STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Marion County

Honorable William H. Seals, Circuit Court Judge

RICHARD A. WOODBURY,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-000121

APPENDIX

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STATE OF SOUTH CAROLINA)
) GENERAL SESSIONS COURT
COUNTY OF MARION)

STATE OF SOUTH CAROLINA)

STATE,)

v.) TRANSCRIPT OF RECORD
13-GS-33-00069

RICHARD A. WOODBURY,)

DEFENDANT.)

February 18, 2014
Marion, South Carolina

B E F O R E :

THE HONORABLE D. CRAIG BROWN, JUDGE;
AND JURY

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

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THE COURT: Okay, the State ready to proceed?

MR. CLEMENTS: We are ready, Your Honor.

THE COURT: Defense counsel?

MR. WILSON: We are, Your Honor.

THE COURT: Call your first case, Mr. Clements.

MR. CLEMENTS: If it please the Court, Your Honor, we call indictment number 2013-GS 33-69, the State versus Richard Allen Woodbury.

THE COURT: Mr. Clements, come up here, Mr. Wilson.

(WHEREUPON, counsel approached the Bench for an off the record discussion.)

THE COURT: Ladies and gentlemen, the State has called the case of the State of South Carolina versus Mr. Richard Allen Woodbury. Mr. Richard Allen Woodbury is charged in a two count indictment under count one being a count of murder. Count one, murder, indicates or alleges that Mr. Richard Allen Woodbury did in Marion County on or about September 29, 2012, willfully, feloniously, and intentionally kill the victim Ian Gause with malice aforethought either expressed or implied by means of stabbing, and the victim did die as a

proximate result thereof on September 30, 2012 in Marion County in violation of South Carolina Code of Laws Section 16-3-10 and 20.

Count two is a charge of attempted murder. Count two of this indictment reads that Richard Allen Woodbury did in Marion County on or about September 29, 2012, with malice aforethought attempt to murder one Rishawn Gause by stabbing him with a knife causing great bodily injury and substantial risk of death in violation of Section 16-3-29 of the South Carolina Code of Laws.

Ladies and gentlemen, to these charges, to these charges Mr. Richard Allen Woodbury has pled not guilty. He has pled not guilty to each of these charges; therefore, the State of South Carolina bears the burden of proving his guilt beyond a reasonable doubt as to each of these charges. This document that I hold in my hand, ladies and gentlemen, is an indictment. It is simply the charging document by which this case is brought into this court. It is in no way evidence in this case. As I told you previously, Mr. Richard Allen Woodbury is presumed innocent of these charges, and the State of South Carolina bears the burden of proving his guilt beyond a reasonable doubt as to each charge.

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Now before we go any further in this jury selection process there are several questions that I must ask of you. Please listen very carefully to these questions. Is there any member of the jury panel that has ever been related by blood, connected by marriage, had a close personal business or social relationship with Mr. Richard Allen Woodbury, Mr. Ian Gause, or Mr. Rishawn Gause, if so, please stand.

Tell me your name and number please, ma'am.

THE POTENTIAL JUROR: My number is 38. My name is Joanne Davis and I ——

THE COURT: Hold on just a minute. Whom do you know, ma'am?

THE POTENTIAL JUROR: Ian Gause and the other one.

THE COURT: They're your cousin?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: First cousin, second cousin?

THE POTENTIAL JUROR: Second cousin.

THE COURT: Ma'am?

THE POTENTIAL JUROR: Second cousin.

THE COURT: Any objection to me setting this particular juror aside for the trial of this

case, from the State?

MR. CLEMENTS: Your Honor, if it fits into that I didn't hear which level of ---

THE COURT: Second cousin.

MR. CLEMENTS: Does that fit in to ---

THE COURT: I believe it does.

Mr. Wilson?

MR. WILSON: Yes, sir. My understanding is that she would be disqualified for cause.

MR. CLEMENTS: Yes, sir.

THE COURT: Ma'am, I'm gonna set you aside for the trial of this case. Thank you for standing.

Your name and number please.

THE POTENTIAL JUROR: Sandra Bradley Hayes. I think it's 18.

THE COURT: Hold on just a minute. Yes, ma'am.

THE POTENTIAL JUROR: My husband was the pastor at True Worship Christian Church where Ian Gause came to church, as well as his fiance was a member of our church as well.

THE COURT: Would that in any way affect your ability to be fair and impartial to both the State and the Defense in this case?

THE POTENTIAL JUROR: To be honest, sir, I

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don't know, but I don't feel I would be biased to what happened.

THE COURT: Ma'am?

THE POTENTIAL JUROR: I knew what happened based upon ---

THE COURT: Hold on a minute. Can you approach please, ma'am, with the lawyers.

(Potential juror approached the Bench for an off-the-record discussion.)

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

THE COURT: Without objection she's going to be relieved. Ma'am, if you'll have seat I'm gonna allow you to remain with us, okay.

Ladies and gentlemen, the following is a list of potential witnesses in this case. I said potential witnesses. I want you to listen very carefully to this list. It is a lot of names, okay, but listen carefully. Rishawn Gause is one I've already mentioned to you. Charles Wilson, Ky Graham.

MR. WILSON: Yes, sir.

THE COURT: Lamont Davis, Ronnie Boatwright, Anthony Bacchuss, Brad Gerald, Lieutenant Tony Flowers, Derrick Smith, Chief Jim

Gray, Michael Hartson, Robert Smith, Lieutenant Davis, Captain Barr, Scott Hardee with SLED, Mindy Worley with SLED, Jennifer Stoner with SLED, Doctor Eowyn Corcrain, and Nicholas Batalis, Rosa Robinson Carmichael Michael, Robert Woodbury, Marilyn Rogers, Lieutenant Walker Davis, Captain Cindy Barr, and Amy Stevens. Is there any member of the jury panel that has ever been related by blood, connected by marriage, had a close personal, business or social relationship with any of those potential witnesses, if so, please stand.

THE POTENTIAL JUROR: I'm not sure again.

THE COURT: Hold on, tell me your name. You can stand up. Hold on. Name and number.

THE POTENTIAL JUROR: Mitchell Rouse, 141, Donald Rouse.

THE COURT: To whom do you know on that list?

THE POTENTIAL JUROR: And it would be with the police department. I'm a counselor vocational ——

THE COURT: I understand. My question is, you know, to whom do you know on that list?

THE POTENTIAL JUROR: Chief Gray, Lieutenant Barr, and I'm not sure — I know

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somebody's name but I'm not sure if it's the one. What's your — can I ask somebody what her name is?

THE OFFICER: Brianna.

THE POTENTIAL JUROR: No, never mind.

THE COURT: The two individuals you listed, the fact that you know them, would that in any way affect your ability to be fair and impartial to the State as well as the Defense in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Thank you for standing. You may be seated.

At this time I'm gonna ask the Solicitor to stand and introduce himself followed by Defense counsel.

MR. CLEMENTS: Thank you, Your Honor. If it please the Court. Good afternoon, Your Honor, my name is Ed Clements. I'm the solicitor for the Twelfth Circuit which is Florence and Marion counties. I'll be prosecuting this case for the State of South Carolina. Thank you.

THE COURT: Mr. Wilson.

MR. WILSON: Good afternoon, my name is Ralph Wilson. I'm an attorney. I practice in Horry County and I represent Mr. Woodbury in this particular matter.

THE COURT: Has any member of the jury panel ever been related by blood, connected by marriage, had a close personal business oar social latent print with the of the attorneys involved thing, if so, please stand?

(There was no response.)

THE COURT: Has any member of the jury panel or their immediate family or close personal friend ever been prosecuted by the Twelfth Circuit Solicitor's Office, if so, please stand.

(There was no response.)

THE COURT: Whether the charges have been concluded, currently pending, or not, if so, please stand.

THE POTENTIAL JUROR: I'm not sure ---

THE COURT: Hold on a minute, name and number.

THE POTENTIAL JUROR: Crystal Lawson, number 95.

THE COURT: Hold on just a minute. Can you come forward please, ma'am, with the lawyers.

(Potential juror approached the Bench for an on-the-record discussion.)

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

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THE COURT: All right, let me ask this question, ladies and gentlemen. Has any member of the jury panel, their immediate family, or close personal friend ever been or currently being prosecuted by Marion County Solicitor's Office or Florence County Solicitor's Office, if so, please stand.

(There was no response.)

THE COURT: All right. Has any member of the jury panel formed or expressed an opinion about any issue or matter involved in this case, if so, please stand.

(There was no response.)

THE COURT: Is any member of the jury panel aware of any bias or presence toward either the State or the Defendant in this case, if so, please stand.

(There was no response.)

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

(There was no response.)

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

Name and number please.

THE POTENTIAL JUROR: Jacolgan Mack. My number is 104.

THE COURT: Sir, could you come around please.

(Potential juror approached the Bench for an off-the-record discussion.)

THE COURT: Christy, I'll set aside juror 104. Any additional questions from the State?

MR. CLEMENTS: No, Your Honor, thank you.

THE COURT: Any additional voir dire from Defense counsel?

MR. WILSON: Nothing, Your Honor.

THE COURT: All right, Madam Clerk, I turn it over to you. Five and ten on the strikes.

MR. WILSON: Thank you, Your Honor.

CLERK OF COURT: When I call your name come forward. Please bring pocketbooks, coats,

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whatever you have with you, stand in front of the table and face back out towards the audience please. We'll call juror number number 171, George L. Williamson, Jr. (white male). Thank you, sir.

What say the State?

MR. CLEMENTS: Please present Mr. Williamson.

CLERK OF COURT: What say the Defense?

MR. WILSON: Defense will strike the juror from the trial of this particular case.

CLERK OF COURT: You've been excused from this, Mr. Williamson. You may have a seat back out there. Thank you.

Number 14, Timothy W. Blackmon (white male). What say the State?

MR. CLEMENTS: Please present Mr. Blackmon.

THE CLERK OF COURT: What say the Defense?

MR. WILSON: Defense will strike this juror from the trial of this particular case.

CLERK OF COURT: You've been excused from this trial, sir. Thank you, sir.

Number 139, Georgette R. Robinson (black female). What say the State?

MR. CLEMENTS: Please present

Ms. Robinson.

CLERK OF COURT: What say the Defense?

MR. WILSON: Seat the juror.

CLERK OF COURT: Mr. Robinson, if you'll have a seat one of the chairs over on the side please.

Number 166, Eunice L. White (black female). What say the State?

MR. CLEMENTS: Please present Ms. White.

CLERK OF COURT: What say Defense?

MR. WILSON: Seat the juror.

CLERK OF COURT: Ms. White, if you'll have a seat in one of the chairs on the side please, ma'am. Thank you.

Number 158, Suchetha Vege (Indian female). What say the State?

MR. CLEMENTS: Please present Ms. Vague.

CLERK OF COURT: What say the Defense?

MR. WILSON: Seat the juror.

CLERK OF COURT: Number 77, Rhoda M. Hyatt (white female).

MR. WILSON: I'm sorry, Ms. Clerk, what number was that?

CLERK OF COURT: Number 77.

MR. WILSON: Thank you.

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CLERK OF COURT: What say the State?

MR. CLEMENTS: Please present Ms. Hyatt.

CLERK OF COURT: What say the Defense?

MR. WILSON: Seat the juror.

CLERK OF COURT: Number 18, Sandra Wise Bradley Hayes (black female). What saith the State?

MR. CLEMENTS: Present Ms. Hayes please.

CLERK OF COURT: What say the Defense?

MR. WILSON: Defense will excuse the juror for the trial of this particular case.

CLERK OF COURT: You're excused from this trial, ma'am, thank you.

Number 48, Adriene C. Finkley-Nixon (black female). What saith the State?

MR. CLEMENTS: Please present Ms. Finkley Nixon.

CLERK OF COURT: What say the Defense?

MR. WILSON: Seat the juror.

CLERK OF COURT: Please have a seat.

Number 150, Markes T. Snells (black male). What saith the State?

MR. CLEMENTS: Please present Mr. Snells.

CLERK OF COURT: What say the Defense?

MR. WILSON: Seat the juror.

CLERK OF COURT: Number 112, Jacquel D.

McCummings (black male). What say the State?

MR. CLEMENTS: May we approach the Bench, Your Honor. Or Your Honor, we'd move to strike for cause.

THE COURT: Mr. Wilson. Can the lawyers approach at side bar please.

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

THE COURT: Without objection juror number 112 is struck for cause.

Sir, you may be seated.

CLERK OF COURT: Number 66, Jashai D. Harrell (black female). What say the State?

MR. MCEACHIN: Beg the Court's indulgence just a moment.

MR. CLEMENTS: Please strike Ms. Harrell.

CLERK OF COURT: You're excused from this trial, sir, thank you.

Number 32, Sonny D. Collins (white male). What say the State?

MR. CLEMENTS: Please present Mr. Collins.

CLERK OF COURT: What say the Defense?

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

CLERK OF COURT: You're excused from this

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trial, Mr. Collins. Thank you.

Number 11, Laurie L. Beeson (white female.) What say the State?

MR. CLEMENTS: Please present Ms. Beeson.

CLERK OF COURT: What say the Defense?

MR. WILSON: Please excuse Ms. Beeson from the trial of this particular case.

CLERK OF COURT: Thank you, Ms. Beeson.

Number 27, Jennifer H. Burke (white female). What say the State?

MR. CLEMENTS: Please present Ms. Burke.

CLERK OF COURT: What say Defense?

MR. WILSON: Please excuse Ms. Burke from the trial of this case.

CLERK OF COURT: You're excused, Ms. Burke, thank you.

Number 92, Tyler Landers (white male). What say the State?

MR. CLEMENTS: Please present Mr. Landers.

CLERK OF COURT: What say the Defense?

MR. WILSON: Seat this juror.

CLERK OF COURT: Number 135, Brice R. Richardson (white male). What say the State?

MR. CLEMENTS: Please present Mr. Richardson.

CLERK OF COURT: What say the Defense?

MR. WILSON: Just give me one second please. We'd excuse Mr. Richardson from the trial of this particular case.

CLERK OF COURT: Thank you, sir.

Number 91, Janice B. King (white female). What say the State?

MR. CLEMENTS: Please present Ms. King.

CLERK OF COURT: What say the Defense?

MR. WILSON: We excuse Ms. King from the trial of this particular case.

CLERK OF COURT: Number 151, Janet Spivey (white female). What say the State?

MR. CLEMENTS: Please present Ms. Spivey.

CLERK OF COURT: What say the Defense?

MR. WILSON: Seat the juror.

CLERK OF COURT: Number 121, Tim M. Owens (white male). What say the State?

MR. CLEMENTS: Please present Mr. Owens.

CLERK OF COURT: What say the Defense?

MR. WILSON: We excuse the juror from the trial of this particular case.

CLERK OF COURT: Thank you, sir.

161, Laquedra M. Walker (black female). What say the State?

