is the
2 unanimous consensus opinion of all, and it must be
3 unanimous, as I have stated.

4 Madam Forelady, you are also going to have these
5 indictments in the jury room. And, as I say, the purpose
6 of the indictments is to serve as the verdict form as it
7 relates to each separate, particular charge.

8 Each defendant has four separate indictments. As I've
9 told you, each defendant is to be -- his cases are to be
10 considered separately from the other.

11 In other words, you have to arrive at decisions based
12 upon the evidence in the case and the law that is
13 applicable as it relates to that particular defendant and
14 as it relates to that particular charge.

15 So, again, your verdicts may be the same as to both of
16 the defendants, or they may be different. That will depend
17 upon your determination of fact and your application of the
18 law.

19 But with regard to the separate indictments, you are
20 going to have potential verdict forms. With regard to the
21 indictment for unlawful possession of a pistol by a person
22 under 21, you have two potential verdict forms. Those are
23 guilty or not guilty.

24 Whatever that decision might be, Madam Forelady, I'll
25 ask that you indicate that decision in the space provided

Jury charge

1 and sign your name as the foreperson.

2 With regard to the indictment charging each defendant
3 with burglary in the first degree, you are going to have
4 three potential verdict forms. Those three forms are
5 guilty, which means guilty of burglary in the first degree;
6 or you might find that some element of burglary in the
7 first degree has not been proven beyond a reasonable doubt
8 but that the state has proven beyond a reasonable doubt the
9 crime of attempted burglary in the first degree as I have
10 defined that crime for you.

11 If you find the state has failed to prove burglary in
12 the first degree beyond a reasonable doubt but you find the
13 state has proven attempted burglary in the first degree
14 beyond a reasonable doubt, then you would be able to write
15 as the verdict form guilty of attempted burglary in the
16 first degree. But you'd have to write that out in words.
17 If you write guilty on the burglary indictment, that means
18 guilty of the charge in the indictment.

19 So if you only find the defendant, a defendant, to
20 have been found guilty of attempted burglary in the first
21 degree, you would have to write that out, guilty of
22 attempted burglary in the first degree.

23 And of course you could only find a defendant guilty
24 of that offense if that offense has been proven beyond a
25 reasonable doubt. Otherwise, your verdict would be not

Jury charge

1 guilty as to that particular charge. So burglary in the
2 first degree, three potential verdict forms. Guilty,
3 guilty of attempted burglary in the first degree or not
4 guilty.

5 The next indictment is the indictments for attempted
6 armed robbery. The indictment, the caption of it, says
7 armed robbery. But the body actually alleges attempted
8 armed robbery. So the crime that you are to consider is
9 attempted armed robbery.

10 So, again, in that case you will have two possible
11 verdict forms. That is if the state has proven the crime
12 of attempted armed robbery as against a defendant beyond a
13 reasonable doubt, your verdict would be guilty. That would
14 be the verdict form.

15 If the state has failed to prove any one or more of
16 those essential elements beyond a reasonable doubt as to a
17 defendant, then the verdict would be not guilty. So as to
18 the indictment for attempted armed robbery, the two
19 potential verdict forms are guilty or not guilty.

20 The last indictment is the indictment for the crime of
21 murder. Again, you will have two potential verdict forms.
22 Those potential verdict forms are guilty or not guilty.

23 Now, again, whatever your decisions are, Madam
24 Forelady, they must be unanimous, as I've stated. I'll
25 simply ask that once the jury has arrived at a unanimous

Jury charge

1 decision as to a particular indictment if you'll indicate
2 that decision on the back of the indictment. You will see
3 the word verdict in the lower left-hand corner. Write the
4 unanimous decision there. Sign your name as the foreperson
5 and place the appropriate date on it.

6 Now, one or more of these indictments may have a
7 signature where it says foreperson of the petit jury. That
8 signature is not supposed to be there. That signature is
9 in the wrong place. So don't strike it out. But you still
10 need to sign your name at least below that in the -- as
11 foreperson of the petit jury. That's what you are.

12 Now, ladies and gentlemen, during your deliberations
13 there may come a time where you have some question about
14 the facts of the case or evidence in the case, or you may
15 wonder if there's something else that could be introduced
16 into the case.

17 Once the case has been submitted to you, which it will
18 be in just a few minutes, no additional evidence may be
19 received. So don't send a note wondering if some other
20 piece of evidence might exist. Whether or not it exists,
21 it cannot be introduced. It cannot be received by you
22 because all of the evidence has been presented in the case
23 by all parties. No additional evidence may now be
24 received.

25 If during your deliberations you have some question

Jury charge

1 about the facts as it relates to testimony that has been
2 provided during the trial and you think that that question
3 can be answered by having testimony replayed, I can always
4 bring you back to have testimony replayed.

5 I am not permitted, even if I know the answer, to tell
6 you what a witness testified to. So you can't say, well,
7 did such and such a witness say something. I can't answer
8 it, even if I know the answer.

9 I'm not permitted to comment upon the evidence or the
10 facts. But if you have such a question and you think it
11 could be answered by testimony being replayed, then you let
12 us know. And we can bring you back to the courtroom for
13 the purpose of having testimony replayed in whole or in
14 part.

15 But you will need to let us know, Madam Forelady, by
16 sending a note to me by way of the bailiff that you want to
17 have a particular witness' testimony replayed. And if you
18 just want a portion of it, kind of describe what that
19 portion will be and we will try to locate it.

20 During your deliberations if you ever have a question
21 about the law that's applicable, I can always provide you a
22 re-explanation or a clarification of the law.

23 So if at any time you have a question about the law
24 that's applicable, you write that question down. I can
25 always bring you back to clarify the law or to explain it

Jury charge

1 further. I can't do that about the evidence, but I can do
2 that as it relates to the law.

3 Now, I don't know if we have any smokers on the jury.
4 But if you want to smoke, you can, but you can't smoke in
5 the jury room. You will have to be taken outside to smoke
6 if you need to. But you are instructed that if any juror
7 is absent for any purpose that's authorized by the Court,
8 then the deliberations have to stop. And they may only
9 resume when all 12 jurors are present so that all may
10 participate.

11 Your lunch orders should be here. If not now, very
12 shortly. And I will leave that up to you as to how you
13 want to do that.

14 You can deliberate while you eat, or you can wait to
15 deliberate until after you eat. That's up to you. Y'all
16 decide that once you get in there.

17 Okay. With the exception of Mr. Elm, I'm going to ask
18 the 12 primary jurors to go back to your jury room.

19 Do not yet begin your deliberations. I've got some
20 matters I'll need to address with the lawyers.

21 If I do not need to bring you back for any reason,
22 I'll send word by way of the bailiff that you may begin
23 with your deliberations. In that event, he'll bring to the
24 jury room all of the exhibits which have been introduced
25 during the trial.

Jury charge

1 And to you, Madam Forelady, he will also bring the
2 indictments which will serve as the verdict forms.

3 So please retire to your jury room, but do not begin
4 deliberating until I send you word to do so.

5 (Whereupon, the jury retired to deliberate at
6 12:28 p.m.)

7 THE COURT: Hold Mr. Elm, the alternate juror, in the
8 hallway.

9 Are there any exceptions taken to the instruction or
10 requests for additions to the instruction by the state?

11 MR. BULSA: No, sir.

12 THE COURT: By the defendant Jeter?

13 MS. ANDERSON: No, sir.

14 THE COURT: By the defendant Lyles?

15 MR. VIETH: No, sir, just renewing the motion for
16 involuntary. That's it. Yes, sir.

17 THE COURT: Okay. All right. Let me ask y'all to
18 verify all of the exhibits before they go back.

19 And ask Mr. Elm to come in, please.

20 (Whereupon, the alternate juror was excused.)

21 THE COURT: If y'all will, verify the exhibits,
22 please.

23 (Pause.)

24 THE COURT: Are all of the exhibits accounted for?

25 MR. BULSA: Yes, sir.

Verdict

1 MR. VIETH: Yes, sir.

2 MS. ANDERSON: Yes, sir.

3 THE COURT: All right. Send them back and tell the
4 jury to begin their deliberations and notify us when they
5 have concluded.