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MR. CLEMENTS: Please present Ms. Walker.

CLERK OF COURT: What say the Defense?

MR. WILSON: Seat the juror.

CLERK OF COURT: Number 35, Marilyn M. Creech (white female). What say the State?

MR. CLEMENTS: Please present Ms. Creech.

CLERK OF COURT: What say the Defense?

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

Number 60, Angela D. Grant (black female). What say the State?

MR. CLEMENTS: Please present Ms. Grant.

CLERK OF COURT: What say the Defense?

MR. WILSON: Seat the juror.

CLERK OF COURT: Number 95, Crystal K. Lawson (white female). What say the State?

MR. CLEMENTS: Please present Ms. Lawson.

CLERK OF COURT: What say the Defense?

MR. WILSON: Seat the juror.

CLERK OF COURT: Number 44, Kimberly R. Elliott (white female). What say the State?

MR. CLEMENTS: Please present Ms. Elliott.

CLERK OF COURT: What say the Defense?

MR. WILSON: Seat the juror.

CLERK OF COURT: We have our alternates.

THE COURT: One and two on the strikes on the alternate.

CLERK OF COURT: One alternate?

THE COURT: Two alternates, Mr. Solicitor, or one? Two alternates, that's adequate for you, Mr. Wilson?

MR. WILSON: Yes, sir.

THE COURT: Two alternates please. One and two on the strikes.

CLERK OF COURT: 143, Justin W. Sanders (white male). What say the State?

MR. CLEMENTS: Please excuse Mr. Sanders for the trial of this case.

CLERK OF COURT: Thank you, sir.

126, Carolyn D. Pee (black female). What say the State?

MR. CLEMENTS: Please present Ms. Pee.

CLERK OF COURT: What say the Defense?

MR. WILSON: Seat Ms. Pee.

CLERK OF COURT: If you will just have a seat in one of the chairs over on the side. Thank you.

Number 99, Kenyatta L. Legette (black female). What say the State?

MR. CLEMENTS: Please excuse Ms. Legette

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from the trial of this case only.

CLERK OF COURT: Thank you.

Number 155, Gwendolyn M. Tisdale (black female). What say the State?

MR. CLEMENTS: Please present Ms. Tisdale.

CLERK OF COURT: What says the Defense?

MR. WILSON: Seat the juror.

CLERK OF COURT: Thank you, Ms. Tisdale.

THE COURT: Any matters of law we need to take up with regards to jury selection from the State?

MR. CLEMENTS: Your Honor, may I have one moment.

THE COURT: Yes, sir.

(Pause.)

MR. CLEMENTS: Your Honor, we would have a matter of law we'd like to take up.

THE COURT: All right, can the lawyers approach for just a minute please.

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

THE COURT: Ladies and gentlemen, what we're going to do, I'm gonna ask that the bailiff take this panel seated to my left, those have been selected at this time for this jury, take them to

the — and show them where the jury room is. Can you hear me? Take them to the jury room. I want you all to be back here at 2:30. I'm gonna go ahead and excuse you all for lunch. Do not discuss the case. Do not discuss the case with anybody.

This instruction goes to everybody, everybody, not just this panel but everybody. Do not discuss this case at all. You know very little about this case. What you know about this case at this point is what I've told you or through the indictment which is not evidence in this case. You're not to discuss this case with anybody. You're not to do any independent investigation on your own. This case is to be decided solely, solely based upon the evidence and testimony that's presented in this courtroom and nowhere else. Show them, Mr. Dale, where they're supposed to report back at 2:30, okay. Everybody else remain seated right now.

Anything else from the State before I release the panel?

MR. CLEMENTS: No, Your Honor.

THE COURT: Defense counsel?

MR. WILSON: Nothing further, Your Honor.

(WHEREUPON, a recess was taken from the

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proceedings.)

THE COURT: Mr. Clements, happy to hear from you, sir.

MR. CLEMENTS: Thank you, Your Honor. Your Honor, I'll try to speak quickly if it please the Court. Your Honor, Mr. Wilson exercised all ten of his strikes. He struck the first two jurors that were taken that were white males, number 171 and number 14. Then he exercised his third strike on a black female, juror number 18, which is the juror that came up and said she gave spiritual counseling to the victim's fiance after this occurred. That was his third strike. His fourth and fifth and sixth strike were the jurors: Number 32, a white male; juror number, 11, a white female; juror number 27, a white female. Then he struck juror number 135, a white male, and juror 91, a white female. He struck juror 121, a white male, and then a white female juror 35. That was all ten of his strikes, ten of which were executed against Caucasian jurors, particularly men, the first one. He did seat one young man that was a white male, and I think one white female before he ran out of strikes. Prime facie on its face it looks like the strikes were exercised not in racially neutral, not gender

neutral fashion, particularly striking all white males that showed up at the beginning and on the picks, and we believe that similarly situated jurors were seated so we just think that we've got a Batson issue on its face.

THE COURT: All right. Mr. Wilson.

MR. WILSON: Yes, sir. Your Honor, the Solicitor is correct in at least part of what he says in regards to how the strikes were used. Now and let me give you a reason so that the record is clear. One of the things that I do is in selecting jurors it's very important to me what that person does and whether that person is a leader or I think that they're a leader because usually, if they're a leader then when they're on a jury they're going to take charge in the jury room. That's very important to me. So one of the things that I do is if a person is a business owner or has some leadership kind of position, then I will normally strike that person. And what you will find is that juror number 171 says that he was a business owner. Number, juror number 14 says that he was a management, a person. Number 18 was a black female that I struck because she was, had contact with the victim's fiance. Number 32 was also a business owner and

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self-employed. Number 27 was a nurse and the reason — and you'll see that I struck every nurse that came up which was number 11 was a nurse. I struck number 11. The reason for that is because nurses in this particular case, the victims went to the hospital. I'm not sure which hospital these nurses worked at, but I'm also concerned about any kind of medical evidence that would come in and how they would gauge that medical evidence so I struck the nurses. Number 135 which was the next one is a business owner who is, says that he is a farmer, self-employed farmer and a self-employed construction business owner. Number 91 is a female who says that she retired from Duke Energy, but she also says that her husband retired from Duke Energy. And my position on that with both of them, and I think her husband was retired from the military. My concern with her was, was that, you know, with that kind of resume she was probably going to be a leader in that jury room and I didn't want her on a jury. Number 121 was a service center — the reason I struck this particular juror was that when he came up — and he was the fellow with kind of white hair and stuff, is that he wouldn't, when I turned around he wouldn't look at me, and that bothers me because

I just don't like it. If a juror can't look at me that tells me either they're favoring the State and they may have some bias, at least that's my personal opinion about it which is why I struck him. And number 35 is exactly the same reason. When number 35 came up I turned around. I tried to get his eye because when I saw him walk past the table for the -- I'm sorry, I apologize. When she came past the table for the State and was walking over there I tried to turn around and just get an eye to see if I could make eye contact and she would not make any eye contact with me. Again, whether or not, you know, that means that she is going to be biased, I don't know. I don't like to take the chance, and so therefore I struck her. But those are the reasons that I struck each of those particular jurors.

THE COURT: Mr. Clements, anything?

MR. CLEMENTS: Your Honor, juror number 166 was a black female. They seated a retired banker and also husband retired from Atlanta Express. I think a banker, certainly a retired banker is certainly similar situated as somebody retired from Duke Energy which he claimed number 91 would be a leader so he didn't want that leader on the jury. However, you got a retired banker that's

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going to be a leader on the jury but he was fine with her so I think that's pretext. Also Your Honor, number 150 was Food Lion. Number 48, Your Honor, he talked about the other one who was retired from the military, and he had a problem with that; but on juror number 48 their spouse also was retired military and worked at the US Post Office and they worked at Wal-Mart and appeared to look like a person that would probably be managerial or leader type to me and he chose that person, which I think was pretext. On the other one he said he excused because they were a leader and because they had a husband that retired from the military. So I think you got similarly situated jurors that are seated, and we got strikes of persons that were also similarly situated that would be pre-textural in nature. Beg the Court's indulgence one moment.

Now Your Honor, I don't know about making eye contact. Some of them didn't make eye contact with me. I didn't see them try to avoid someone. And the two that he talked about that made contact, they're similarly situated the juror number 161 who worked at Sav-way who he sat. And also with juror 150, McLeod and Food Lion, they were similarly situated to the Community Health Center who was

juror number 35 who he said didn't make eye contact with him.

MR. WILSON: Judge, can I respond just briefly?

THE COURT: Yes, sir.

MR. WILSON: Just let me say, with juror number 91, which is the one he addressed where that juror herself is retired from Duke Energy. Her husband, in addition, is also retired from Duke Energy and she said her husband was retired military. Now in the number 48 that the Solicitor just quoted to you, that juror is a customer service representative at Wal-mart. She is not a retired Duke Energy or retired person at all as far as I can tell so I don't know where that, how that even matches up.

MR. CLEMENTS: Well, 166 Your Honor, is the one I'm referring to who is retired and that I thought made it pretext. 166, retired banker and retired Atlanta Express. And then the one he said that the lady retired from Duke energy I didn't hear -- I might have missed that. I didn't hear her say that her husband was also retired from Duke Energy. I only had him being retired from the military.

THE COURT: What number was that?

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MR. WILSON: Number 91.

MR. CLEMENTS: Number 91. I didn't hear anything about her having a husband retired from Duke Energy, only that he was retired from SC National Guard.

THE COURT: All right. Based upon what I've heard here today I do believe the State has made a prime facie showing of racial discrimination. That's step one. That's just step one now. That's step one. Upon request a Batson hearing is required pursuant to State v. Adams, 322 SC 114. Now the burden remains throughout on the opponent of the strike. Once a prime face case has been made the proponent of the strike is required to give a race neutral, gender neutral reason for the strikes.

Now I'm gonna go in order here. Juror number 171 who was a white male was defendant's first strike who Mr. Wilson indicated kind of a blanket strike for — and correct me if I'm wrong here, Mr. Wilson — is a blanket strike for self-employed business owners management position type people. Is that correct, Mr. Wilson?

MR. WILSON: That is correct, Your Honor.

THE COURT: Certainly juror number 171 fell within that purview which is a race neutral,

gender neutral, reason for the strike. Having said that let me ask you, Mr. Clements, with regards to juror number 171, is there any evidence that similarly situated individuals were seated as required under step three to show that it was a pretext?

MR. CLEMENTS: Beg the Court's indulgence one moment.

(Pause.)

MR. CLEMENTS: No, Your Honor, not that I can say specifically was a, own their own business.

THE COURT: All right. Therefore, the Court does not find juror, the striking of juror 171, was erred by the defendant. With regards to Mr. Wilson's second strike, juror number 14, again, Mr. Wilson, the reason for said strike was that this individual, juror number 14, who was a white male was struck because of his management position. Is that correct, Mr. Wilson?

MR. WILSON: Yes, and his wife is a nurse, Your Honor.

THE COURT: All right. Were there any jurors that were seated on this jury, Mr. Clements, similarly situated?

MR. CLEMENTS: Your Honor, he sat juror

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158 whose husband was a doctor, and he said he was a manager at Piggly Wiggly so he struck him for that reason but he struck a number of people working at Wal-Mart, we're not sure what capacities.

THE COURT: Well, based upon what I've heard here today I do find his reason for striking such was race neutral and gender neutral. I understand that her — he seated a juror whose husband is a doctor, but there's certainly differences between husband being a doctor and a nurse who is working in a hospital hands-on in those types of situations so I believe reason is race neutral, gender neutral. Juror number 18 who was a black female, African American female?

MR. CLEMENTS: We have no argument with that. We know why he struck her, which was the only African American struck.

THE COURT: Juror number 32 who was a white male, again, was a self-employed individual.

MR. CLEMENTS: Your Honor, he said he had lawn care although I certainly don't see a whole lot of leadership there, but I don't understand that strike either other than it being racially or gender motivated because it was a man.

THE COURT: Well, the Court finds that he

gave a race neutral, neutral reason for the strike as it pertains to juror number 32. It was not in violation of Batson. The next juror struck juror number 27.

MR. CLEMENTS: Number 11, wasn't it, your Honor?

THE COURT: Excuse me, I'm sorry, number 11 who was a white female who was a nurse; is that correct?

MR. WILSON: That is correct, Your Honor.

THE COURT: Any evidence of pretext or argument from, to pretext from the State?

MR. CLEMENTS: Only, Your Honor, that and I understand you said nurses more hands-on than the doctor. That will be my argument, that the doctor ——

THE COURT: I understand.

MR. CLEMENTS: ——would certainly have a looted more influence and leadership and impetus than the nurse would.

THE COURT: Well, I find that defendant has made a, or given a race neutral, gender neutral reason for striking of juror number 11 and that there's no evidence albeit subject to the State's argument, no evidence of any pretext similarly

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situated of jurors. Nor does the Court find as relates to juror number 11 or any of the previous jurors covered here, 171, 14, 18, 32 and 11; nor does the Court find defendant's reason for such strikes are fundamentally implausible. As relates to juror number 27 who was a white female, it's my understanding that she was struck as a result of being a nurse as well; is that correct?

MR. WILSON: That is correct, Your Honor.

THE COURT: My same ruling applies to juror number 27. The next strike was juror 135 who was a white male who was self-employed.

MR. CLEMENTS: Farmer, and he's single, Your Honor.

THE COURT: Any further argument or evidence of pretext from the State, Mr. Clements?

MR. CLEMENTS: No, Your Honor, but I don't see where farming is any reason to strike somebody. I just think he just struck him because he's a white male, plain and simple.

THE COURT: All right. Based upon what I've heard here I do not find as relates to juror number 135 that there's any pretext or that defendant's excuse for such strike is fundamentally implausible. A race neutral, gender neutral reason

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has been given for the strike as to juror number 135. Juror number 91, who was a white female who was retired or worked at Duke Energy whose husband was retired from Duke Energy and military; is that correct?

MR. WILSON: That is correct, yes, sir.

MR. CLEMENTS: Your Honor, I disagree. I didn't hear anything about the husband being retired from Duke Energy, only that he retired from South Carolina National Guard.

MR. WILSON: She clearly said, Your Honor, that he was retired from Duke Energy and from -- he was retired military, and I put it in my notes and when she said it.

THE COURT: Well, when there's case law -- and there's recent case law within the last year that says even a mistake -- even assuming, and I'm not assuming, but assuming what he wrote down was a mistake he gave a race neutral, gender neutral reason for the strike, which he did here, which he did.

MR. CLEMENTS: But Your Honor, my -- he similarly situated juror number 166, a retired banker.

THE COURT: Explain -- and I'm not trying

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to be difficult; I just want the record clear on this. How is retired from Duke Energy similarly situated a retired banker? How is that ——

MR. CLEMENTS: Because he talked about they, he thought they would be leaders and a retired banker would not be a leader. It just ——

THE COURT: Well, I mean ——

MR. CLEMENTS: ——seems disingenuous to me completely. He talks about something retired from Duke Energy, they got a job with a big company they're going to be a leader so I struck them. And then you got somebody whose a retired banker, husband also retired from at Atlanta Express which is a big company, they're similarly situated.

THE COURT: Anything further, Mr. Wilson?

MR. WILSON: Just, Your Honor, just that being retired from a bank and I don't even know what the lady did at the bank. I don't know whether she was a cashier or clerk or what she did. But I know having experience with people who work for Duke Energy, those people are very, very intelligent for the most part. They won't hire you unless you are. And to get a job there and to stay long enough to retire, that person is clearly going to be a leader at least in my opinion.

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MR. CLEMENTS: He has no idea what she did at Duke Energy so, I mean, that just ——

MR. WILSON: Just factual.

MR. CLEMENTS: ——in the same situation. And then ——

THE COURT: All right. According to the law — I'm sorry, go ahead Mr. Clements, anything further?

MR. CLEMENTS: It sounds like, you know, I guess if you think someone is intelligent I guess that might be a race neutral or gender neutral reason; but I don't know any banks that I've dealt with that had people that work for them that are idiots or stupid or easily influenced. They're leaders too. I just, it's just disingenuous. And we don't know what the lady did with Duke Energy. She might have just been somebody that entered data into a computer and sent bills out.

THE COURT: All right, I'm gonna come back to juror number 91. Juror number 121 was a white male who was struck and juror 35, white female, that was struck, the Court finds that there was a race neutral, gender neutral reason for such strikes based upon what was conveyed to the Court.

MR. CLEMENTS: May we be heard on that.

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Your Honor, I'm not sure I understood what he said the reason he struck number 121. 'Cause he worked at a service station?

THE COURT: No, sir, related to demeanor and disposition.

MR. CLEMENTS: Jury 151, the guy who was, who never made eye contact with us or ——

THE COURT: Hold on a minute now, hold on. You said 151. We're talking about 121 and 35.

MR. CLEMENTS: Yes, sir.

THE COURT: Did you mean to say 151 or did you mean to say 121?

MR. CLEMENTS: I meant to say 151 because she never looked at defense table or our table at all. Excuse me, 155 never looked at our table or her table or his fable, and you know, he struck people because of their demeanor because of no eye contact; but yet, I thought there was something to do, if it was something to do with his work was added in the very next juror also worked at a gas station, Sav-way.

THE COURT: Okay. As it relates to juror 121 and juror 35 I do find that defendant has give a race neutral, gender neutral reason for such strikes and do not find any violation of Batson as it

relates to 121 and 35. What is of some concern to the Court is striking of juror number 91.

MR. CLEMENTS: I'm sorry, Your Honor?

THE COURT: I said what is of concern to the Court is the striking of juror 91 who retired from Duke Energy whose husband you said he doesn't have anything to do with military, or did you?

MR. CLEMENTS: I said he retired from South Carolina National Guard and not from Duke then.

THE COURT: Not from Duke, okay.

MR. CLEMENTS: But Your Honor, if you find all these others to be proper strikes I withdraw on this one.

THE COURT: All right.

MR. CLEMENTS: 'Cause I think they are all in the same bucket.

THE COURT: All right. Well, based upon that then I do not find the violation of Batson. Anything further at this time?

MR. CLEMENTS: No, Your Honor.

MR. WILSON: Nothing further.

THE COURT: All right. Bring me that jury please back please, ma'am.

(WHEREUPON, the jury was returned to the

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courtroom at approximately 4:17 p.m., and the following proceedings commenced in open court.)

THE COURT: Ladies and gentlemen, I apologize for keeping you back in the jury room. There were matters we needed to take, we had to take up outside of your presence. I appreciate you all being back when I asked you to be back. I am going to — at this time I'm gonna excuse you for the balance of today, okay. I'm gonna ask you to be back here at 9:00 in the morning. 9:00 in the morning we'll start the trial of this case at that time. Do not, do not while you're gone discuss this case with anybody. Do not do any independent investigation on your own. You're to decide this case based solely upon the evidence and testimony that's presented in this courtroom and nowhere else, and no where else. Anything from the State before I release this jury for the balance of the day?

MR. CLEMENTS: No, Your Honor.

THE COURT: Defense counsel?

MR. WILSON: Nothing, Your Honor.

THE COURT: You all are free to go, be back 9:00 in the morning please. Thank you. Report to the jury room, okay, to the jury room.

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(WHEREUPON, the Court was adjourned at 3:30 p.m. and resumed on February 19, 2014.)

(WHEREUPON, State Exhibits Nos. 1 through 23 were marked for identification only.)

THE COURT: All right, there are some matters we need to take up pretrial is my understanding; is that correct, Mr. Clements?

MR. CLEMENTS: Your Honor, I don't think -- I think there are some issues, but I think we can very smoothly deal with them with the flow of the case.

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

MR. CLEMENTS: No, Your Honor.

MR. WILSON: No, sir.

THE COURT: Defense counsel? If you'd tell them to bring me the jury please, sir.

(WHEREUPON, the jury was returned to the courtroom at approximately 9:27 a.m., and the following proceedings commenced in open court.)

THE COURT: Ms. Pee and Ms. Tisdale, you two are the only ones who have assigned seats right now, okay.

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Madam Clerk, would you swear the jury please, ma'am.

CLERK OF COURT: Yes, sir, thank you.

(WHEREUPON, the jury was sworn.)

CLERK OF COURT: Thank you. You may be seated.

THE COURT: All right, ladies and gentlemen, the case we're about to try is the State of South Carolina versus Richard Allen Woodbury. Now before we begin the trial of this case I want to give you some preliminary instructions or the preliminary charge to you. Let me tell you, this trial will probably be different from what you might expect. Many people, many people do not have the chance to attend actual court sessions as you are doing now. You may think from watching television or movies or reading books that trials are always full of high drama, intense action, and rivetting circumstances. And while all of these things may be true at times, this trial, ladies and gentlemen, is not for entertainment. It is a fundamental part of our democracy, a search for the truth in an effort to make sure that justice is done between the parties before the court. Searching for the truth and making sure that justice is done is often slow,

deliberate, and repetitive, the opposite of what you may have seen on television or in movies or read in books. This courtroom is a place of honor dedicated to the protection and preservation of citizens' rights through what many have called the greatest justice system ever created. The attorneys appearing before you are advocates for the parties that they represent; but first and foremost, they are officers of the court sworn to uphold the integrity and fairness of our judicial system and to help you in the search for the truth. You should expect them to be professional, competent, and ethical in the representation of their client's interest.

And what I will now say to you is intended to serve as an introduction to the trial of this case. These remarks are not a charge on the law in this case. I will instruct you on the law applicable to this case at the end of the trial before you retire to consider your verdict. This is merely an explanation of the procedure that we will follow in the trial of this case so that you may better understand what may be happening. The defendant in this case, ladies and gentlemen, is charged by an indictment filed in this court with

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the offense of murder and attempted murder, the elements of which will be explained to you later. The indictment, ladies and gentlemen, is simply the charging document by which this case is brought into this court, and it is not in any sense evidence of any of the allegations that it contains. The defendant has pled not guilty to this indictment. The State, therefore, has the burden of proving each of the elements of the indictment beyond a reasonable doubt; and it will be your duty, ladies and gentlemen, to decide whether the State has met that burden. Your purpose as jurors is to find and determine the facts. You are the sole judge of the facts. If at any time I make any comment regarding the facts you must disregard it. You are to determine the facts from the testimony that you hear and the other evidence introduced in court. It is up to you to determine the inferences which you feel may properly be drawn from the evidence. It is especially important that you perform your duty of determining the facts diligently and conscientiously because ordinarily there is no way to correct an erroneous determination of the facts by a jury.

Now on the other hand, and with equal emphasis the same law that makes you the judge of

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

Now until I tell you to begin your deliberations you must not discuss this case with anyone including your fellow jurors, friends, family members, and anyone involved in this case. The attorneys and parties in this case have been advised they are not to talk to you at all so if you see anyone involved in this case and they do not speak to you, they are not being unfriendly; they're simply following this Court's instructions. During your deliberations you may only discuss the case in the jury room with your fellow jurors because they have seen and heard the same evidence that you have; however, you must not discuss the case with anyone

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other than your fellow jurors until you have returned a verdict and the case is at an end. I remind you that you must decide this case based solely on the evidence presented here in this courtroom. This means that during the trial you must not conduct any independent research about this case, the facts of this case, the evidence presented in this case, or the people or organizations involved in any way in the case. Please do not try to find out information from any source outside of this courtroom. In other words, you must not look at dictionaries or other reference materials, search the internet, websites, or blogs, or use any other electronic tools to get information about this case to help you decide the case. You may not use computers, telephones, cell phones, smart phones, tablets, the internet, or other tools of technology with communication capabilities at any time while you are in the courtroom or during your deliberations. During your breaks from meals or overnight, if necessary, you may use these devices; however, you must not use these devices to communicate with anyone about the case until the case is over. This means you must not use phone calls, emails, text messages, instant messages,

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Twitter, or any blog, chat room, or website including Facebook, Google Plus, My Space, Linked, Youtube, or any social media websites to send or receive information about this case. This includes information about a party, a witness, an attorney, or a court officer, news accounts about the case, research on topics raised, any topics you may think would be helpful in deciding the case, or any testimony presented by any witness. During the trial do not read, listen to, or watch any news reports about this case if there are any. This includes anything that may be in the newspapers or on the internet, radio, or television. You must not, ladies and gentlemen, consider anything you may have read or heard about this case outside of this courtroom whether before or during the trial. Information on television, radio, the internet, or from other sources might be wrong or incomplete. In our judicial system it is important that you are not influenced by anything or anyone outside of this courtroom. If you become aware of another juror's violations of these instructions please inform me immediately.

It is important, ladies and gentlemen, that you keep an open mind and not decide any issue

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in this case until all of the evidence has been presented, the parties have made their closing arguments, and I have instructed you on the law in this case. It is your solemn responsibility to determine the guilt or innocence of the defendant, and your verdict must be based solely on the evidence as it is presented to you in this trial and on the law as I instruct you during and at the close of the trial.

Now in just a moment the Solicitor will make what is called an opening statement in which the Solicitor will explain to you the issues in this case, or at least what he thinks the issues are in this case. The attorney for the defendant may also make an opening statement although he is not required to do so. What the attorneys tell you during their opening statements is not evidence in this case. It is only their contention as to what the issues are.

The evidence in this case will be presented to you by the testimony of sworn witnesses from this witness stand and by exhibits that may be introduced into evidence. And from time to time during the trial, ladies and gentlemen, you may hear one of the lawyers say something like, Your Honor, I

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believe that we have a question of law or a matter of law to discuss with you; or Your Honor, may we approach the Bench. Or sometimes I myself might find it necessary to excuse you from the courtroom for a short while so the attorneys and I can discuss a matter of law. The reason for this is because you are the judges of the facts in this case; and sometimes when I am discussing matter of laws with the attorneys, it may be necessary for me to make some comment as to the facts in connection with ruling whether or not a particular law applies. I am not supposed to tell you all what I think the facts are so I will excuse you from the courtroom while these discussions take place so that in no way will you be influenced by anything that I might say or do in connection with the facts.

Now in determining what the true facts in this case are you must decide, ladies and gentlemen, whether or not the testimony of the witnesses is believable. It will be my responsibility to rule as a matter of law as to whether certain testimony is admissible at all or not; but once the testimony is admitted, whether or not you believe it is solely for you to determine. Now in deciding whether to believe a witness you have the right to consider the

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interest of any witnesses, the bias of any witness, the presence of any witness, the opportunity for the witness to have seen the matters and things about which the witness may testify, and the way the witness acts on the witness stand. You have the right to consider anything that is in the record that will help you evaluate the testimony of the witnesses. That means that it is your duties, ladies and gentlemen, to pay close attention to these witnesses, to observe the witnesses, to listen to the witnesses, and to pay close attention to the attorneys and to the Court. Please don't let your thoughts wander, but give strict attention to the testimony in this case so that at the end of all the testimony after the arguments of counsel and the charge on the law by the Court, you will then be in a position to determine what the true facts are and to apply the law to those facts and thus render a true and just verdict.

Now later in this case, ladies and gentlemen, a foreperson will be selected to preside over deliberations in the jury room. It will be the foreperson's added duty to preside in the jury room and be the jury spokesperson here in court. It will also be the foreperson's duty to write the verdict,

but I will give the foreperson further instructions about that at the conclusion of the case. Now in order to preserve everyone's rights I will give the parties an opportunity to object to anything that I have said.

Any exceptions or objections to anything that I have said to the jury by the State?

MR. CLEMENTS: No, Your Honor.

THE COURT: Defense counsel?

MR. WILSON: None, Your Honor.

THE COURT: Ladies and gentlemen, we are now going to begin the trial of this case.

Mr. Solicitor, you're recognized for opening statements.

MR. CLEMENTS: Thank you, Your Honor, may it please the Court. Good morning, ladies and gentlemen, the judge talked to you in his opening charge about movies and TV, and I just wonder how many of y'all like to watch mystery movies or see mystery shows, read mystery books and figure out who done it. Guess what, today you don't have to figure out who done it. This is not a who-done-it; this is a what-is-it.

On September 29th, 2012 on Withlacoochee Avenue here in Marion, Mr. Woodbury here stabbed and

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killed Ian Gause with what I call a Ninja knife, Ninja sword when Rishawn Gause got his brother Ian, put him in the car, drove him to the medical center here in Marion where he succumbed to his stab wounds where he was stabbed twice in the chest. So you don't have to determine who done it. We all know who done it. What you got to determine is what is it.

And at the end of this trial the judge is going to charge you on the law and don't take what I say 'cause I might mess it up, but listen carefully what the judge says about the law. But I believe he's gonna tell you what murder is, and that is when you kill someone with malice aforethought and use of deadly weapon, you can infer that malice.

And I suspect, and I may be wrong, but I suspect he may charge you with what he will call a lesser included offense called voluntary manslaughter. Voluntary manslaughter I believe he will define for you is when you kill someone in the heat of passion after legal provocation. You're mad, you're amped up, and you kill somebody because you're in the heat of passion. And I believe that that's what you have here that you got to decide. Is this murder or is this voluntary manslaughter?

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We know it's a killing and you're gonna know who did it and you're gonna have to answer what it is.