6 We will be at ease while the jury is deliberating.

7 (Whereupon, the exhibits were submitted to the jury at
8 12:35 p.m.)

9 (Whereupon, a recess was taken.)

10 (Question from the jury during deliberations marked
11 Court's Exhibit 2.)

12 THE COURT: All right. The jury has reached their
13 decision. Are we ready to receive it?

14 MR. SMITH: Your Honor, Mr. Bulsa has been notified,
15 and I am sure he is coming down the stairs as we speak.

16 (Pause.)

17 THE COURT: Okay. All right. Bring the jury in,
18 please, sir.

19 (Whereupon, the jury returned to the courtroom at
20 2:43 p.m.)

21 THE COURT: Madam Forelady, have you and your fellow
22 jurors reached a unanimous decision as to each of the
23 separate indictments?

24 THE FOREPERSON: Yes, sir, we have.

25 THE COURT: Have you indicated those decisions on the

Verdict

1 back of the indictments as requested?

2 THE FOREPERSON: Yes, sir.

3 THE COURT: Have you signed your name as the
4 foreperson and placed the appropriate date on it?

5 THE FOREPERSON: Yes, sir.

6 THE COURT: All right. If you will, hand those
7 verdict forms up by way of the bailiff.

8 All right. You may publish the verdicts.

9 THE DEPUTY CLERK: Indictment 2006-GS-42-0880, in the
10 Court of General Sessions, the State of South Carolina vs.
11 Joshua Jeter, indictment for unlawful possession of a
12 pistol, person under 21, the verdict is guilty of unlawful
13 possession of a pistol by a person under 21. It is signed
14 by the foreperson and dated today's date.

15 Indictment 2005-GS-42-2628, the State of South
16 Carolina vs. Joshua Jeter, indictment for burglary in the
17 first degree, the verdict is guilty of attempted burglary
18 in the first degree. It's signed by the foreperson and
19 dated today's date.

20 Indictment 2005-GS-42-3711, the State of South
21 Carolina vs. Joshua Jeter, indictment for armed robbery,
22 the verdict is guilty of armed robbery. It is signed by
23 the foreperson and dated today's date.

24 Indictment 2005-GS-42-089 (sic), the State of South
25 Carolina vs. Lance Lyles, indictment for murder, the

Verdict

1 verdict is guilty of murder. It is signed by the
2 foreperson and dated today's date.

3 Indictment 2006-GS-42-0879, the State of South
4 Carolina vs. Lance Lyles, indictment for unlawful
5 possession of a pistol, person by, under the age of 21, the
6 verdict is guilty of unlawful possession of a pistol by a
7 person under 21. It is signed by the foreperson and dated
8 today's date.

9 Indictment 2005-GS-42-2627, the State of South
10 Carolina vs. Lance Lyles, indictment for burglary in the
11 first degree, the verdict is guilty of attempted burglary
12 in the first degree. It is signed by the foreperson and
13 dated today's date.

14 Indictment 2005-GS-42-3712, the State of South
15 Carolina vs. Lance Lyles, indictment for armed robbery, the
16 verdict is guilty of armed robbery. It is signed by the
17 foreperson and dated today's date.

18 Indictment 2005-GS-42-0888, the State of South
19 Carolina vs. Joshua Jeter, indictment for murder, the
20 verdict is guilty of murder. It is signed by the
21 foreperson and dated today's date.

22 Ladies and gentlemen of the jury, if these are your
23 verdicts and still your verdicts, please raise your right
24 hand. So say y'all.

25 (Whereupon, all responded in the affirmative.)

Verdict

1 THE COURT: All right. Any other matters to be
2 addressed with the jury present by defendant Jeter?

3 MS. ANDERSON: No, sir.

4 THE COURT: By defendant Lyles?

5 MR. VIETH: Your Honor, I would like to poll the jury,
6 please.

7 THE COURT: Okay. Poll the jury, please, ma'am.

8 THE DEPUTY CLERK: Ladies and gentlemen of the jury, I
9 will pose a question to you, after which I will ask you to
10 stand individually and answer, my question being are these
11 your verdicts and still your verdicts.

12 Juror No. 72, Billy Hipps, Jr.

13 JUROR NUMBER 72: Yes, ma'am.

14 THE DEPUTY CLERK: You may be seated.

15 Juror No. 86, Carolyn King.

16 JUROR NUMBER 86: Yes.

17 THE DEPUTY CLERK: Juror No. 5, Christopher Alley.

18 JUROR NUMBER FIVE: Yes, ma'am.

19 THE DEPUTY CLERK: Juror No. 160, Daniel Robinson.

20 JUROR NUMBER 160: Yes, ma'am.

21 THE DEPUTY CLERK: Juror No. 48, Carol Epps.

22 JUROR NUMBER 48: Yes, ma'am.

23 THE DEPUTY CLERK: Juror No. 153, Phillip Sluder.

24 JUROR NUMBER 153: Yes, ma'am.

25 THE DEPUTY CLERK: Juror No. 168, Leandra Smith.

Verdict

1 JUROR NUMBER 168: Yes.
2 THE DEPUTY CLERK: Juror No. 3, Loretta Alexander.
3 JUROR NUMBER THREE: Yes, ma'am.
4 THE COURT: Juror No. 106, Danyell Mullins.
5 JUROR NUMBER 106: Yes.
6 THE DEPUTY CLERK: Juror No. 81, Kathleen James.
7 JUROR NUMBER 81: Yes, ma'am.
8 THE DEPUTY CLERK: Juror No. 50, Mark Farris.
9 JUROR NUMBER 50: Yes.
10 THE DEPUTY CLERK: Juror No. 119, Brandon Riley.
11 JUROR NUMBER 119: Yes, ma'am.
12 THE DEPUTY CLERK: Your Honor, the jury has been
13 polled.
14 THE COURT: Okay. Any other matters to address with
15 the jury present?
16 MR. VIETH: No, sir.
17 MS. ANDERSON: No, sir.
18 (Whereupon, the trial jury was excused.)
19 THE COURT: All right. Any matters to be addressed
20 prior to sentencing by defendant Jeter?
21 MS. ANDERSON: No, sir.
22 THE COURT: By defendant Lyles?
23 MR. VIETH: Your Honor, I just move to reconsider the
24 verdict, primarily in light of the charge on involuntary
25 manslaughter. But/and I believe that's the only motion

Sentence

1 that I can make on that.

2 THE COURT: Okay. That motion is denied.

3 (Pause.)

4 THE COURT: All right. Anything further on behalf of
5 the state?

6 MR. BULSA: They do have a minor juvenile record if
7 you would like to hear it.

8 THE COURT: Okay.

9 MR. BULSA: Mr. Joshua Jeter in June of 2003,
10 adjudicated guilty of disturbing schools and assault and
11 battery of a school official.

12 As to Lance Lyles also in June of 2003, adjudicated
13 guilty of resisting arrest and assault and battery of a
14 school official.

15 THE COURT: All right. Ms. Anderson, anything you
16 would like to tell me about Mr. Jeter?

17 MS. ANDERSON: Well, Your Honor, as you know, he is
18 only 17 years old. He has a small child. He has a lot of
19 family support here in the courtroom.

20 I think that you will remember my client did want to
21 plead to manslaughter at the time and has always been
22 forthcoming with the fact that he was there, the fact that
23 he had the gun.

24 I believe that -- I would hope that you would show
25 him -- I would hope that you would consider giving him the

Sentence

1 minimum as far as the murder charge goes and let everything
2 run concurrent with that.

3 He was 16 when this happened. It doesn't excuse that
4 it happened. It doesn't excuse any of his actions that
5 night, but he did come forward and talk to the police. He
6 did give a statement.

7 I don't, I don't think that Josh intended to kill
8 anyone that night, but the tragedy of the whole situation
9 was that a death occurred.