Now you will probably have to consider too was this self-defense. Was this a situation where someone was in fear of his life and couldn't get away, had to defend himself? And I believe the facts will show that is not the case. I believe the facts will show from witnesses that were there at the scene and for witnesses that were also with Mr. Woodbury, that they all tried to get him to leave and that he and Ian Gause were fussing and carrying on and jawing at each other and ya ya'ing at each other that even the two people with Mr. Woodbury in his car, his black jeep, tried to get him to leave and they tried to break up the situation even so much so that the people at the house that were there on Withlacoochee tried to get him to leave and that Ian's brother Rishawn went to the trunk of his car and got his legally registered gun and fired it in the air, which is not a good thing to do; but he fired it in the air to break them up and put his gun back in the trunk. And then when he fired that gun Mr. Lamont Davis who was with Mr. Woodbury said, whoop, I don't know where that gunshot came from but I'm out of here. Mr. Woodbury

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isn't leaving, I'm getting out of here, I'm leaving. And I believe you will hear testimony that's what Mr. Davis did.

But it did not stop Mr. Woodbury. You're gonna hear that he went to his car at some point in time, he came back, and the witnesses are gonna say look like he was punching wildly. But what they found out is that he wasn't punching, he was stabbing. And you're gonna see, if it gets into evidence and I believe it will, if I'm gonna take a gamble here and just go on out and tell you about it. What looks like a stick but when you pull it apart you got two long Ninja swords, Ninja knives, and that was the weapon that took Ian Gause's life. And when they were broken up and then Ian says, oh, you stabbed me, and goes back after and they go in again, Rishawn Gause gets in the middle to try to break it up again and then he gets stabbed in the process. And Mr. Woodbury is trying to stab wildly; he's stabbing both the Gause brothers. And Rishawn puts him in the car, drives to the medical center, and Mr. Gause dies.

You will hear law enforcement received a call come out about the gunshots and people fighting, and they talked — they saw Mr. Woodbury

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but they didn't know who was involved; and he said, oh, that was just down the road somewhere. And you're gonna hear the way he acted, the way he responded; . And I would submit to you, when you hear those facts and you look at those facts, that you will weigh those facts and you will determine that this is not the behavior of a man who acted in self-defense. This is not the behavior of a man who acted in self-defense.

And you're gonna hear the witnesses from that witness stand, and they're gonna explain the facts and they're gonna have their different perspectives and they might be a little different because their perspective is different and this thing is happening like this, bam, bam, bam. But you're gonna hear enough that you're gonna take all these pieces of the puzzle, and you're gonna be able to put it together. And in the end of this case when you've heard all the evidence and you're gonna hear what I think it is, Mr. Wilson will have a chance to talk to you, but you are the ones that are gonna decide this. You're gonna decide what is it, is this murder, did Mr. Woodbury kill Mr. Gause with malice aforethought and attempt to kill Mr. Rishawn Gause at the same time? Or is this voluntary

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manslaughter, did he do this in the heat of passion? And there might be a lesser included offense of attempted murder of assault and battery high and aggravated nature when he stabbed Mr. Gause. I'm not sure when those facts come out the judge may charge you with that law. Or is it self-defense. But we thank you because we know that you come here bringing the wisdom and the good old common sense that you have that you've been raised with and trained with and acquired through your years of experience. And you're gonna say, hey, this is not some man trying to defend himself, he's not gonna leave and then turn around and come back with a knife if he's just defending himself because a person who wants to defend himself is scared because somebody shot a gun they're gonna leave and not come back like Lamont Davis did. They're not gonna come back and get up in somebody's face and start stabbing them because they had their chance to leave and everybody told them to leave and they would have left. That is the behavior of a man that thinks he's got to defend himself. Certainly not someone who sees law enforcement and says, aw, that happened down the street somewhere, we don't know what you're talking about. No, a man that would have defended

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himself would have said, oh my God, let me tell you, I got attacked, I had to defend myself, let me go check on this guy. I would submit to you that would be what you would hear if that was a man who was defending himself. But you hear the witnesses testimony, you weigh it, you judge it for its credibility, its believability, and you look at the pictures and what else we submit and you decide what this is because it's not a who-done-it, it's a what is it.

And Mr. Woodbury there is innocent, presumed to be innocent by our laws. Just like he's got that white shirt and that tie on, he's clothed with what the law says is a robe of righteousness just like any one of us would be if we were accused of a crime. The presumption of innocence. And that protects him until this case is decided by you good people. And my job, representing the State of South Carolina, is to present the facts of this case; and I believe that the facts that will come from that witness stand will prove to you that you need to remove that presumption of innocence from Mr. Woodbury and regrettably go back to that horrible night on September 29th, 2012, and say, Mr. Woodbury, you did wrong and that you're gonna

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find him guilty because that's what the facts are gonna dictate. And the law that Judge Brown charges you with, when you apply it to those facts then the only reasonable conclusion you can make is Mr. Woodbury is guilty, is guilty. So the question is not simple, but it's not convoluted. You don't have to answer a bunch of questions. You just got to answer what was this killing? Murder, voluntary manslaughter, or is he innocent because he defended himself. I believe that you're gonna conclude beyond a reasonable doubt that he's guilty of murder or maybe voluntary manslaughter, and he's guilty of attempted murder or maybe assault and battery of a high and aggravated nature for stabbing Rishawn Gause. But that's your decision.

My duty is to present these facts to you, and I have a burden to overcome and that is a burden of proof beyond a reasonable doubt. And I believe at the conclusion you're gonna say, Ed, you met your burden, there is no reasonable doubt, Mr. Woodbury killed Ian Gause and it was wrong and he violated the law and you're gonna find him guilty. Thank you. Thank you. Thank you for your service to Marion County and your service to Rishawn Gause, your service to Ian Gause and your service to

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Mr. Woodbury. He deserves his day in court and Mr. Wilson and I both chose y'all because you are fine citizens of Marion County that can give him his day in court, give the Gause family their day in court and give the State of South Carolina its day in court. Thank you.

MR. WILSON: May it please the Court.

THE COURT: Mr. Wilson.

MR. WILSON: Thank you, Your Honor.

THE COURT: Yes, sir.

MR. WILSON: Ladies and gentlemen, first let me take this opportunity to say thank you for your service. Probably the only thing the Solicitor and I agree on during the course of this trial is that we all appreciate your being here, and I know when you got your summonses in order to come here you could think of a hundred other things that you'd much rather be doing than sitting here doing what you're doing. But what you're doing is vitally important. It's important to the State of South Carolina and equally important to this defendant who is on trial. Our system of justice is one where the jury system is actually the backbone of the criminal justice system. It only works because of you. It doesn't work because

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of the solicitor or some degree even the judge. But you are the backbone of this system because you are the fellow citizens who will sit in judgment and reach a determination as to guilty or innocence based on the law that His Honor will give you, based on the facts as you understand them to be which are produced in this courtroom. Not what you heard on the street, not what somebody said on the radio, not what was in the television, not what the Solicitor says, 'cause what he says no matter how eloquent, is not evidence in this case, okay. You're going to hear witnesses who will take this stand who will testify. You're gonna be able to judge the credibility of those witnesses. That's just a fancy words for believability because sometimes when witnesses testify, it's not so much what they say, it's how they say it because you can look at them and say, well, you know, yeah, he says that but I don't believe what he said. That's your prerogative as a juror. You can believe what one witness says versus what many witnesses say. You can believe what many say versus the one or you can disbelieve anything that you want to disbelieve provided you have some reason in the record for doing so. That's your prerogative as jurors. You're the judges, if

you will, of the facts.

Now what I will tell you is this, the Solicitor wasn't there on this particular night. I wasn't there either. We're going to have to depend on those witnesses who come and who tell us what they say happened and then we're gonna have to judge based on that. No matter how flowery the words, the real issue here is did this defendant have to take the life of Rishawn Gause? Did he? Was he justified in doing so? Because in our system every defendant, every person, has the absolute right to defend him or herself. What you will hear contrary to anything the Solicitor has told you that he hadn't mentioned this, is that they both had guns. Both Rishawn Gause and Ian Gause had weapons, guns. Multiple shots were fired from those guns so that presents a whole different picture than someone with two knives just stabbing somebody. No, that is not what happened. That is not, those are not the facts. And you will hear the true facts, the real facts, when they come from this witness stand from the witnesses who are gonna be under oath.

The only thing that I ask you to do is to listen. Don't make up your minds after the first witness. Don't make up your mind after the second

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witness. Listen to every witness. If you do and you accept His Honor's charge on the law, then you're going to be at the end in a place where you can render a verdict that speaks the truth. That's all anybody asks of you. You have no friends to reward. You have no enemies to punish. Your job is simply to find the truth, wherever that truth is, remembering the most important thing. The burden is not on a defendant to ever come into this court or any court and prove that he didn't do something or why he did it. The burden is on him. It's on the State of South Carolina to prove not just that it happened, but prove beyond a reasonable doubt that it was not self-defense and prove beyond a reasonable doubt that it was, in fact, murder or manslaughter, which it was not, if he cannot meet that burden because it did not occur that way.

Well, what is a reasonable doubt? Reasonable doubt is simply a doubt that would cause you as an honest juror who is seeking the truth to hesitate to act. And if you have that kind of doubt about anything, then you must resolve by law that doubt in favor of the defendant. And His Honor will instruct you as to law — if I say something that is in conflict with anything His Honor says disregard

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what I say. His job is to give you the law. He's a lot more knowledgeable about that than I am, and I'm an advocate. My job is to represent my client as best I can. But I say to you that Mr. Woodbury as he sits there is innocent; he's not guilty. He has pled not guilty. He has maintained that he's not guilty, and the burden is on the State to try to disprove that, if they can. So in some ways you're actually judging the State. You're judging whether the State can meet its burden of proof beyond a reasonable doubt. And what you're gonna hear are conflicting stories about what happened that night, about alcohol, maybe even drugs. You're gonna hear all that. About the location where all this occurred and what else was going on out there. I simply implore you, I simply urge you, I simply ask you to bear with us as we go through this trial. It's going to take a while. You know, it's not going to be a smooth or sailing ship unfortunately, but we're gonna get through it and we will at the end provide the information that you're gonna need from this witness stand so that you can make a decision. What we simply ask you to do is to allow us to get in before you make up your mind because no greater tragedy could exist than if jurors make up

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their minds before all the evidence is in. That would be a greater crime than any defendant could possibly commit because you are the sole judges of the facts; and if you don't have all the facts and you've already made up your mind, then we got problems and the system will not work.

This young man is entitled to his day in court. Every person is guaranteed that right by the constitution of this United States. The right to face your accusers and the right of the State, if they can, to try to prove beyond a reasonable doubt that you committed crime that they have charged you with. See, a defendant doesn't get a choice about what he's charged with; the State does that. Defendant doesn't get a choice about what he's indicted for; the State does that. The defendant doesn't get a choice about what his bond is; the State does that. This is his choice, to select twelve jurors to truly try the issues between the State of South Carolina and this defendant, and I submit to you there is no more greater right than that. And I also submit to you that there's no greater service that a citizen can do other than jury service other than military service. There's probably no other service that you could commit or

engage in that's greater than jury service other than going in the military and serving your country. The system does work. It's not perfect but it works, and it works both for the State and for the defendants.

Now I'm gonna be through at this point. I simply ask you to be patient and that let's go through this process and I will come back again at the end when we have heard all of the evidence, and His Honor is getting ready to charge you on the law and at that point we'll be able to talk some more but thank you very much for your patience.

THE COURT: Thank you, Mr. Wilson.

Mr. Clements, call your first witness.

MR. CLEMENTS: We call Anthony Bacchuss, Your Honor.

WHEREUPON,

ANTHONY BACCHUSS,

having been duly sworn by the Clerk of Court, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q Would you please state your name for the record.

A Anthony Bacchuss.

Q Spell that for the court reporter please.

A B-A-C-C-H-U-S-S.
Q Okay. Can you tell this jury where you work and what capacity?
A I work at the Marion Police Department as shift supervisor.
Q And how long have you worked in law enforcement?
A Approximately 15 years.
Q Okay. How long have you been a sergeant?
A I've been a sergeant now for three months.
Q And have you worked your whole 15 years with Marion PD?
A No, sir, with the Sheriff's Department.
Q Okay. And how long have you been with the Marion PD?
A Three years.
Q All right. Do you recall the night of September 29th, 2012?
A Yes, sir, I do. That was my first night I was promoted as a shift supervisor.
Q You were promoted as shift supervisor, and that was your first night as shift supervisor?
A Yes, sir.
Q So that does stand out in your memory?
A Yes, sir.
Q Can you please tell this jury what a shift

supervisor does?
A I'm in charge of all the guys on the shift to make sure everything runs smoothly and to take care of the city of Marion.
Q So how many officers you have on shift at that time?
A Three.
Q And the shift goes from when to when? How many shifts in a day do you have?
A The shift runs from 7 at night to 7 in the morning. It's a 12 hour shift.
Q Okay. And during that time period you stay on patrol?
A Yes, sir.
Q Respond to any calls that come?
A Yes, sir.
Q Did you have any calls to come to the Withlachoochee, south Withlacoochee area of Marion any time that evening?
A Yes, sir. We received a call that it was several males out in the street fighting with gunshots. I was on Dunlop, Dunlop Street in Marion, and Withlacoochee is right over from Dunlop so I responded there pretty quick. I came down Withlacoochee and seen several males at this

address. I didn't turn directly up into the residence because of gunshot. I didn't want to just run on something so I passed it and see what was going on, and I turned around and I came by. I got out of my patrol unit, and I met the defendant in a driveway. He was peddling around his truck. I asked him, I said, have you seen ---

Q Let me ask you first, what kind of truck did he have?

A A black Jeep Cherokee.

Q Okay. And I want to show you what's been marked State's Exhibit 1, 2 and 3 for I.D.?

A Yes, sir.

Q Can you identify State's Exhibit 1, yes or no?

A Yes, sir.

Q How about State's Exhibit 2?

A Yes, sir.

Q State's Exhibit 3?

A Yes, sir.

Q Okay. Did you take these pictures yourself?

A No, sir.

MR. WILSON: I have no objections, Your Honor.

MR. CLEMENTS: We'd move State's Exhibits 1, 2 and 3 into evidence at this time, Your Honor.

THE COURT: State's numbers 1, 2, and 3 are admitted into evidence without objection.

(WHEREUPON, State Exhibits Nos. 1, 2, and 3 were admitted into evidence.)

BY MR. CLEMENTS:

Q State's 1, 2 and 3, Sergeant Bacchuss, what does State's 1, 2 and 3 represent?

A Black Jeep Cherokee, the defendant's vehicle.

Q The defendant's vehicle, Mr. Woodbury?

A Yes, sir.

Q Now you said you saw him. Did you see Mr. Woodbury in this courtroom?

A Yes, sir.

Q Can you point him out for us?

A (Indicating.) He's sitting——

Q In the white shirt?

A Yes, sir.

Q Okay. Now is that the same gentleman you saw that evening ——

A Yes, sir.

Q ——at this truck?

A Yes, sir.

Q Okay. Now you said he was outside his truck?

A Yes, sir.

Q Okay. And it was at particular location at that time?
A On south Withlacoochee.
Q All right. I'd like to show you what's been marked as State's Exhibits for identification purposes 17, 18, 19, 20, 21, and I'm gonna hold off on 22. Do you recognize those exhibits?
A Yes, sir. This is the residence that Mr. Woodbury was parked at. He was actually parked behind, behind the van right there, and I pulled my car up here.
Q Okay.

MR. WILSON: No objections, Your Honor.

MR. CLEMENTS: Your Honor, I move State's Exhibits 17 through 21 into evidence at this time.

THE COURT: State's Exhibits 17 through 21 admitted into evidence without objection.

(WHEREUPON, State Exhibits Nos. 17 through 21 were admitted into evidence.).

BY MR. CLEMENTS:
Q All right. Now let me ask you if you recognize State's Exhibit 22 at all?
A That's, I think that's next door to the residence.
Q All right. And what's depicted there?

A A street light.
Q Okay. That's on Withlacoochee?
A Yes, sir.
MR. WILSON: Okay, no objections.
MR. CLEMENTS: We'd move State's Exhibit 22 into evidence at this time.
THE COURT: State's Exhibit 22 admitted into evidence without objection.
(WHEREUPON, State Exhibits No. 22 was admitted into evidence.)
MR. CLEMENTS: Your Honor, may I ask permission for the witness to step down from the jury box at this time momentarily?
THE COURT: That's fine, yes, sir.
BY MR. CLEMENTS:
Q Step down please, Sergeant Bacchuss, and if you would, please keep your voice up because the court reporter is going to be behind you and she needs to hear everything you say.
BY MR. CLEMENTS:
Q State's Exhibit 17. 17, what does that depict?
A That's the residence that Mr. Woodbury was at.
Q Okay, all right. And which side of the house is that as you're looking at it from the road?
A It's on the east side if that's what you're

asking.
Q Okay. And so this is the front of the house?
A Yeah. This area is Withlacoochee Avenue right here, and that's the driveway right there. When I pulled up I parked kind of like right here at Withlacoochee.
Q All right. I guess the simple question would be is this the front of the house?
A Yeah, that's the front of the house.
Q Okay, all right. And State's Exhibit 18, how is that different from 17?
A That's further down the road on that front of the house but it's further down.
Q On the right side?
A On the right side.
Q Okay, all right. And number 19 is just another view?
A Another view.
Q Okay. And what does State's Exhibit Number 20 depict?
A Is the — it's the front of the house.
Q Okay, with the fence down that side?
A Yes, sir.
Q Fence down the left side of the house?
A Yes, sir.

Q Okay. And State's Exhibit 21, is that just a closer view of the carport?
A It's a closer view of the carport.
Q All right. And State's Exhibit 22, how close was that to the house, that street light?
A If I remember correctly it's just the next lot over.
Q The next lot over.
A Yes, sir.
Q So did they have a street light every other lot or were they further apart than that?
A They were further apart because when -- it was kind of dark in the area when you pull up so the lights wasn't close.
Q Okay, all right. Have a seat back there.
A (Witness complies.)
Q So with what you told us about State's 22 when you first pulled up there, was it dark ---
A Yeah.
Q ---was it well lit?
A Yeah.
Q Was it partially lit? What was it?
A It was partially lit but under the carport it was dark.
Q Okay, all right. And that's where you saw males?

A There was about three or four males setting up under the carport.
Q And that's why you didn't just whip right in there?
A Yes, sir.
Q Okay, all right. When you came up who was the first person you talked to?
A First person I talked to was Mr. Woodbury. I explained to him that I was dispatched there to a call, that some males was out in the street fighting, and that there was gunshot. Mr. Woodbury, he was real nonchalant. He was like, naw man, ain't nothing happen here. He was, as a matter of fact, some guys was down the street fighting and one of them shot up not air. So I left Mr. Woodbury and I went up to the guys that was under the carport. I was like, hey, I was like, did y'all hear anybody fighting or any shooting. They kind of dropped their head down and was like, no, we ain't hear nothing.
Q Did you get any of their names?
A No, sir.
Q You didn't think anything happened there at that time?
A No, sir.

Q Did you stay at that location or did you move on?
A I moved on.
Q Where did you go next and what happened next?
A I left that location. I came out to Liberty Street. I made a right which I will be heading east on Liberty Street, and I normally scan -- had my radio, my handheld radio, scan and by the time I got to right around where the Kangaroo is at, I can hear Sergeant Brad Gerald with the Sheriff's Department, he asked dispatch, he said, who's the shift supervisor that's on shift and she told him of course it was me. Sergeant Gerald gave me a call. He said, you're probably gonna need to go ahead and get a hold of Chief. He was like, I got a guy --
Q Don't tell us what he said, but tell us as a result of what he said what did you do?
A I got hold of the Chief.
Q Okay.
A And explained to the Chief that we have a subject at the emergency room and it's not looking good for him.
Q Okay. Who else did you get a hold of as well as the Chief, if anyone?
A I got a hold of Captain Barr and Lieutenant Davis.

Q Okay.
A He explained to me that a subject that was, you know, in bad condition that he don't know exactly where but he got in a fight somewhere over next to Tiger Mart. So immediately I whipped around and thinking, well, you know, I got a call in that area and so I went back to that house and I got out and I got my flashlight and I was shining around because, you know ——
Q When you said you went back to that house next to Tiger Mart, which house was that?
A The house that you showed me in the picture.
Q Okay. State's Exhibit 17, was that the house?
A Yes, sir.
Q Okay, and that Withlacoochee is next to Tiger Mart?
A Yes, sir.
Q Okay. So I didn't mean to interrupt you; I just wanted to be clear. So you got out here in front of State's Exhibit 17.
A Yes, sir.
Q Had your flashlights?
A Yes, sir.
Q What was the weather like at that time?
A The weather was clear. The weather was clear.

Q What happened shortly after?
A Shortly after the bottom dropped out.
Q All right. You had your flashlight?
A Right, I had my flashlight. And like I said, I was looking on the ground to see if I could see some scuffle marks, and at that time that's when I found two blood spots on the ground.
Q All right, where were they located as far as how close to the house or how close to the road, how close to the driveway?
A If you give me a picture I can.
Q Okay. What I'm gonna do is give you State's 17, 18 and 19. You pick which one will serve the best.
A Blood spot.
THE COURT: What exhibit number is that, sir?
THE WITNESS: 17.
THE COURT: You're referring to State's Exhibit Number 17.
THE WITNESS: One of them was right there where the water pole is at and another one was further back on some rocks.
BY MR. CLEMENTS:
Q Can we step down, let's get where the jury can see that. Can you show Mr. Wilson and the jury

please what you just showed me up there. And be sure that these ladies right here can see you too. You might have to show them and then show this group.

A One of the blood puddle was right there where the water is at, and another one was further back on some rocks right close to the driveway. And the reason I didn't see it the first time when I pulled up is because I, how Mr. Woodbury has his vehicle parked and how he was standing I couldn't see in the dark there.

Q Okay, all right. You ladies get to see it? All right, thank you. Sit back down.

A (Witness complies.)

Q All right. So when you saw that blood with your flashlight, then what did you do?

A I notified that I had found the incident location and Officer Hartson responded there and me and him secured the area.

Q Is that Officer Hartson that's now with Mullins PD?

A Yes, sir.

Q He was working with Marion PD at that time?

A Yes, sir. That ——

Q Okay. What did y'all do there at the scene when

he responded?
A We taped it off, secured it.
Q All right. So that, what was depicted there in State's Exhibit 17 that yellow tape across from the house, that's what y'all put up?
A Yes, sir.
Q And can you tell the jury what was the purpose for putting that tape up?
A Keep the scene from becoming contaminated; and when I say contaminated, to keep anyone from messing with evidence or anything.
Q Okay. When you looked and you looked and you saw the blood, were you looking for anything else?
A Like I said, my main reason was looking for scuffle marks to see was the fight actually there. And then when I seen the two bloods puddles I knew it was there.
Q Did you continue to look for anything else?
A No, I backed out and I secured the scene then.
Q Is that your job as shift supervisor? Do you do forensics or do you call in SLED, or what do y'all do?
A I called in the investigator and they get in contact with SLED.
Q Okay, all right. So did you see any shell

casings or anything?
A No shell casings.
Q Okay, all right. After you backed out there and you put up the tape, what did you do next?
A Lieutenant Davis and Lieutenant Smith arrived. I took some pictures of the residence and some pictures of the blood splatter; and Lieutenant Smith, he took some samples of the blood and probably like within 20 seconds the, I mean, the bottom just dropped out, I mean ——
Q You say you took some, the, what, like take a swab?
A A swab, yes, sir.
Q A swab on the blood, okay. And you say the bottom dropped out?
A Uh-huh.
Q Was this area you were looking at, was it under any sort of cover?
A No, it wasn't.
Q So when that deluge came ——
A Yeah.
Q You couldn't protect that scene ——
A No, sir.
Q ——from that kind of contamination, could you?
A No, sir.

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Q That tape didn't go any good for the rain, did it?
A No, sir.
Q Okay. Once that bottom dropped out then what did y'all do?
A I sat back and I waited on and I just let them took care of everything.
Q Okay.
A Until I later made contact with Mr. Woodbury.
Q Okay, all right. So you left other people in that scene?
A Yes, sir.
Q And you got in your vehicle and left?
A Well, actually I left and I came back, and I was parked right on right close down Withlacoochee behind everything and I was standing out and ——
Q What was your purpose in doing that?
A Just there just in case they need me for anything.
Q Okay, all right. So you parked out on the street?
A Yes, sir.
Q Okay. A little bit back from the residence?
A Yes, sir.
Q All right, what happened next?

A And just standing out there and I noticed a vehicle coming down Withlacoochee, and I said that looks like the vehicle that was here earlier so I jumped in my patrol unit and I went — he made a few minor traffic violations. He came down Withlacoochee and he turned on Orange Street. When he turned on Orange Street I got behind him and he turned on Baker and turned up in a yard. I hit my blue lights. He jumped out. He was like, what's going ——

Q "He" being who?

A Mr. Woodbury. He jumped out. He was like, what's going on, what's going on. I was like, nothing. I was like, Lieutenant Flowers and Lieutenant Smith need to talk to you, and he was like, what you want to know, what you want to know, tell me, tell me, ask me, ask me, I'll tell you what you want to know, I'll tell you what you want to know. I said no, and at that time I read him his rights. I said Lieutenant Flowers and Lieutenant Chris is on the way.

Q Okay, all right. So you didn't question him or to him or anything?

A No, sir.

Q What was his demeanor?

A He is real agitated like, what you want to know, ask me, ask me, ask me, what you want to know. I was like, naw.
Q Was anybody with him?
A Yes, sir, he had a passenger with him.
Q All right. Who was that passenger?
A I think his name was Crawford. I think that's what; I'm not sure.
Q Could it have been Graham?
A Graham. I'm not sure what the passenger name was.
Q Okay, all right. Did you have any interaction with that passenger or not?
A After Lieutenant Flowers and Lieutenant Smith got there they talked to him, and I transported Mr. Graham up to the police department.
Q All right. And so they could talk with him there?
A Yes, sir.
Q Okay. And so is it Mr. Graham, Mr. Crawford, or do you know?
A I don't know. I can't remember his name.
Q Okay.
A I can't remember his name.
Q But he was with Mr. Woodbury?

A Yes, sir.
Q Okay. And what did you do with Mr. Woodbury? Did you stay there with him and Mr. Graham until Smith and Flowers got there?
A No, sir. And Officer Hartson, he arrived right behind me and he helped me out with them.
Q Okay, all right. Now so the next thing you did after that you waited with them for Flowers and Smith to get there, and then you, after they got there you took Graham with -- or the person that was with Mr. Woodbury ---
A To the police department.
Q ---to the police department?
A Yes, sir.
Q What, if anything, did you do next?
A That's all I did next. They talked to Mr. Graham and I transported him. That's all I did.
Q You took him home?
A Yes, sir.
Q Okay. And then after you took him home where did you go?
A I came back, completed all my paperwork, and then I, you know, by that time it was getting close to my shift ending.
Q Okay. That was all you did on this ---

A Yes.
Q ——this occasion?
A Yes, sir.
Q Okay. That was quite a opening for you as shift supervisor; wasn't it?
A Yes, it was. That's what kind of make me remember it so good. Like I said, it was my first night as shift supervisor.
Q Okay. And you did all your paperwork and documented all that; didn't you?
A Yes, sir.
Q Please answer any questions Mr. Wilson may have.

THE COURT: Cross-examination.

MR. WILSON: Thank you very much, Your Honor.

CROSS-EXAMINATION

BY MR. WILSON:

Q Officer Bacchuss, let's go back. As I understand it, now some of the pictures that he showed you took; is that what you're saying?
A I can't say those pictures I took because also more pictures was taken.
Q Okay. So you took some picture but you don't know whether these are the pictures that you took or not?

A No, no.
Q Okay, all right. Now that night when you first got the call to go out to Withlacoochee?
A Withlacoochee Avenue.
Q Withlacoochee. When you got to go out there and you said when you got there initially and you pulled up, what time of night are we talking?
A Must have been about 11.
Q Okay.
A Approximately 11:00 it was.
Q How long after you received the dispatch before you actually arrived at the residence?
A From the dispatch ---
Q From the time you got the dispatch to the time you got the to residence?
A Approximately 2 to 3 minutes.
Q Okay. And when you got there, as I understand your testimony Mr. Woodbury was still there?
A Yes, sir.
Q He was still at that house?
A Yes, sir.
Q And no question about that?
A No question about it. He was the first one I made contact with it.
Q And not only was he there, the car that he was

driving was there?
A Yes, sir.
Q Okay. And were there any other people there?
A There was some -- it was three to four subjects up under the carport.
Q And did you know any of the other individuals who where there?
A No.
Q Did you know Mr. Woodbury before that?
A I didn't know him but I -- his face had --
Q Seemed familiar?
A Seemed familiar because I had dealt with him, you know, on one other prior other incidence, but you know, nothing really, you know.
Q All right. Let me ask you something else. In regards to Mr. Woodbury that night while you were there, Mr. Woodbury give you any trouble?
A No, sir.
Q Did he threaten you in any way?
A No, sir.
Q You -- the only thing you're saying is you asked him where the altercation took place and he said some other place?
A Yes, sir.
Q All right.

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A He said it was, he said it was some guys. He was real nonchalant. He said it was some guys down the street fighting. He said that one of them shot up in the air.
Q Now are you familiar with that community, that area where this house is?
A Yes, sir.
Q All right. And have you ever had to go there before?
A On another incident.
Q Okay. And now, do you know who occupies the residence there at Withlacoochee?
A I just know it's an older lady, and I think maybe her grandson or son.
Q And would her grandson be named Charles Wilson?
A I have no idea, sir.
Q You don't know?
A I don't know.
Q Well, that night when you went there to take the flashlight to look around, did you knock on the door and see if anyone was home who might have seen what went on outside in the yard?
A Yes, I did.
Q Okay. And who did you talk to as a result of doing that?