10 And I know that he is very, very sorry. He would like
11 to express his sorrow and his actions to Mr. Howze's family
12 for what happened.

13 And, as I said, I would hope you would consider the
14 fact that he did talk to the police and he was willing to
15 plead. Unfortunately, Mr. Bulsa would not let him plead
16 without Mr. Lyles pleading at the same time. But he did
17 offer to plead to manslaughter several times.

18 But I would hope you would consider that, that he has
19 at least tried to accept responsibility for his actions
20 that night.

21 THE COURT: All right. Mr. Jeter, anything you want
22 to add to what your lawyer has told me?

23 DEFENDANT JETER: Yes, sir. I just want to say to the
24 family that I am sorry for what the situation was, you
25 know. And if I could turn back the hands of time, I know

Sentence

1 it would be a better day on earth, you know. And I just
2 want to say I'm sorry and I continue praying for y'all and,
3 you know, I love y'all.

4 THE COURT: All right. Anything further on behalf of
5 Mr. Jeter?

6 MS. ANDERSON: No, sir.

7 THE COURT: All right. Mr. Vieth, anything on behalf
8 of Mr. Lyles?

9 MR. VIETH: Your Honor, naturally, everybody has a
10 constitutional right to a trial by a jury.

11 Mr. Lyles maintains that he was not guilty of shooting
12 anyone. And I would trust that he would not be punished
13 any more severely than anyone else that entertains the
14 right to a trial by a jury as opposed to entering a guilty
15 plea to something lesser other than the penalty the
16 legislature mandates for this charge.

17 It has been a rough ordeal for all of us. I guess
18 it's a situation where in truth my client's parents and
19 Mr. Jeter's parents will wonder for days on end what really
20 happened on that night, what was the actual nexus of the
21 problem.

22 But the jury has rendered a verdict. I can't say that
23 we find fault that they find the hand of one, hand of all,
24 or mere presence either one.

25 They had the evidence and they deliberated, and I

Sentence

1 don't have a quarrel with the verdict.

2 We just ask this Court to let Lance have a life when
3 he gets out, consider as a minimal, a penalty as the
4 legislature allows you to do and with concurrent sentences.

5 Clarence, is there anything you want to address to the
6 judge and to the family?

7 DEFENDANT LYLES: To the Howze family, it's a tragic
8 situation, and also to me.

9 I'll just continue to keep y'all in prayers because
10 y'all lost a loved son, and hopefully everything will work
11 out for y'all as a family.

12 MR. VIETH: Anything y'all would like to add? Will
13 you hear from one or both of the parents?

14 THE COURT: Yes, sir.

15 MELISSA LYLES: To the Howze family, we have prayed
16 for you all since day one. We haven't lost a son, so we
17 don't know how you feel.

18 But we just ask that you have mercy on our son's life,
19 and to the judge the same. We wish we too could turn back
20 the hands of time, but we can't.

21 We just pray to God that He has mercy on our son, as
22 well as your family. And we have prayed for forgiveness
23 and we ask for forgiveness from you as well.

24 MR. VIETH: Mr. Lyles.

25 LEONARD LYLES: It's a tragic situation and it's

Sentence

1 affected a lot of lives.

2 Y'all lost a son. I'm sorry for your loss. Nobody
3 knows. We wasn't there that night. We don't know what
4 happened.

5 I honestly feel that the situation was an accident,
6 but you lost a loved one. Sorry for your loss.

7 I ask the judge to consider the lightest sentences you
8 could possibly give.

9 We will continue to pray for y'all. And may God bless
10 everybody.

11 MR. VIETH: Thank you very much, Your Honor.

12 THE COURT: All right. These sentences are with
13 reference to Mr. Jeter.

14 On Indictment 2006-0880, an indictment for unlawful
15 possession of a pistol by a person under the age of 21
16 years, wherein you have been found guilty by a jury of that
17 offense, the Sentence of the Court is that you, Joshua
18 Jeter, are to be confined to the South Carolina Department
19 of Corrections for a period of five years.

20 The defendant is to be given credit for any time he's
21 entitled to pursuant to Section 24-13-40.

22 Indictment 2005-2628, an indictment for burglary in
23 the first degree, wherein you have been found guilty by a
24 jury of the offense of attempted burglary in the first
25 degree, Sentence of the Court is you, Joshua Jeter, be

Sentence

1 confined to the South Carolina Department of Corrections
2 for a period of ten years.

3 That sentence is concurrent to that sentence imposed
4 on Indictment 2006-0808.

5 The defendant to be given credit for any time he is
6 entitled to pursuant to 24-13-40.

7 Indictment 2005-3711, an indictment for attempted
8 armed robbery, wherein you have been found guilty by a jury
9 of that offense, the Sentence of the Court is you, Joshua
10 Jeter, be confined to the South Carolina Department of
11 Corrections for a period of 20 years.

12 That sentence is concurrent with any other sentence
13 imposed.

14 The defendant to be given credit for any time he's
15 entitled to pursuant to 24-13-40.

16 Indictment 2005-0888, an indictment for the crime of
17 murder, wherein you have been found guilty of that offense
18 by a jury, the Sentence of the Court is you, Joshua Jeter,
19 are to be confined to the South Carolina Department of
20 Corrections for the period of your natural life.

21 Now, Mr. Jeter, you have a right to appeal the
22 decisions of the jury and the Sentence of the Court. You
23 must file any notice of your intentions to appeal within
24 ten days of today's date.

25 All right. Next is the indictments involving Lance

Sentence

1 Lyles.

2 On Indictment 2006-0879, an indictment for unlawful
3 possession of a pistol by a person under 21, the Sentence
4 of the Court is you, Lance Lyles, be confined to the South
5 Carolina Department of Corrections for a period of five
6 years.

7 Has Mr. Lyles served any time in jail pursuant to his
8 arrest on these charges?

9 MR. VIETH: He served some time, yes, sir. I don't
10 know exactly. He has been on an ankle bracelet. He served
11 some time.

12 THE COURT: He gets credit for the time in jail but
13 not --

14 MR. VIETH: Four months. He spent four months in
15 jail.

16 THE COURT: All right. The defendant is to be given
17 credit for the time he is entitled to pursuant to 24-13-40.

18 Indictment 2005-2627, an indictment for burglary in
19 the first degree, wherein you have been found guilty by a
20 jury of the offense of attempted burglary in the first
21 degree, the Sentence of the Court is you, Lance Lyles, be
22 confined to the South Carolina Department of Corrections
23 for a period of ten years.

24 That sentence is concurrent with any other.

25 He is to be given credit for any time he is entitled

Sentence

1 to pursuant to 24-13-40.

2 Indictment 2005-3712, an indictment for attempted
3 armed robbery, wherein you have been found guilty by a jury
4 of that offense, the Sentence of the Court is you, Lance
5 Lyles, be confined to the South Carolina Department of
6 Corrections for a period of 20 years.

7 That sentence is concurrent with any other.

8 And he is to be given credit for any time he is
9 entitled to pursuant to 24-13-40.

10 Indictment 2005-0890, an indictment for murder,
11 wherein you have been found guilty by the jury of that
12 offense, the Sentence of the Court is you, Lance Lyles, be
13 confined to the South Carolina Department of Corrections
14 for the period of your natural life.

15 All sentences are concurrent and credit to be given.

16 Mr. Lyles, you have a right to appeal the decisions of
17 the jury, as well as the Sentence of the Court. You must
18 file any notice of your intention to appeal within ten days
19 of today's date.

20 Anything further?

21 MR. BULSA: No, sir.

22 THE COURT: All right. Court is adjourned.

23 END OF REQUESTED TRANSCRIPT OF RECORD
24
25

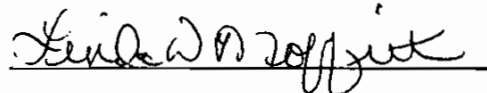
Certificate

CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 13th through the 17th days of March 2006.

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

January 3, 2006



Linda D. Moffitt
Circuit Court Reporter

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)

Plaintiff,)

vs.)

JOSHUA JETER,)

Defendant.)