A The older lady.
Q Okay, and what was her name?
A I don't remember her name.
Q Okay. Did you write her name down and ask her whether or not she saw something, and if so, what she saw, what she heard?
A I asked her did she see anything. She said no, son, she said, I was — she said, this time of night I'm in my bed asleep. She said, I didn't hear not a thing. So I didn't feel that was relevant I get her name or anything; she didn't know nothing.
Q Well, did you ask her whether anyone else lived there by the name of Charles Wilson?
A No, sir.
Q All right. And so, and this lady that you said that you talked with, I mean, you said she was an older lady, what does that mean? I mean, was she 89, 95, or 50? I mean, I don't know what that means when you say?
A Well, I'm not good at judging age.
Q I'm old and I'm 60 so I don't know what that means so you —
A I'm not good at judging age so I would say she was probably in her mid to late 60s.
Q Okay, so all right. And she said that she didn't

hear any gunshots?
A She said, son, she said, this time of night I'm in my bed, I didn't hear anything. And so I didn't figure it was much need to bother her.
Q Okay, all right. Let's go back to the house itself. As I understand it, when you you pulled up the lights on the porch at the house were off; is that right?
A Yes, sir.
Q So there was no light under the ——
A Carport.
Q Under the carport?
A No, sir.
Q And as a result of that it was darker around the porch area and around the edge of the house?
A Yes, sir.
Q Okay. Now the blood spots that you found ——
A Yes, sir.
Q As I understand it you found two blood spots?
A Yes, sir.
Q Where were those blood spots in relationship to the actual dwelling?
A You're asking me ...
MR. CLEMENTS: May we approach, Your Honor.

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

MR. WILSON: Thank you very much.

MR. CLEMENTS: I don't object to the foundation being laid either.

BY MR. WILSON:

Q Let me show you a photograph and I just ask you if you can identify the contents of that photograph, the area.

MR. WILSON: Don't show it to the jury.

THE COURT: Hold on. You look at it first please, sir.

THE WITNESS: Oh, I'm sorry. This is the front of the residence.

BY MR. WILSON:

Q And do you recognize it?

A Yes, sir.

Q Okay. And let me show you another photograph, ask you if you recognize that photograph?

A Yes, sir.

Q All right. And is that an accurate depiction of what you observed essentially on the night which would have been September 29th of 2012?

A Yes, sir.

Q All right. As to both these photographs?

A Yes, sir.
Q Thank you.
(WHEREUPON, Defendant Exhibits Nos. 1 and 2 were marked for identification and received into evidence.)
MR. WILSON: Your Honor, may I ask him to come down.
THE COURT: Yes, sir. You may step down, sir.
BY MR. WILSON:
Q If you would, Officer, try to point out to us on here where it was that you say the blood spots were?
THE COURT: What exhibit is that?
MR. WILSON: I apologize, Your Honor. This is Defendant's Exhibit 2.
THE COURT: All right. He's referencing Defendant's Exhibit 2 for the record.
THE WITNESS: It was, one was right up in here and the other one was right, right where that water at. I remember it good because when the bottom dropped out the little water pole ---
BY MR. WILSON:
Q So actually in the driveway of the house ---
A Yeah.
Q ---from the house?

A Yeah. This vehicle was parked here.
Q Okay.
A And that's why I didn't see it the first time.
Q All right. And when you came the first time you said that when you came the first time did you actually pull into the driveway?
A No, sir. This here is Withlacoochee Avenue here. Like I said, first time would have been gunshot. I didn't just want to bail up in there so I passed real slow, and right down here is Reed Street. I turned in Reed Street and I pulled, parked further back here. Then I got out of my unit, and I walked around. Mr. Woodbury car was, vehicle was parked here. He was up in this area fumbling around where his vehicle and ——
Q Okay. While I got you down here let me ask you, in regards to this light which they're referring to Exhibit Number 2 which is the photograph, this light that's on under the carport, was light on that night when you got there?
A When I first responded?
Q Yes. sir.
A No, sir, it wasn't.
Q Okay.
A As a matter of fact, she turned that light on

because when I made contact with her she came and she stood in the door and she reached and she turned the light on but that light wasn't on during the first time.

Q Let me also ask you about this silver car that parked here. When you arrived the first time where were — were this car under the garage like this, or was it first back here or do you recall?

A I don't recall.

Q Okay.

A But I know it was three or four subjects sitting up under that carport.

Q So three or four subjects were sitting up in the front of here?

A Yeah, all up in here.

Q All right. Thank you, sir. You can take the stand.

A (Witness complies.)

Q Now when you got the initial report what was the initial dispatch to you?

A The initial dispatch was several males out in the street fighting with shots fired.

Q All right, several males out in the street fighting with shots fired. Did they tell you how many shots had been fired?

A No, she just gave shots fired.
Q Okay, all right. Now so when you arrived did you know make an effort to search for weapons, guns, or for shell casing from guns?
A No, sir.
Q Okay. And was that because that wasn't your responsibility, that would have been the responsibility ---
A No, the reason why because I spoke to everyone, like I said, when I first arrived Mr. Woodbury he was real nonchalant like, you know, hey man, it didn't happen here. He, the way he told me, hey, it happened down the street. I had no reason to search that property.
Q Okay. Well, but you came back, and you said you came back with a flashlight because you did suspect that this is where it occurred, right?
A Right.
Q And you actually found blood splatters which convinced you at that point that it must have occurred in the yard there?
A Right.
Q All right. So then wouldn't it be obvious to you that maybe these shell casings might be there from the shorts that were supposedly fired?

A When I responded back there I -- when I located, like I said, the reason why I went back there to see actually was it there and could I see, you know, some scuffle marks out in the street or in the grass where there actually was fighting. By me looking for the scuffle mark is when I located the two puddles of blood, and that's when I stepped down, Officer Hartson responded, we secured the scene. I stepped out and waited on the investigators.

Q I understand, and I'm not gonna belabor it. I'm simply trying to determine when you went back to look and you actually found the blood splatters with the flashlight, why it was that you didn't also look for shell casings to see if there was a gun fired there that would have left a casing. That's all I'm trying to find out.

A Because my job is when I secure the scene and turn it over to the investigators.

Q Okay, so and that's what I was asking.

A Yeah, yeah, waiting on their orders.

Q Your responsibility once you secure the scene --

A Right.

Q --was to leave it for the investigators?

A Right.

Q And then that would have been their

responsibility and do the followup including forensics?
A Right.
Q Okay, now, after you — well, let me back up just one second. When we were talking about the light not being on, when you say that there were three or four males up under the carport and that light was off, when you were coming up into the yard could you see them clearly enough to identify who they were?
A No, sir.
Q Okay. So with that light being off the darkness was such that when you were coming up into the yard, until you got up right on them you could not identify who those individuals were?
A Well, I could tell that, you know, from a silhouette you ——
Q That they were people.
A You could tell that someone was under there.
Q But you couldn't physically see their facial features ——
A No.
Q ——and things like that?
A No, no, I couldn't.
Q Now the two spots of blood that you found, how far apart would you think that they were?

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A Probably 2 or 3 feet.
Q 2 or 3 feet apart?
A Yeah.
Q And was -- now if I'm clear it had not rained yet?
A No, sir, it had not rained yet.
Q But it rained within minutes after that?
A Yes, sir, yes, sir.
Q Okay, all right. And obviously when it rains then it can destroy whatever physical evidence that there might be?
A Yes, sir.
Q Such as blood, things like that?
A Yes, sir.
Q All right. Now how long were you there at the house before it was that you say that you saw the black jeep and you then proceeded to stop the black jeep which Mr. Woodbury was driving at the time?
A Oh, man, it was, it was the early morning hours. It was probably was like about, I want to say, if I would guess about 4:00 in the morning.
Q So we're talking 11:00 when you first got there.
A Uh-huh.
Q And then we're talking 4:00 in the morning when you see it later?

A Right.
Q The vehicle later on?
A Right.
Q So five hours or so?
A Yeah.
Q Okay, all right. It wasn't an immediate thing where ——
A No.
Q ——fifteen minutes later you saw it?
A No, sir.
Q Okay. And then you stopped the vehicle?
A Yeah.
Q And then the two detectives came and Mr. Woodbury went with them?
A Well, I left Mr. Woodbury there with the two detectives. I transported.
Q The other two?
A The other person, the passenger to the police department.
Q Okay, all right. Bear with me one second please.

THE COURT: Yes, sir.

MR. WILSON: No other questions. Thank you so much, Officer.

THE COURT: Any redirect?

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q I think I may have asked this question but, Withlacoochee Avenue is located where?

A It's over next to Tiger Mart.

Q In what city and what county?

A Marion, City of Marion.

Q County of Marion?

A Yes, sir.

MR. CLEMENTS: No further questions, Your Honor, of Mr. Baccus.

THE COURT: Mr. Wilson, any recross?

MR. WILSON: Nothing, Your Honor.

THE COURT: Sir, you may step down. Thank you.

MR. CLEMENTS: The next officer we'd call will be Brad Gerald, Your Honor.

WHEREUPON,

BRAD GERALD,

having been duly sworn by the Clerk of Court, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q Can you please tell us where you work, how long you been employed there?

A I work for the Marion County Sheriff's

Department. I've been employed there for about seven years.

Q And do you have any prior law enforcement experience to those seven years?

A I worked for the city Marion Police Department approximately seven years as well.

Q So 14 years of law enforcement experience?

A Yes, sir.

Q All right. Do you recall what you were doing September 29th, 2012, in the evening hours, late evening hours?

A I was working shift work.

Q All right. And when you work shift work what do you do?

A Answer calls for service.

Q Okay. And did you have a occasion to answer a call around 11, a little shortly after 11:00 on that evening?

A Yes, sir.

Q Did you answer to -- where was the car based out of?

A The Marion County Medical Center.

Q And what type of call was it?

A It's an assault.

Q And when you received that call what did you do,

where did you go, and what did you do?
A I responded to the Marion County Medical Center. I made contact with Rishawn Gause.
Q You see him in the courtroom?
A Yes, sir.
Q Where is he?
A He's seated there, got a black and white shirt.
Q Black and white shirt?
A Yes, sir.
Q Okay. And you found him there and what else did you find out when you got there?
A I learned that the incident took place in the City of Marion and I contacted Marion Police Department.
Q How did you do that?
A I believe it was by radio.
Q Okay. And what, did you radio in to dispatch or to the ---
A It was by radio to the dispatch to contact the City Police Department.
Q Okay. Who did you make contact with with the police department?
A I don't know who the first arriving officer was. I want to say it was Officer Smith.
Q Okay.

A Derrick Smith.
Q Okay. And he came to the hospital?
A Yes, sir.
Q Who did you first talk with?
A At some point I spoke with Officer Baccus by telephone.
Q Okay. And is that because he was shift supervisor?
A Yes, sir.
Q And after that who responded to the hospital?
A I saw, I believe Officer Smith was the first one on scene, Derrick Smith. At some point Lieutenant Flowers responded as well as Chief Gray I believe.
Q When you made contact with them what, through dispatch, what did you relate to them other than there was an assault near the Tiger mart? What else did you tell them?
A I don't -- I believe I spoke with medical personnel at the hospital and learned it was a very serious situation and that they need to get the investigators notified as well.
Q Okay, all right. When the city officers arrived at the hospital did you brief them on what you had?
A Very little, yes, sir. I didn't have a whole lot other than where it took place and the seriousness

of the situation.
Q Okay. And so you relayed that information on them for them to follow up on?
A Yes, sir.
Q Do you have any other responsibilities for this case at all?
A No, sir.
Q Is that all you did? Okay. All right. Did you stick around at the hospital any time period after that?
A Maybe for a short length of time, yes, sir. I'm sure we would offer our services.
Q All right. But you weren't required to do anything else or needed in any other fashion?
A No, sir.
Q Please answer any questions Mr. Wilson has if he has any.

THE COURT: Cross-examination.

MR. WILSON: Just a couple of questions.

CROSS-EXAMINATION

BY MR. WILSON:
Q Did I understand you to say you had contact with Rishawn Gause at the hospital?
A Limited, yes, sir.
Q Okay. And what contact was that?

A To the point of asking, you know, what happened, where did it take place; and I'm sure the point that he told me it took place, that's when I ended it and contacting the police department.

Q And now what did he tell you?

MR. CLEMENTS: I object to hearsay.

THE COURT: Come on over here.

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

THE COURT: Objection sustained.

BY MR. WILSON:

Q Let me ask you this way, did you have a conversation with Ian Gause -- I'm sorry, Rishawn Gause, the night that you went to the hospital?

A Yes.

Q Okay. And was anyone else present during that conversation other than the two of you, he and you?

A Not that I recall.

Q Did you ask him about what happened -- well, let me rephrase that. Did you ask him where the incident allegedly happened?

THE COURT: You got an objection?

MR. CLEMENTS: Yes, sir, it's been asked and answered.

THE COURT: That's cross-examination.

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I'll allow it. Go ahead, Mr. Wilson.
BY MR. WILSON:
Q I'll repeat the question. The question was, did you ask him where the incident occurred?
A I'm sure I did, yes, sir.
Q Did he answer you? I don't want to know what the answer was. I want to know did he answer you?
A I'm sure he did, yes, sir.
Q Did you write that in your report?
A I did not complete a report.
Q Okay. Did you do an incident report?
A Not that I recall.
Q Okay. Are you saying that you didn't or you're saying you don't remember?
A I don't know.
Q Okay. You could have done one?
A Yes.
Q All right, okay. Now as a result of whatever occurred between you and Rishawn Gause, what did you do after that?
A After I spoke to him?
Q Yes, sir.
A I contacted the city police department.
Q Okay. And why?
A Because it took place in their jurisdiction, the

incident.
Q All right. And you figured that out based on what he said to you; is that right?
A Yes, sir. It's very common -- our hospital is located in the county, and it's very common that both cities, people go out there, so normally one of our first questions is where did the incident take place.
Q Okay, all right. Now you also called one of the Marion County -- I'm sorry, the City of Marion, who did you call once you ---
A I don't know if I called him or he called me. We spoke at some point.
Q Okay, all right. And you apprized him of whatever had occurred thus far?
A Yes, sir.
Q Okay, all right. I don't have any other questions.
MR. WILSON: But Your Honor, I would ask the right to re-call this witness at some later time in this trial.
THE COURT: All right, so granted. Any redirect?
MR. CLEMENTS: No redirect, Your Honor.
THE COURT: Sir, you may step down.

Thank you.

MR. CLEMENTS: Your Honor, we call Officer Robert Smith, excuse me, patrolman Derrick Smith.

WHEREUPON,

DERRICK SMITH,

having been duly sworn by the Clerk of Court, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q Good morning. Can you please state your name for the record and tell this jury where you work. And I'm gonna ask you if you'll speak up 'cause you got a soft voice and it doesn't carry very well in here.