NI
RE

Indi

05-0888
05-GS-42-0888
05-GS-42-2628
05-GS-42-3711
05-GS-42-0880

TO: The Honorable J. Derham Cole and Derrick Balsa, Assistant Solicitor:

The Defendant, by and through his undersigned attorney, moves before the Honorable J. Derham Cole, Circuit Court Judge, Seventh Judicial Circuit, at Spartanburg County Judicial Center, Spartanburg, South Carolina, for an Order altering or amending the Order of this Court dated March 17, 2006 in regards to the following sentences given to the Defendant for Murder (life), Unlawful Possession of a Pistol by a Minor (5 years concurrent), Attempted Burglary in the First Degree (10 years concurrent), and Attempted Armed Robbery (20 years concurrent) with credit for time served.

The Defendant is requesting reconsideration for the following reasons:

- a.) The Defendant tried to plead guilty to Manslaughter but was not allowed because his co-defendant would not plead.
- b.) He was cooperative with the Public Safety Department Investigators and gave 4 statements, two of which implicated his involvement.
- c.) He has a minor child to support.
- d.) He was only 16 at the time of the incident and did not have a significant juvenile record.
- e.) He testified against his co-defendant.

This Motion is based upon the law as is appropriate and in accordance with Rule 29 of the S.C. Rules of Criminal Procedure.

Respectfully submitted,

J. Patricia Anderson

J. Patricia Anderson
Attorney for the Defendant
P.O. Box 1507
Spartanburg, SC 29304

Date: March 24, 2006

MARC KITCHENS
2006 MAR 24 PM 12:51

FILED
CLERK OF COURT

CLERK OF COURT
STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

2006 APR 11 PM 1:17
IN THE COURT OF GENERAL SESSIONS

MARC KITCHENS
The STATE of South Carolina

-vs-

Joshua JETER,

Defendant.

ORDER

Denying Motion to Reconsider

05-GS-42-0880, 05-GS-42-0888,
05-GS-42-2628, 05-GS-42-3711

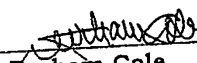
This matter came before this Court on motion of the defendant, pursuant to Rule 29, *South Carolina Rules of Criminal Procedure*, wherein the defendant seeks an alteration or amendment of this Court's order regarding the sentences imposed on the above-referenced indictments.

This is a criminal case where the defendant was tried before a jury on indictments charging with him the crimes of Murder, Burglary 1st Degree, Attempted Armed Robbery, and Possession of a Pistol by a Person Under the Age of 21 Years. At the trial of this case Pat Anderson, Esq. appeared on behalf of the defendant. Derrick Bulsa, Assistant Solicitor for the Seventh Judicial Circuit, appeared on behalf of the State. The defendant was found guilty by the jury of Murder, Attempted Burglary 1st Degree, Attempted Armed Robbery, and Possession of a Pistol by a Person Under the Age of 21 Years. The defendant was sentenced by the Court to imprisonment for life, pursuant to *South Carolina Code Annotated Section 16-3-20*, for the crime of Murder. He was sentenced to concurrent sentences of 10 years for Attempted Burglary 1st Degree, 20 years for Attempted Armed Robbery, and 5 years for Possession of a Pistol by a Person Under the Age of 21 Years.

Having considered the grounds stated by the defendant in his motion for an alteration and amendment of this Court's sentences, this Court finds that the sentences as imposed are fair, reasonable, and appropriate under the facts and circumstances relating to these cases and are an appropriate exercise of the Court's discretion in these matters.

The defendant's motion to alter or amend the Court's sentencing orders in these cases is without merit and is therefore denied.

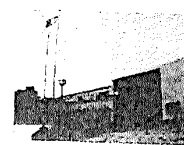
It Is So Ordered.


J. Derham Cole, Presiding Judge

April 11, 2006
Spartanburg, South Carolina



Spartanburg County Seventh Judicial Circuit Public Index



Spartanburg County Home Page South Carolina Judicial Department Home Page SC.GOV Home Page

Switch View

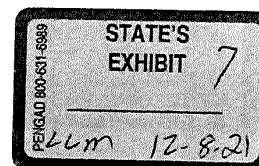
Joshua Jeter VS State Of South Carolina

Case Number:	2009CP4201221	Court Agency:	Common Pleas	Filed Date:	03/04/2009
Case Type:	Common Pleas	Case Sub Type:	Post Convict Rel 500	File Type:	Non-Jury
Status:	Appeal	Assigned Judge:	Clerk Of Court C P, G S, And Family Court		
Disposition:	Dismissed by Court - not Rule 40J	Disposition Date:	07/28/2010	Disposition Judge:	Hayes, J. Mark II
Original Source Doc:		Original Case #:			
Judgment Number:	2009-CP-42-1221	Court Roster:			

Case Parties Judgments Tax Map Information Associated Cases Actions Financials

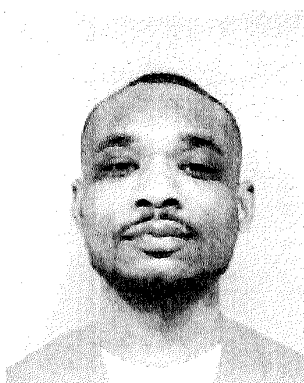
Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Jeter, Joshua	Letter/Letter	Filing		01/25/2013-00:00		
Jeter, Joshua	Remittitur From Court Of Appeals	Filing		01/14/2013-10:11		
State Of South Carolina	Service/Certificate Of Service by mail	Filing		08/17/2010-11:00		
Jeter, Joshua	Appeal/Notice of Appeal	Filing		08/17/2010-10:59		
Jeter, Joshua	Order/Dismissal	Order		07/28/2010-12:01	07/28/2010-12:01	
Jeter, Joshua	Order/Form 4/Formal Order to follow	Order		06/03/2010-13:32	07/28/2010-13:32	
Jeter, Joshua	Order/Substitution Of Counsel	Order		12/04/2009-10:46	07/28/2010-10:46	
State Of South Carolina	Service/Certificate Of Service	Filing		07/13/2009-10:52	07/28/2010-10:52	
State Of South Carolina	Return	Filing		07/13/2009-10:51	07/28/2010-10:51	
Jeter, Joshua	Verification/Verified	Filing		03/04/2009-12:50	07/28/2010-12:50	
Jeter, Joshua	Post Conviction Relief	Filing		03/04/2009-12:49	07/28/2010-12:49	

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INMATE SEARCH DETAIL REPORT

JETER, JOSHUA (00314407)



INMATE DESCRIPTION		INMATE SENTENCE AND LOCATION	
SEX:	MALE	SCDC ID:	00314407
RACE:	BLACK	SID:	SC01602067
HEIGHT:	5' 09"	OFFENDER TYPE:	ADULT-STRAIGHT SENTENCE
WEIGHT:	135 lbs.	ADMISSION DATE:	03/20/2006
AGE:	33	LOCATION:	BROAD RIVER
CITIZENSHIP:	CITIZEN - NATIVE BORN	DORM-ROOM-BUNK:	MTA-2050-A
BUILD:	MEDIUM	EWC LEVEL:	SF5
COMPLEXION:	DARK BROWN	EEC LEVEL:	
HAIR COLOR:	BLACK	PROJECTED RELEASE DATE:	NOT ELIGIBLE
EYE COLOR:	BROWN	PROJECTED PAROLE ELIGIBILITY:	NOT ELIGIBLE
PICTURE DATE:	02/13/2019	SUP. FURLOUGH ELIGIBILITY:	NOT ELIGIBLE
		SUP. RE-ENTRY DATE:	NOT ELIGIBLE

CURRENT OFFENSES

OFFENSE	SENTENCE TYPE	YRS	MOS	DYS	COUNTY	START DATE	V/NV	CAT	INDICT	STATUS
MURDER	ADULT-STRAIGHT SENTENCE	LIFE SENTENCE			SPARTANBURG	12/14/2004	V	5	05GS420888	ACTIVE