A My name is Derrick Smith. I work for the Marion Police Department.

Q And Derrick, in what capacity do you work for the Marion Police Department?

A I'm a corporal.

Q Corporal, in patrol?

A Yes, sir.

Q Okay. How long have you worked in law enforcement?

A Four years.

Q All with the City of Marion?

A Yes, sir.

Q Okay. Can you tell us, if you recall, what you were doing, whether you were working the evening of 29th of September 2012?
A The evening of the incident date I was patrolling the area.
Q About. And which area were you patrolling?
A I can't recall.
Q Okay. Do you know, remember the first notice you got about this incident?
A Yes, sir.
Q And where did you receive that from?
A I received it from my supervisor.
Q Okay, all right. Did he contact you through dispatch or contact you through radio or do you remember?
A Contact me through the radio.
Q And do you know exactly where you were when he contacted you?
A I can't recall.
Q All right. Well, as a result of that contact what did you do?
A I responded to the ER in reference to two stab victims. I was advised to meet the Sheriff's Department out there.
Q Is that what Bacchuss told you to do was to go to

the hospital?
A Yes, sir.
Q So you were the first one on scene there for Marion PD?
A Yes, sir.
Q When you got there tell us exactly what you found and who you talked to?
A When I got there I spoke to Officer Brad Gerald. He told me that two stab victims were in the ER, one was in critical condition. I went in and checked on Mr. Ian Gause. He was in critical condition, received two stab wounds to his right torso area and to the left chest area just past the left nipple. Mr. Ian Gause was diagnosed and they were resuscitating him, bringing him back. I took pictures of Mr. Gause. At that time I spoke to Mr. Rishawn Gause. He advised me that he wasn't at the incident location. He arrived there to pick up his brother Mr. Ian Gause. He was inside the residence drinking.
Q Well, don't tell us what he said, just tell us what you did, what you said. Okay. Have you — can't have hearsay, okay. So you talked with him?
A I spoke with Mr. Rishawn Gause.
Q As a result of talking with him what did you do?

A Well ---
Q You remained on scene, did you contact another law enforcement officer, or report back to Sergeant Bacchuss, or what did you do?
A I informed my supervisor on the radio that what Mr. Rishawn told me, and I advised him to have the investigator respond to my location.
Q Okay. And which investigator responded to your location?
A At that time it was Lieutenant Flowers and Chief Gray.
Q Chief Gray and Lieutenant Flowers?
A Yes, sir.
Q Did you remain after they responded there on the scene did you brief them as to what they had?
A Yes, sir.
Q Okay. And did you remain on the scene after that?
A Yes, sir.
Q Okay. And what did you do while you remained on the scene?
A I was informed by Lieutenant Flowers that there was a vehicle sitting outside the ER, and I was advised to sit on the vehicle.
Q Okay. When you were advised to sit on the

vehicle, can you explain to the jury exactly what that means? Does that mean you went and plopped down on the hood or anything?

A That means I was advised to stand by make sure no one touched the vehicle.

Q Okay. I'm gonna show you what's been marked for identification purposes as State's Exhibit Number 10. You recognize that?

A Yes, sir.

Q Okay.

MR. WILSON: I have no objections, Your Honor.

MR. CLEMENTS: We move State's Exhibit Number 10 into evidence at this time, Your Honor.

THE COURT: State's Exhibit Number 10 admitted into evidence without objection.

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

BY MR. CLEMENTS:

Q All right. Can you tell this jury what that picture depicts.

A It depicts a Ford Focus. It's the vehicle Mr. Rishawn Gause brought his brother in, Mr. Ian Gause.

Q All right. So that's the vehicle that Rishawn Gause transported Ian to the ER with?

A Yes, sir.
Q Okay, all right. When you sat on this vehicle did you look in it, open it up, or was that somebody else's job?
A I did look in the vehicle. I didn't touch the vehicle, but I did look in it. I took pictures also.
Q And what did you see on it, from looking from the outside into through the window, what did you see?
A I saw blood in the passenger seat and floorboard of the vehicle.
Q Okay. I'm gonna show you what's been marked State's Exhibit Number 15 and 16 for identification purposes only. Can you identify State's Exhibit 15?
A Yes, sir.
Q Can you identify State's Exhibit 16?
A Yes, sir.

MR. WILSON: Your Honor, I don't have objection to number 16. I think 15 is cumulative, and I think that it's also a little over the top and it has no ---

THE COURT: Can I see the picture please.

MR. WILSON: ---value.

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

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(Pause.)

THE COURT: Ladies and gentlemen of the jury, I'm gonna have to ask you to step to the jury room for just a minute while we take up a matter outside of your presence. Do not discuss the case. I'll get you back out here as quickly as possible.

(WHEREUPON, the jury was removed from the courtroom at 10:56 a.m., and the following proceedings commenced in open court.)

THE COURT: You have no objection to 16; is that right?

MR. WILSON: The one with the -- yes, I have no objection to that one, Your Honor.

THE COURT: And what's your objection to 15?

MR. WILSON: Well, it's one is just gory; but two, it has no probative value other than to showing blood and there's no purpose for it.

THE COURT: Mr. Clements.

MR. CLEMENTS: Your Honor, it's not particularly gory, and we're not even attempting to put in any photographs of any of the wounds or the injuries because argument could be made reasonably that those are gory. But this depicts exactly corroborates what the witness is testifying to. It

also has probative value to show that how quickly someone could bleed from the type of injury that they had and injury that was sustained and type of injury, I think, manifests how violent this action was. I don't think there's anything that would cause it to be objectionable to the point where its prejudicial effect outweighs the probative value. I don't think -- I think the prejudicial effect is not very high and it does go to show a lot of points that can be argued later on by the nature of the act itself. And it corroborates witness' testimony.

THE COURT: Hold on just a minute, I'm gonna look at something.

MR. CLEMENTS: Your Honor, if you look at State versus Crosby, State versus Kelly and State v. Johnson, I think all those hold for the proposition that that particular exhibit which should be admitted.

THE COURT: Under State v. ——

MR. CLEMENTS: State v. Crosby, photographs serve to corroborate testimony their admission is not an abuse of discretion.

THE COURT: Under State v. Collins which I'm looking at 398 SC 197 — bear with me just a minute again. Photographs that are calculated to

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arouse the sympathy or prejudice of the jury should be excluded if they are not necessary to substantiate material facts or conditions. State v. Collins is citing State v. Torez, 390 SC 618. The Court, certainly recognizing that it is a picture of a lot of blood here, the Court does not find that such photographs are being presented or admitted into evidence for the purpose of arousing sympathy or prejudice of the jury but simply to substantiate facts in evidence and to corroborate the testimony; therefore, over Defense counsel's objection I'm gonna allow the admission of exhibit 15 and 16 -- excuse me, 15 no objection. Correct me if I'm wrong, Mr. Wilson, there was no objection to State's Exhibit 16 which I'm showing you.

MR. WILSON: That is correct, Your Honor.

THE COURT: Defense counsel has objected to State's Exhibit 15 which I have made my ruling upon, admitting State's Exhibit 15 subject to Defense counsel's objection.

MR. CLEMENTS: Your Honor, while the jury is out may we take a bathroom break?

THE COURT: That's kind of why I sent them out too. We'll stand down for just a minute.

Sir, you may step down, but you are not

allowed to discuss your testimony with anyone, okay? We'll step down for just a few minutes.

(WHEREUPON, a recess was taken from the proceedings.)

THE COURT: Patrolman Smith, if you'd come back on the stand please. I remind you you're still under oath, okay.

THE WITNESS: Yes, sir.

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

MR. CLEMENTS: No, Your Honor.

THE COURT: Anything from Defense counsel?

MR. WILSON: No, sir, Your Honor.

THE COURT: Let me say a couple of things before we go, before I bring the jury back out. It's getting where I need to do this before I begin every trial. This is to the lawyers, to the parties, to anybody else out in the audience. As you're sitting through this trial I understand you may agree or disagree with what witnesses are saying on this stand, but I will not tolerate any improper body language, head gestures whether nodding in agreement, nodding in disagreement with what's said on this witness stand. This jury is to determine the facts as they believe them based upon the

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testimony that's presented in this courtroom, and I will not tolerate anybody in here making any head gestures whether agreeing, body language, etc., or disagreeing with what's said from this stand. If I see it I'm gonna have you removed from the courtroom.

Furthermore, I will not allow individuals to be passing notes during, and I mean that to those in the audience. I understand lawyers and clients, that kind of stuff is different sitting up here, but I'm not gonna tolerate people in the audience passing notes around in an effort, whatever they may be doing, I don't want them distracting the jury while they're in this courtroom. If you've got phones — and I don't know if y'all were allowed to bring phones in here — better not be on your phones texting, internet, etc., unless you are a court officer. By that I mean a police officer or a lawyer. Am I clear on that?

(There was no response.)

THE COURT: Mr. Clements, anything else before I bring the jury out?

MR. CLEMENTS: No, sir, I'll keep a close eye on Mr. McEachin.

THE COURT: Thank you. How about you Mr.

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Wilson?

MR. WILSON: Nothing, Your Honor.

THE COURT: Please bring me the jury.

MR. WILSON: Your Honor, while the jury is out I think I might need to raise one issue so we don't have to do it. During the testimony of this officer the Solicitor asked him a question and part of his response to that question was he stated that Mr. Gause told name he was at the house, at a house drinking when he heard arguing outside. And I know we had had a discussion earlier about that being hearsay. Well, it's clearly in the record now, this officer stated it, and I would like the opportunity to ask him about that.

THE COURT: I mean, it's hearsay. I mean, you didn't object to it.

MR. WILSON: No, sir, which is why I'm asking to ask him about it. I didn't object to it.

THE COURT: Mr. Clements.

MR. CLEMENTS: Your Honor, I don't think he can manipulate the rules that way to suit himself. If something comes out it's hearsay, it's not objected to, it's not objected to. I warned the witness to not give hearsay responses, to tell what he saw and did. And if there's any further

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questions about anything it's still not gonna change the fact it's hearsay which I will object to. And I don't ——

THE COURT: You're telling me that he specifically elicited a hearsay statement?

MR. WILSON: I don't know whether he intentionally elicited a hearsay statement, and I'm not suggesting that. What I'm simply saying, Your Honor, the witness in response to a question he was asked by the Solicitor made the statement.

THE COURT: Well, I mean, that's what I'm getting at though. Is it your position that the Solicitor directly elicited — it could have been nonresponsive and he, the witness just went on of his own volition and answering something. My question is, is it your position he specifically elicited that response from this officer? I mean, you can't — and I certainly understand your position; but if it's hearsay and it's not something that's elicited by the Solicitor as direct response, I don't know that you can use that without objecting to say, well, I let it go here then you should let it go there. Does that make sense?

MR. WILSON: Yes, sir, except the thing is, Your Honor, is that it's now a part of the

record. It is a part of the record. It's in the case. It's in the trial of the case. The statement ---

THE COURT: But -- go ahead, I'm sorry.

MR. WILSON: The statement is in the trial of the case and so, you know, I can choose to ignore it and say, well okay, yeah it was said so and what the Court would be ruling would be that, okay, well, it's said and it was in the record but you can't ask him about it. And I think that would put me in an unfair ---

THE COURT: If you're asking him to expound on it ---

MR. WILSON: No, sir.

THE COURT: ---and the State objects to it.

MR. WILSON: I'm not asking that. I'm simply asking ---

THE COURT: If it's already in the record and you simply, if you ask him the question and he says the same thing to you.

MR. WILSON: That's exactly right. That's all I'm saying.

MR. CLEMENTS: Your Honor, if he asks a specific question to ask the exact same thing; but

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if it's anything beyond that I certainly feel like it would be improper ——

THE COURT: We'll cross that bridge.

MR. CLEMENTS: ——and I object to it. And he's going to get every opportunity he wants to cross-examine Rishawn Gause himself so. You know.

THE COURT: I understand that, but we'll deal with it if necessary on cross-examination.

MR. CLEMENTS: Well, Your Honor, to make sure he doesn't slip up and go beyond the scope of that, can we proffer what he's going to ask right now and what the response is going be before we get in front of the jury?

MR. WILSON: Yes, sir.

THE COURT: Go ahead.

MR. WILSON: I'll be happy to do it. I'm gonna ask him simply this, did he speak with Rishawn and did Rishawn say to him that he was at a house drinking when he heard arguing outside. That's what he said. That's all I want to ask.

THE COURT: And that's what he said.

MR. CLEMENTS: And that's a yes or no question. I don't object to that. He did start to go into that hearsay before I stopped him from any hearsay so that, as long as it's limited to that I

don't object. But to mine that field further I will certainly object.

MR. WILSON: That's all I intend to ask ——

THE COURT: All right.

MR. WILSON: ——on that issue.

THE COURT: Anything else from the State?

MR. CLEMENTS: No, your Honor.

MR. WILSON: No, sir, Your Honor.

THE COURT: Defense counsel?

MR. CLEMENTS: Your Honor, I would like to say on the record that it's always a great pleasure to have to match wits with Mr. Wilson. He's an extraordinary lawyer.

THE COURT: I know. Bring me the jury please.

(WHEREUPON, the jury was returned to the courtroom at approximately 11:20 a.m., and the following proceedings commenced in open court.)

THE COURT: Mr. Clements, you're recognized, you may continue.

MR. CLEMENTS: Your Honor, for the record in front of the jury I believe State's Exhibit Number 16 is in evidence without objection?

THE COURT: State's 16 is in evidence without objection.

MR. CLEMENTS: I would move for State's Exhibit 15 be admitted into evidence.

THE COURT: Subject to Defense counsel's objection it is admitted into evidence.

MR. CLEMENTS: Thank you, Your Honor.

(WHEREUPON, State Exhibits Nos. 15 and 16 were admitted into evidence.)

BY MR. CLEMENTS:

Q Mr. Smith, you said you recognized State's Exhibit 15. How do you recognize that and what is it?

A It appears to be blood on the passenger seat.

Q Passenger seat of what vehicle?

A The vehicle Mr. Rishawn was driving.

Q All right. So the vehicle you were sitting on?

A Yes, sir.

Q Okay. You could look through the window and see that?

A Yes, sir.

Q Okay. And which side seat is that?

A Passenger side.

Q Front or back?

A Front passenger side.