ESCAPES

NO ESCAPES DURING CURRENT INCARCERATION

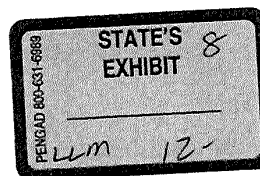
DISCIPLINARY SANCTIONS

SANCTIONS NOT AVAILABLE IN THE AUTOMATED SYSTEM PRIOR TO JANUARY 2009

DATE	DESCRIPTION
04/07/2021	POSS. OR/ATTEMPT TO POSSESS CELL PHONE LOSS OF CANTEEN PRIVILEGES FOR 150 DAYS LOSS OF TELEPHONE PRIVILEGES FOR 150 DAYS LOSS OF VISITATION PRIVILEGES FOR 150 DAYS
04/06/2021	STRIKING AN EMPLOYEE WITH/WITHOUT WEAPON LOSS OF CANTEEN PRIVILEGES FOR 150 DAYS LOSS OF TELEPHONE PRIVILEGES FOR 150 DAYS LOSS OF VISITATION PRIVILEGES FOR 150 DAYS
04/06/2021	INCITING/CREATING A DISTURBANCE LOSS OF CANTEEN PRIVILEGES FOR 60 DAYS LOSS OF TELEPHONE PRIVILEGES FOR 60 DAYS LOSS OF VISITATION PRIVILEGES FOR 60 DAYS
04/02/2021	EXHIBITIONISM AND PUBLIC MASTURBATION LOSS OF CANTEEN PRIVILEGES FOR 150 DAYS DISC. DETENTION FOR 30 DAYS LOSS OF TELEPHONE PRIVILEGES FOR 150 DAYS LOSS OF VISITATION PRIVILEGES FOR 150 DAYS
11/24/2020	EXHIBITIONISM AND PUBLIC MASTURBATION LOSS OF CANTEEN PRIVILEGES FOR 90 DAYS LOSS OF TELEPHONE PRIVILEGES FOR 90 DAYS LOSS OF VISITATION PRIVILEGES FOR 90 DAYS
05/02/2020	POSS. OR/ATTEMPT TO POSSESS CELL PHONE LOSS OF CANTEEN PRIVILEGES FOR 180 DAYS

December 07, 2021

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Page 1 of 6

INMATE SEARCH DETAIL REPORT

JETER, JOSHUA (00314407)

DISCIPLINARY SANCTIONS		SANCTIONS NOT AVAILABLE IN THE AUTOMATED SYSTEM PRIOR TO JANUARY 2009
DATE	DESCRIPTION	
	DISC. DETENTION FOR 30 DAYS	
	LOSS OF TELEPHONE PRIVILEGES FOR 180 DAYS	
	LOSS OF VISITATION PRIVILEGES FOR 180 DAYS	
03/03/2020	POSS. OR/ATTEMPT TO POSSESS CELL PHONE	
	LOSS OF CANTEEN PRIVILEGES FOR 30 DAYS	
	LOSS OF VISITATION PRIVILEGES FOR 60 DAYS	
03/03/2020	POSSESSION OF CONTRABAND	
	LOSS OF CANTEEN PRIVILEGES FOR 30 DAYS	
	LOSS OF VISITATION PRIVILEGES FOR 30 DAYS	
03/26/2019	USE OBSCENE,VULGAR,PROFANE LANG/GESTURES	
	LOSS OF CANTEEN PRIVILEGES FOR 30 DAYS	
	LOSS OF TELEPHONE PRIVILEGES FOR 30 DAYS	
03/26/2019	DISORDERLY CONDUCT	
	LOSS OF CANTEEN PRIVILEGES FOR 30 DAYS	
	LOSS OF TELEPHONE PRIVILEGES FOR 30 DAYS	
03/26/2019	THREATENING TO INFLICT HARM ON EMPLOYEE	
	LOSS OF CANTEEN PRIVILEGES FOR 90 DAYS	
	DISC. DETENTION FOR 30 DAYS	
03/07/2019	EXHIBITIONISM AND PUBLIC MASTURBATION	
	LOSS OF CANTEEN PRIVILEGES FOR 90 DAYS	
	DISC. DETENTION FOR 30 DAYS	
	LOSS OF TELEPHONE PRIVILEGES FOR 90 DAYS	
	LOSS OF VISITATION PRIVILEGES FOR 90 DAYS	
07/11/2018	POSSESSION OF CONTRABAND	
	LOSS OF CANTEEN PRIVILEGES FOR 30 DAYS	
	LOSS OF TELEPHONE PRIVILEGES FOR 30 DAYS	
07/11/2018	POSS. OR/ATTEMPT TO POSSESS CELL PHONE	
	LOSS OF CANTEEN PRIVILEGES FOR 90 DAYS	
	LOSS OF TELEPHONE PRIVILEGES FOR 90 DAYS	
04/08/2018	POSSESSION OF CONTRABAND	
	LOSS OF CANTEEN PRIVILEGES FOR 30 DAYS	
	LOSS OF TELEPHONE PRIVILEGES FOR 30 DAYS	
04/08/2018	POSSESSION OF A WEAPON	
	LOSS OF CANTEEN PRIVILEGES FOR 120 DAYS	
	DISC. DETENTION FOR 30 DAYS	
	LOSS OF TELEPHONE PRIVILEGES FOR 120 DAYS	
	LOSS OF VISITATION PRIVILEGES FOR 120 DAYS	
04/08/2018	USE,POSS NARC,MARIJ,UNAUTH DRUG,INHALANT	
	LOSS OF CANTEEN PRIVILEGES FOR 120 DAYS	
	LOSS OF TELEPHONE PRIVILEGES FOR 90 DAYS	
	LOSS OF VISITATION PRIVILEGES FOR 90 DAYS	
05/18/2017	THREATENING TO INFLICT HARM ON EMPLOYEE	
	LOSS OF CANTEEN PRIVILEGES FOR 45 DAYS	
	LOSS OF PROPERTY PRIVILEGES FOR 45 DAYS	
	LOSS OF TELEPHONE PRIVILEGES FOR 45 DAYS	
	LOSS OF VISITATION PRIVILEGES FOR 45 DAYS	

INMATE SEARCH DETAIL REPORT

JETER, JOSHUA (00314407)

DISCIPLINARY SANCTIONS		SANCTIONS NOT AVAILABLE IN THE AUTOMATED SYSTEM PRIOR TO JANUARY 2009
DATE	DESCRIPTION	
08/18/2016	EXHIBITIONISM AND PUBLIC MASTURBATION	
	LOSS OF CANTEEN PRIVILEGES FOR 225 DAYS	
	DISC. DETENTION FOR 45 DAYS	
	LOSS OF PROPERTY PRIVILEGES FOR 180 DAYS	
	LOSS OF TELEPHONE PRIVILEGES FOR 225 DAYS	
	LOSS OF VISITATION PRIVILEGES FOR 225 DAYS	
07/29/2016	POSSESSION OF A WEAPON	
	LOSS OF CANTEEN PRIVILEGES FOR 122 DAYS	
	DISC. DETENTION FOR 32 DAYS	
	LOSS OF TELEPHONE PRIVILEGES FOR 122 DAYS	
06/09/2016	POSSESSION OF CONTRABAND	
	LOSS OF CANTEEN PRIVILEGES FOR 10 DAYS	
	LOSS OF TELEPHONE PRIVILEGES FOR 10 DAYS	
03/15/2016	REFUSING OR FAILING OBEY ORDERS	
	LOSS OF CANTEEN PRIVILEGES FOR 10 DAYS	
02/28/2015	EXHIBITIONISM AND PUBLIC MASTURBATION	
	DISC. DETENTION FOR 30 DAYS	
03/04/2014	EXHIBITIONISM AND PUBLIC MASTURBATION	
	JUMPSUIT FOR 3 DAYS	
11/07/2013	STRIKING AN EMPLOYEE WITH/WITHOUT WEAPON	
09/26/2013	EXHIBITIONISM AND PUBLIC MASTURBATION	
	LOSS OF CANTEEN PRIVILEGES FOR 3 DAYS	
	DISC. DETENTION FOR 343 DAYS	
	JUMPSUIT FOR 360 DAYS	
	LOSS OF TELEPHONE PRIVILEGES FOR 3 DAYS	
02/05/2013	EXHIBITIONISM AND PUBLIC MASTURBATION	
	LOSS OF CANTEEN PRIVILEGES FOR 540 DAYS	
	DISC. DETENTION FOR 360 DAYS	
	JUMPSUIT FOR 360 DAYS	
	LOSS OF TELEPHONE PRIVILEGES FOR 540 DAYS	
	LOSS OF VISITATION PRIVILEGES FOR 358 DAYS	
01/06/2013	EXHIBITIONISM AND PUBLIC MASTURBATION	
	LOSS OF CANTEEN PRIVILEGES FOR 540 DAYS	
	DISC. DETENTION FOR 360 DAYS	
	JUMPSUIT FOR 360 DAYS	
	LOSS OF TELEPHONE PRIVILEGES FOR 540 DAYS	
	LOSS OF VISITATION PRIVILEGES FOR 725 DAYS	
12/09/2010	A & B OF AN EMP, ETC W/INT KILL/INJURE	
	DISC. DETENTION FOR 360 DAYS	
	LOSS OF VISITATION PRIVILEGES FOR 1 DAYS	
05/15/2010	POSS. OR/ATTEMPT TO POSSESS CELL PHONE	
	LOSS OF CANTEEN PRIVILEGES FOR 470 DAYS	
	DISC. DETENTION FOR 360 DAYS	
	LOSS OF TELEPHONE PRIVILEGES FOR 470 DAYS	
	LOSS OF VISITATION PRIVILEGES FOR 282 DAYS	

INMATE SEARCH DETAIL REPORT

JETER, JOSHUA (00314407)

DISCIPLINARY SANCTIONS

SANCTIONS NOT AVAILABLE IN THE AUTOMATED SYSTEM PRIOR TO JANUARY 2009

DATE	DESCRIPTION
05/15/2010	REFUSING OR FAILING OBEY ORDERS
	LOSS OF CANTEEN PRIVILEGES FOR 280 DAYS
	DISC. DETENTION FOR 90 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 280 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 280 DAYS
04/01/2010	DISRESPECT
	LOSS OF CANTEEN PRIVILEGES FOR 60 DAYS
	DISC. DETENTION FOR 30 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 60 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 60 DAYS
03/06/2010	EXHIBITIONISM AND PUBLIC MASTURBATION
	LOSS OF CANTEEN PRIVILEGES FOR 180 DAYS
	JUMPSUIT FOR 360 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 180 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 360 DAYS

MOVEMENT

MOVEMENT DATE	TO LOCATION	STATUS	REASON
07/01/2019	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
07/01/2019	KIRKLAND	INCARCERATED	MEDICAL
05/01/2019	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
05/01/2019	KIRKLAND	INCARCERATED	MEDICAL
01/07/2019	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
01/07/2019	KIRKLAND	INCARCERATED	MEDICAL
12/20/2018	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
12/20/2018	OUTSIDE MEDICAL	AUTH ABSENCE (AWL)	MEDICAL
11/05/2018	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
11/05/2018	KIRKLAND	INCARCERATED	MEDICAL
10/22/2018	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
10/22/2018	KIRKLAND	INCARCERATED	MEDICAL
05/14/2018	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
05/14/2018	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
04/10/2018	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
04/10/2018	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
06/27/2017	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
11/15/2016	MCCORMICK	INCARCERATED	ADMINISTRATIVE
11/15/2016	KIRKLAND	INCARCERATED	MEDICAL
09/20/2016	MCCORMICK	INCARCERATED	ADMINISTRATIVE
09/20/2016	KIRKLAND	INCARCERATED	MEDICAL
07/29/2016	MCCORMICK	INCARCERATED	ADMINISTRATIVE
07/29/2016	OUTSIDE MEDICAL	AUTH ABSENCE (AWL)	MEDICAL
06/22/2016	MCCORMICK	INCARCERATED	RETURN FROM COURT
06/22/2016	UNION CO	AUTH ABSENCE (AWL)	TO COURT
08/31/2015	MCCORMICK	INCARCERATED	RETURN FROM COURT
08/27/2015	SPARTANBURG CO	AUTH ABSENCE (AWL)	TO COURT
07/17/2015	MCCORMICK	INCARCERATED	ADMINISTRATIVE

INMATE SEARCH DETAIL REPORT

JETER, JOSHUA (00314407)

DISCIPLINARY SANCTIONS		SANCTIONS NOT AVAILABLE IN THE AUTOMATED SYSTEM PRIOR TO JANUARY 2009
DATE	DESCRIPTION	
05/15/2010	REFUSING OR FAILING OBEY ORDERS	
	LOSS OF CANTEEN PRIVILEGES FOR 280 DAYS	
	DISC. DETENTION FOR 90 DAYS	
	LOSS OF TELEPHONE PRIVILEGES FOR 280 DAYS	
	LOSS OF VISITATION PRIVILEGES FOR 280 DAYS	
04/01/2010	DISRESPECT	
	LOSS OF CANTEEN PRIVILEGES FOR 60 DAYS	
	DISC. DETENTION FOR 30 DAYS	
	LOSS OF TELEPHONE PRIVILEGES FOR 60 DAYS	
	LOSS OF VISITATION PRIVILEGES FOR 60 DAYS	
03/06/2010	EXHIBITIONISM AND PUBLIC MASTURBATION	
	LOSS OF CANTEEN PRIVILEGES FOR 180 DAYS	
	JUMPSUIT FOR 360 DAYS	
	LOSS OF TELEPHONE PRIVILEGES FOR 180 DAYS	
	LOSS OF VISITATION PRIVILEGES FOR 360 DAYS	

MOVEMENT			
MOVEMENT DATE	TO LOCATION	STATUS	REASON
07/01/2019	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
07/01/2019	KIRKLAND	INCARCERATED	MEDICAL
05/01/2019	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
05/01/2019	KIRKLAND	INCARCERATED	MEDICAL
01/07/2019	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
01/07/2019	KIRKLAND	INCARCERATED	MEDICAL
12/20/2018	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
12/20/2018	OUTSIDE MEDICAL	AUTH ABSENCE (AWL)	MEDICAL
11/05/2018	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
11/05/2018	KIRKLAND	INCARCERATED	MEDICAL
10/22/2018	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
10/22/2018	KIRKLAND	INCARCERATED	MEDICAL
05/14/2018	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
05/14/2018	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
04/10/2018	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
04/10/2018	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
06/27/2017	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
11/15/2016	MCCORMICK	INCARCERATED	ADMINISTRATIVE
11/15/2016	KIRKLAND	INCARCERATED	MEDICAL
09/20/2016	MCCORMICK	INCARCERATED	ADMINISTRATIVE
09/20/2016	KIRKLAND	INCARCERATED	MEDICAL
07/29/2016	MCCORMICK	INCARCERATED	ADMINISTRATIVE
07/29/2016	OUTSIDE MEDICAL	AUTH ABSENCE (AWL)	MEDICAL
06/22/2016	MCCORMICK	INCARCERATED	RETURN FROM COURT
06/22/2016	UNION CO	AUTH ABSENCE (AWL)	TO COURT
08/31/2015	MCCORMICK	INCARCERATED	RETURN FROM COURT
08/27/2015	SPARTANBURG CO	AUTH ABSENCE (AWL)	TO COURT
07/17/2015	MCCORMICK	INCARCERATED	ADMINISTRATIVE

INMATE SEARCH DETAIL REPORT

JETER, JOSHUA (00314407)

MOVEMENT			
MOVEMENT DATE	TO LOCATION	STATUS	REASON
07/17/2015	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
06/11/2015	MCCORMICK	INCARCERATED	ADMINISTRATIVE
06/09/2015	KERSHAW	INCARCERATED	ADMINISTRATIVE
05/07/2015	PERRY	INCARCERATED	ADMINISTRATIVE
05/07/2015	KIRKLAND	INCARCERATED	MEDICAL
10/01/2014	PERRY	INCARCERATED	ADMINISTRATIVE
10/01/2014	KIRKLAND	INCARCERATED	MEDICAL
04/10/2012	PERRY	INCARCERATED	RETURN FROM COURT
04/10/2012	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
03/29/2012	PERRY	INCARCERATED	ADMINISTRATIVE
03/29/2012	KIRKLAND	INCARCERATED	MEDICAL
04/05/2011	PERRY	INCARCERATED	ADMINISTRATIVE
04/05/2011	KIRKLAND	INCARCERATED	MEDICAL
12/09/2010	PERRY	INCARCERATED	LOCKUP-ADJUSTMENT COMM.
07/07/2010	LEE	INCARCERATED	ADMINISTRATIVE
05/27/2010	MCCORMICK	INCARCERATED	ADMINISTRATIVE
05/26/2010	KIRKLAND	INCARCERATED	RETURN FROM COURT
05/25/2010	SPARTANBURG CO	AUTH ABSENCE (AWL)	TO COURT
01/19/2010	MCCORMICK	INCARCERATED	ADMINISTRATIVE
01/14/2010	KIRKLAND	INCARCERATED	RETURN FROM COURT
01/13/2010	SPARTANBURG CO	AUTH ABSENCE (AWL)	TO COURT
05/05/2009	MCCORMICK	INCARCERATED	ADMINISTRATIVE
07/02/2007	LEE	INCARCERATED	ADMINISTRATIVE
04/05/2006	LIEBER	INCARCERATED	ADMINISTRATIVE
03/20/2006	KIRKLAND	INCARCERATED	R&E PROCESSING
03/20/2006	PERRY	INCARCERATED	NEW ADMISSION

EARNED WORK CREDITS

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LEVEL
WARDKEEPER ASSISTANT	08/04/2021			5F5
WARDKEEPER ASSISTANT	05/19/2020	04/06/2021	PLACED IN ST/SP CUSTODY	5F5
WARDKEEPER ASSISTANT	04/02/2020	05/18/2020	ASLT/DRUG/MAJOR DISC	3F5
WARDKEEPER ASSISTANT	03/25/2019	10/15/2019	PLACED IN ST/SP CUSTODY	5F5
GENERAL WORKER	09/15/2016	06/27/2017	INSTIT TRANSFER	5F5
GENERAL WORKER	06/16/2015	07/29/2016	PLACED IN ST/SP CUSTODY	3F5
WARDKEEPER	06/11/2015	06/11/2015	INSTIT TRANSFER	3F5
RECREATION AIDE	07/02/2013	08/20/2013	PLACED IN ST/SP CUSTODY	5P5
GENERAL WORKER	01/20/2010	03/06/2010	PLACED IN ST/SP CUSTODY	3F5
GENERAL WORKER	05/07/2009	01/19/2010	INSTIT TRANSFER	3F5
GENERAL WORKER	04/07/2009	05/05/2009	INSTIT TRANSFER	3F5
GENERAL WORKER	03/03/2009	04/06/2009	CUSTODY REVIEW	5F5

EARNED EDUCATION CREDITS

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON
LVL 3 - FULL TIME(NO EWC)	07/09/2007	10/10/2007	PLACED IN ST/SP CUSTODY
LVL 5 - FULL TIME(NO EWC)	12/05/2006	07/02/2007	INSTIT TRANSFER

INMATE SEARCH DETAIL REPORT

JETER, JOSHUA (00314407)

EARNED EDUCATION CREDITS

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON
LVL 3 - FULL TIME(NO EWC)	05/23/2006	12/04/2006	CUSTODY REVIEW

CERTIFICATES

CERTIFICATE DESCRIPTION	RECEIVED DATE
HIGH SCHOOL (GED)	09/06/2007

PROGRAMS

NO PROGRAMS DURING INCARCERATION(S)

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SPARTANBURG COUNTY
Court of General Sessions

Letitia Verdin, Circuit Court Judge

Case No. 2005-GS-42-0888

The State,

Joshua Jeter

v.

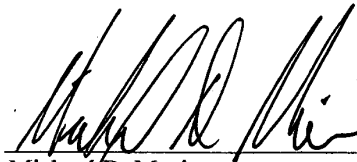
Respondent,

Appellant

NOTICE OF APPEAL

Joshua Jeter appeals his sentence in this case. The sentence was imposed by the Honorable Letitia Verdin on December 30, 2021 and filed with the Spartanburg County Clerk on January 14, 2022. Written notice of the sentence was received by Appellant's Attorney on March 9, 2022. This appeal is taken from the a resentencing hearing pursuant to *Aiken v. Byars*, 765 S.E.2d 572 (S.C. 2014).

March 10, 2022



Michael D. Morin

Bar No.: 65094

Seventh Judicial Circuit Public Defender Office

366 N Church Street, Suite 3000

Spartanburg, South Carolina 29303

(864) 596-2561

Attorney for Appellant

Other Counsel of Record:

Barry J. Barnette, Esq.

Seventh Judicial Circuit Solicitor's Office

180 Magnolia Street

Spartanburg, South Carolina 29306

(864) 596-2575

Attorney for Respondent

RECEIVED

MAR 14 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

MAR 14 2022

APPEAL FROM THE SPARTANBURG COUNTY
Court of General Sessions

SC Court of Appeals

Letitia Verdin, Circuit Court Judge

Case No.: 2005-GS-42-0888

The State

Joshua Jeter

v.

Respondent,

Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the State of South Carolina by depositing a copy of it in the United States Mail, postage prepaid, on March 10, 2022, addressed to its attorney of record, Barry J. Barnette, Esq., Assistant Solicitor, 180 Magnolia Street, Spartanburg, South Carolina 29306.

March 10, 2022



Michael D. Morin
Bar No.: 65094
Seventh Judicial Circuit Public Defender Office
366 N Church Street, Suite 3000
Spartanburg, South Carolina 29303
(864) 596-2561
Attorney for Appellant

SEVENTH JUDICIAL CIRCUIT PUBLIC DEFENDER

MICHAEL D. MORIN
CIRCUIT PUBLIC DEFENDER

366 NORTH CHURCH STREET
SUITE 3000
SPARTANBURG, SC 29303



TELEPHONE (864) 596-2561
FAX (864) 596-2284
FAX (864) 562-4412

March 10, 2022

The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RECEIVED
MAR 14 2022
SC Court of Appeals

RE: State v. Joshua Jeter
Case No.: 2005-GS-42-0888

Dear Ms. Kitchings:

Enclosed for filing is the original Notice of Appeal in the above case. Also enclosed are the Proof of Service of the Notice of Appeal on the Respondent and copy of the Order, to be challenged on appeal.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Michael D. Morin".

Michael D. Morin
Bar No. 65094
Seventh Judicial Circuit Public Defender's Office
366 N Church Street Suite 3000
Spartanburg, South Carolina
(864) 596-2561
Attorney for Appellant

Enclosures: cc: Office of Seventh Judicial Circuit Solicitor
Office of Attorney General
Office of Appellate Defense
Office of the Trial Court Clerk

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) COURT OF GENERAL SESSIONS

3
4 STATE OF SOUTH CAROLINA,) TRANSCRIPT
5 PLAINTIFF,) OF
6 VS.) RECORD
7 JOSHUA JETER,)
8 DEFENDANT.) 2005-GS-42-888

9
10 August 18th, 2022

11
12 B E F O R E:

13 THE HONORABLE LETITIA H. VERDIN, JUDGE.

14
15 A P P E A R A N C E S:

16 BARRY BARNETTE
17 SOLICITOR
Attorney for the state

18 MICHAEL MORIN
19 PUBLIC DEFENDER
Attorney for the Defendant

20
21
22 PAMELA E. GREEN
23 Circuit Court Reporter
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E X H I B I T S

<u>NOS.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
	<u>State's Exhibits</u>		
S-1	order		4

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P R O C E E D I N G S

THE COURT: Everybody's here, and if -- solicitor, if I could just ask you to please call the case.

SOLICITOR BARNETTE: Yes, ma'am.

This is the case of the State versus Joshua Jeter, Your Honor. It was Indictment Number 2005-GS-42-888, Your Honor. It was Aiken versus Byars hearing that we heard back in December of last year in front of Your Honor and that's the matter that's before us to now concerning the murder charge in this case, the resentencing of it.

Judge, I think you're muted.

THE COURT: Oh, sorry.

I've issued a written order in this case.

Isn't that -- that -- that's correct?

SOLICITOR BARNETTE: Yes, ma'am.

THE COURT: And everyone's received a copy of that order and I'm -- I had made some specific findings in that order.

Is that correct?

SOLICITOR BARNETTE: Yes, ma'am, and can I move that just as Exhibit 1 to add to your sentencing sheet?

THE COURT: Certainly. Certainly.

All right. This morning -- anything that needs to be added before we go forward with sentencing in this case?

1 MR. MORIN: No, Your Honor.

2 THE COURT: All right. After I heard the testimony and
3 evidence, I understand Mr. Jeter had been sentenced to a
4 life sentence. I took into account the fact -- factors to
5 be considered in Aiken v. Byars hearing and I did find,
6 although the crime is extremely serious for which he was
7 convicted, I did find that he should have the opportunity to
8 possibly be released at some point and, therefore, the
9 sentence of the Court on, on -- for Mr. Jeter on this
10 indictment is 50 years.

11 All right. Thank you.

12 SOLICITOR BARNETTE: Thank you, Your Honor.

13 THE COURT: Thank you very much.

14 Good luck to you, Mr. Jeter.

15 (WHEREUPON, the order was marked as State's Exhibit No.
16 1 and received into evidence at this time.)

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18 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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C E R T I F I C A T E

I, Pamela E. Green, official Court Reporter for the
state of South Carolina, do hereby certify that the
foregoing is a true, accurate and complete Transcript of
Record of the proceedings had and evidence introduced in the
trial of the captioned case, relative to appeal, in the
Court of General Sessions for Spartanburg County, South
Carolina, on the 18th day of August, 2022.

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

September 1st, 2022

PAMELA E. GREEN, Court Reporter

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE

VS.

Joshua Jeter

AKA:

Race: BLACK Sex: M Age: 34

DOB: SS#:

Address:

City, State, Zip: SPARTANBURG, SC 29301

DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2005 - GS - 42 - 00888

A/W#: H878265

Date of Offense: 12/14/2004

S.C. Code § 16-03-0010; 16-03-0020

CDR Code #: 0116

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above 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 ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

s/Barry J Barnette

BULSA, DERRICK

SCB15264

SC Bar #

s/Joshua Jeter

Defendant

s/Michael D Morin

Morin, Michael David

SCB65094

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,

for a determinate term of 50 days/months/years/Time Served ☐ Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served 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.

The sentence shall run

☐ 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 SCDoc. days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Joshua Jeter INDICTMENT/CASE#: 2005 - GS - 42 - 00888

SPECIAL CONDITIONS:

☐ **PTUP** after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total: \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of	\$ _____	Beginning	\$ _____
\$14-1-206 (Assessments 107.5 %)			\$ _____
\$14-1-211(A)(1) (Conv. Surcharge)	\$100		\$ _____
\$14-1-211(A)(2) (DUI Surcharge)	\$100		\$ _____
\$56-5-2995 (DUI Assessment)	\$12		\$ _____
\$56-1-286 (DUI Breath Test)	\$25		\$ _____
\$14-1-212 (Law Enforce. Funding)	\$25		\$ _____
\$14-1-213 (Drug Court Surcharge)	\$150		\$ _____
\$34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41		\$ _____
\$50-21-114(BUI Breath Test Fee)	\$50		\$ _____
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea		\$ _____
3% to County (if paid in installments)	TBD		\$ _____
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500		\$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD		\$ _____

TOTAL \$ _____

Clerk of Court/ Deputy Clerk: _____
Court Reporter: _____

Presiding Judge: _____
Judge Code: _____
Sentence Date: _____

Seton H. Verdine
2116
8/18/22

H878265

SEVENTH JUDICIAL CIRCUIT PUBLIC DEFENDER

MICHAEL D. MORIN
CIRCUIT PUBLIC DEFENDER

366 NORTH CHURCH STREET
SUITE 3000
SPARTANBURG, SC 29303



TELEPHONE (864) 596-2581
FAX (864) 596-2284
FAX (864) 562-4412

August 24, 2022

The Honorable Amy West-Cox
Clerk of Court for Spartanburg County
180 Magnolia Street
Spartanburg, South Carolina 29306

RE: State v. Joshua Jeter
Case No.: 2005-GS-42-0888

Dear Ms. West-Cox:

Enclosed for filing is the Notice of Appeal in the above case.

Thank you very much.

Sincerely Yours,

Michael D. Morin

Enclosure

cc: Barry J. Barnette
Seventh Judicial Circuit Solicitor's Office
180 Magnolia Street
Spartanburg, South Carolina 29306
Attorney for Respondent

CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

2022 AUG 24 PM 3:23

FILED



THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SPARTANBURG COUNTY
Court of General Sessions

The Honorable Judge Letitia H. Verdin, Circuit Court Judge

Case No. 2005-GS-42-0888

The State,
Joshua Jeter

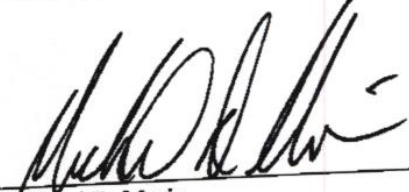
v.

Respondent,
Appellant

NOTICE OF APPEAL

Joshua Jeter appeals his/her conviction and sentence in this case. The sentence was imposed by the Honorable Judge Letitia H. Verdin on August 18, 2022. This appeal is taken from the conviction and sentence and the order of the Honorable Judge Letitia H. Verdin on August 18, 2022, which the defendant was re-sentenced pursuant to Aiken v. Byars 410 S.C. 534, 765 S.E.2d 572 (2014).

August 24, 2022


Michael D. Morin
Bar No.: 65094
Seventh Judicial Circuit Public Defender Office
366 N Church Street, Suite 3000
Spartanburg, South Carolina 29303
(864) 596-2561
Attorney for Appellant

Other Counsel of Record:
Barry J. Barnette, Esq.
Seventh Judicial Circuit Solicitor's Office
180 Magnolia Street
Spartanburg, South Carolina 29306
(864) 596-2575
Attorney for Respondent

2022 AUG 24 PM 3:23
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. ARMY

FILED

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SPARTANBURG COUNTY
Court of General Sessions

The Honorable Judge Letitia H. Verdin, Circuit Court Judge

Case No.: 2005-GS-42-0888

The State

v.

Respondent,

Joshua Jeter

Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the State of South Carolina by depositing a copy of it in the United States Mail, postage prepaid, on August 24, 2022, addressed to its attorney of record, Barry J. Barnette, Esq., Assistant Solicitor, 180 Magnolia Street, Spartanburg, South Carolina 29306.

August 24, 2022



Michael D. Morin
Bar No.: 65094
Seventh Judicial Circuit Public Defender Office
366 N Church Street, Suite 3000
Spartanburg, South Carolina 29303
(864) 596-2561
Attorney for Appellant

CLERK OF COURT
SPARTANBURG COUNTY
SOUTH CAROLINA

2022 AUG 24 PM 3:23

FILED

RECEIVED

Jun 05 2023

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

Appellate Case No. 2022-000311

The Honorable Letitia H. Verdin, Circuit Court Judge

The State of South Carolina.....Respondent,

v.

Joshua Jeter.....Appellant.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

May 23, 2022

/s/ Ranee Saunders

Ranee Saunders

Elizabeth Franklin-Best, P.C.

SC Bar #100073

3710 Landmark Drive, Ste 113

Columbia, South Carolina 29204

(803) 445-1333