Q Okay. All right, State's Exhibit 16, what does that depict?
A It depicts blood on the center console of the vehicle.
Q The center console of that same vehicle?
A Yes, sir.
Q Okay. And you could observe that just from standing outside the car, you didn't have to go inside and see that?
A Yes, sir.
Q Okay. Did you participate — well, let me back up before I go there. You observed what you just testified to looking through the windows of the vehicle and the vehicle was parked where?
A It was parked under the canopy of the hospital.
Q Which canopy?
A The emergency room.
Q Where the emergency room is?
A Yes, where the passenger entrance is.
Q Okay.
A It's a building.
Q And after you were directed to sit on the car and you looked in the car, and what did you do after that?
A I stayed with the vehicle until Lieutenant Davis

arrived to relieve me.
Q All right. And that's Lieutenant Walker Davis?
A Yes, sir.
Q Okay. And he relieved you?
A Yes, sir.
Q Okay. Has SLED gotten there by that time?
A No, sir.
Q Okay. Now after you were relieved what did you do from that point forward?
A I was advised to go to Baker Street to sit on Mr. Woodberry's vehicle until ---
Q Okay?
A ---Lieutenant Flowers ---
Q Who advised you to go to Baker Street?
A I can't recall.
Q One of your superiors?
A Yes.
Q Lieutenant Davis or Lieutenant Flowers or Sergeant Bacchuss, but somebody that was supervising you?
A I can't recall.
Q Okay. So after you were advised to go to Baker Street what did you do?
A I stayed with the vehicle until Lieutenant Flowers secured a search warrant for the vehicle.

Q All right. So you stayed with that vehicle at Baker Street until Lieutenant Flowers got a search warrant?
A Yes, sir.
Q I'm gonna show you what's been marked in evidence as State's Exhibit 1. Do you recognize that?
A Yes.
Q What is that?
A It appears to be the vehicle I was advised to sit with.
Q Okay, all right. And State's Exhibit 2?
A Yes.
Q Same thing?
A Yes.
Q State's Exhibit 3?
A Yes.
Q All right. Did you walk around that vehicle looking in the windows of that vehicle?
A No, sir.
Q You didn't? You just sat there and waited on Lieutenant Flowers?
A Yes, sir.
Q And about how long did that take him, do you remember?
A I can't recall.

Q Okay. When he returned with the search warrant did you participate in the search of that vehicle?
A No, sir.
Q You did not? Okay, all right. Were you relieved from that duty spot when Lieutenant Flowers returned?
A Yes, sir.
Q All right, what did you do next?
A I went to the police department to type my report.
Q Okay. And was that the end of your involvement with this case?
A Yes, sir.
Q Okay. Now let me ask you this, while you were sitting on the vehicle that was the Ford Focus at the hospital, did anyone go into this vehicle and enter that vehicle while you were maintaining watch on it?
A No, sir.
Q Okay. Now the black Cherokee, Jeep Cherokee over on Baker Street, did anyone enter that vehicle, go into that vehicle at any time while you were maintaining lookout on that vehicle?
A No, sir.
Q Okay. So nobody went in the car, messed with

the car at either spot or either location?
A No, sir.
Q Okay.
MR. CLEMENTS: Beg the Court's indulgence a moment.
THE COURT: Yes, sir.
MR. CLEMENTS: Please answer any questions Mr. Wilson may have.
MR. WILSON: Thank you, sir.
THE COURT: Cross-examination.
MR. WILSON: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. WILSON:
Q Let me ask you, when you -- that night when you got the call to go to the hospital that was from dispatch?
A I actually received it from my supervisor.
Q Okay. And who was your supervisor at that time?
A Sergeant Bacchuss.
Q I'm sorry?
A Sergeant Bacchuss.
Q Sergeant Bacchuss, all right. Now, and when you got to the hospital my understanding is you actually encountered Rishawn Gause?
A Yes.

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Q And where was Mr. Gause when you initially observed him?
A Mr. Gause was in one of the ER rooms.
Q Okay. And did you go into that room and have a conversation with him?
A Yes, sir.
Q Were you alone or was there some other officer with you when you went into the room?
A I was alone at the time.
Q Were there any medical personnel in the room with you and he?
A I can't recall if there were.
Q Okay. Did you take a tape or video statement from him in that room?
A No, sir.
Q Okay. Did you have a video recorder or an audio recorder with you when you went to see him at the hospital?
A No, sir.
Q Okay. Did you, and let me — did you ask Mr. Gause where he was when this occurred, when the incident occurred?
A I did.
Q Okay. And did he state to you that he was at a house inside the house drinking?

A Yes, sir.
Q Okay. Now let me also ask you, let me show you these photographs first. Would you take them and look at them for me. I don't want you to tell me anything other than if you can identify or recognize the content of those photographs.
THE COURT: I want you to mark them for identification purposes.
MR. WILSON: Yes, sure.
THE COURT: You don't have to admit them into evidence unless you make that next step.
(WHEREUPON, Defendant Exhibits Nos. 3, 4, and 5 were marked for identification only.)
BY MR. WILSON:
Q Let me show you now what's been marked Defendant's Exhibit 3, 4 and 5 which are three photographs and ask you to take a look at them for me please, sir. Can you identify the content of those photographs?
A I can identify the vehicle as far as the content in the vehicle.
Q Would you look on the back and tell me which photographs you're referring to?
A Exhibit 3.

Q Exhibit 3?

THE COURT: Identification purposes Exhibit 3, okay.

BY MR. WILSON:

Q And you can identify this particular photograph, is that what you're saying?

A Yeah.

Q But you cannot identify the other two; is that what you're saying?

A Yes, sir.

Q Okay.

MR. WILSON: Your Honor, we just ask exhibit 3 then be admitted after I show it to the Solicitor.

MR. CLEMENTS: Without objection.

THE COURT: Without objection Defendant's Exhibit Number 3 admitted into evidence.

(WHEREUPON, Defendant Exhibit No. 3 was admitted into evidence.).

BY MR. WILSON:

Q Now let me show you now what's marked Defendant's Exhibit Number 3. Now when you observed that car that night, were those, what would you -- just explain to me what's in, what's shown in that photograph first.

A It's a vehicle. It appears to be bullet holes on the passenger side of the vehicle.
Q I'm sorry? Bullet holes in the passenger side of the vehicle?
A Yeah.
Q How many bullet holes?
A Two.
Q Okay.
MR. CLEMENTS: Your Honor, I would object to the characterization. He says it seems to be. I don't know if he can actually say what that is. It's just two holes in the car.
THE COURT: I'll allow you to rephrase your question if you can lay the ground work.
MR. WILSON: All right.
BY MR. WILSON:
Q Just let me ask you this, you see two holes in the car?
A Yes, I do.
Q And the holes are on the passenger door or the driver's door?
A The passenger door.
Q Okay. And you know how the holes got there?
A No, sir.
Q You know when they got there?

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A No, sir.
Q You know they were there when you saw the car?
A Yes, sir.
Q Okay. Now let me ask you in regards to you said that you were left there under the canopy at the hospital to secure the car to make sure that nobody else entered it or took anything from it or anything like that; is that correct?
A Yes, sir.
Q And how long were you there with the car before they came back?
A I can't recall.
Q Okay. Well, do you know whether it was an hour or whether it was minutes or several hours or all night, or you have any idea?
A Maybe a little over, about an hour.
Q Okay, all right. And when they came back what happened? Did you stay there while they actually executed a search warrant on the car?
A No, sir.
Q You did not?
A I immediately left and went to Baker Street to the other ---
Q Okay. So you immediately left once they returned?

A Yes, sir.
Q So you don't know what was in the trunk of the car.
A No, sir.
Q You didn't see -- have you seen pictures of what was in the trunk of the car afterward?
A No, sir.
Q Okay. Then you left there and you went to -- what's the name of the street?
A Baker Street.
Q Baker Street. And that was to secure the jeep that was on Baker Street?
A Yes, sir.
Q Now how long did you stay with the jeep on Baker Street?
A Until Officer Flowers returned with the search warrant?
Q Okay, how long was that?
A I'd say about an hour.
Q Okay. Now did I understand you to say that you actually took pictures of the interior of the vehicle which was at the hospital which would have been the silver car, the Fusion?
A Yes, sir.
Q You did? Okay. And how many pictures did you

take?
A I took several pictures.
Q Okay. Now, and do you recall what the content of those pictures show?
A I can't recall. I just ---
Q Okay. Well, do you recall whether or not there was some liquor bottles in the back of car?
A I can't recall.
Q Don't recall, all right. And you don't have those pictures anymore?
A No, sir.
Q Okay. And what happened to the pictures?
A I turned them pictures over to the investigator.
Q Okay. So you turned them over to the investigator, all right.
MR. WILSON: Bear with me one second please.
THE COURT: Yes, sir.
BY MR. WILSON:
Q You said that you turned it over to one of the investigators. Do you recall which investigator you turned it over to?
A I can't recall.
Q You don't recall, okay. No other questions. Thank you.

THE COURT: Any redirect?

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q Do you know if you're the only one who took pictures?

A As far as I know I took pictures of the vehicle.

Q Did you open up the car door and take pictures or did you take pictures from outside looking in?

A Took pictures from the outside of the vehicle.

Q At a later time though pictures were taken with everything opened up, were they not, or do you know?

A I can't recall.

Q Okay. Would you be -- would you say this is a reasonable statement or not a reasonable statement that normally vehicles that you're asked to sit on are later opened up and examined ---

MR. WILSON: Your Honor, I object.

THE COURT: Rephrase your question, Mr. Clements.

BY MR. CLEMENTS:

Q All right. You're often asked to sit on a vehicle; is that correct?

A Yes, sir.

Q For a search warrant to be obtained and so no one would interfere before that search warrant is able

to be executed; is that correct?
A Yes, sir.
Q And as an officer in law enforcement when they execute a search warrant on a vehicle what do they do?
MR. WILSON: Your Honor, this ——
THE COURT: Hold on a minute. Come over here please.
(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)
THE COURT: Rephrase your question, Mr. Solicitor. You may continue.
BY MR. CLEMENTS:
Q Let me try to make this simple. I was being convoluted, I apologize. You've got years of experience as a law enforcement officer, correct?
A Yes, sir.
Q In your experience, when they execute a search warrant on a vehicle what do they do? Do they go inside it?
A Yes, sir.
Q They open it up?
A Yes, sir.
Q They open the trunk?
A Yes, sir.

Q Open the doors?
A Yes, sir.
Q And they inventory what's there, correct?
A Yes.
Q And take pictures?
A Yes, sir.
Q And all you did was take pictures of the outside, right?
A Yes, sir.

MR. CLEMENTS: Okay. No further questions.

THE COURT: Any recross?

MR. WILSON: Your Honor, just one other question.

RECROSS-EXAMINATION

BY MR. WILSON:
Q In regards to this, did you make like a log or something of the photographs that you took?
A No, sir.
Q All right. Nothing further.

THE COURT: You may step down, thank you.

Call your next witness please.

MR. CLEMENTS: Your Honor, I call Lieutenant Walker Davis.

THE CLERK OF COURT: Would you place your

left hand on the Bible, raise your right hand.

WHEREUPON,

WALKER DAVIS,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: Thank you.

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q Lieutenant Davis, how are you doing?

A All right, how are you doing, sir?

Q Doing all right. Can you please tell this jury your name and where you work and how long you've worked there?

A My name is Walker Davis, Sr., and I work at Marion Police Department. I've been working there 22 years.

Q All right. And prior to your experience with the Marion Police Department did you have any other law enforcement experience?

A I have a little bit of law enforcement experience with the military.

Q Okay. So how many years total law enforcement experience do you have?

A Well, with the military it's 22 years 7 months and 27 days.

Q All right. Were you lieutenant over the shift at the night time of September 29th, 2012?
A I was called in and I wasn't the lieutenant over the shift that night.
Q You weren't lieutenant over shift, but you got called in to assist?
A Yes.
Q Does that happen often when you got a limited number of police officer on a lot of locations?
A Yes.
Q All right. Did you have multiple locations in this situation?
A We had a pretty good bit.
Q The hospital?
A The hospital.
Q Withlacoochee.
A Withlacoochee.
Q Baker Street?
A Baker Street, so on so forth.
Q Okay. Now when you were first called out do you remember who called you?
A It was Officer Bacchuss.
Q Officer Bacchuss called you?
A Right.
Q Did he brief you on what he had, what kind of

situation?
A No, they just told me they needed me to come to work, they got a little problem, and they need some more officers.
Q Okay, all right. And where did you go to?
A I went to Withlacoochee.
Q Okay. When you got to Withlacoochee who did you find there?
A When I got to Withlacoochee Officer Bacchuss was there and then Lieutenant Smith showed up and then the captain showed up.
Q Okay. Did you get there before or after the bottom dropped out?
A I got there just before the bottom dropped out.
Q Okay. And when you got there you were the second officer there? Officer Bacchuss was the first one?
A Officer Bacchuss was the first.
Q Okay. And then you say Lieutenant Smith and Captain Barr came?
A Right. Lieutenant Smith came close to the time I got there.
Q And what were your duties or what were your actions that you took there at Withlacoochee?
A Well, when I got there I asked Officer Bacchuss what was going on and what he needed as far as. He

told us he need help over in the area, look and see if we seen any shell casings and everything because he said somebody was shooting.

Q And did you find any shell casings?

A No.

Q And did you find anything or did you observe anyone else find anything?

A No. We found some blood on the ground.

Q Okay.

A And Officer Smith took some swabs of it.

Q Okay, all right. And after that and the rain came?

A Then the rain started to coming so we had to get back into our vehicles so as it came down real hard.

Q And when the rain let up what did you do?

A Well, before the rain let up they need me to go out to the hospital ——

Q Okay.

A ——and relieve Officer Smith.

Q Okay.

A And I left Lieutenant Smith, investigator, and the captain there.

Q All right.

A And I went on out to the hospital and relieved Officer Smith, and I sat on the car that was out to

the hospital.
Q Okay. And how long did you sit on that car?
A I sat on the car until SLED got there.
Q Okay.
A And when SLED came, then SLED went on and took pictures and stuff of it.
Q Okay. Did you talk to any of the family members or anybody regarding that car about whether you could go into it or not?
A I talked to the owner when she came up 'cause ——
Q Who was the owner?
A It was his sister, Ian Gause sister.
Q Ian Gause ——
A Right.
Q And Rishawn Gause's sister?
A Yes, sir.
Q She was the actual owner of the car?
A Yes.
Q Was anybody, to your knowledge was anybody procuring a search warrant for that car?
A I believe SLED was the one that was handling that when they got there.
Q Okay, all right. Did you get any permission from her or not?
A Yes, I asked her if did she have any problems

with us looking at the car, is anything inside the car. She said, no, you don't have any problem, just go ahead and look.

Q Okay.

A And I asked her was there any weapons or anything in there; she said no.

Q Did you look in the trunk?

A When SLED got there we did.

Q Were there weapons in the trunk?

A There was weapons in the trunk.

Q Okay, all right. And where as a law enforcement officer, your knowledge of the law, where are the places you can carry a gun in a car in a vehicle?

A This would be in the glove compartment or you can carry rifles, whatever, in the trunk.

Q Okay, and you carry them in the trunk. You can't carry them in the car unless they're in the glove box?

A Right.

Q Okay. State's Exhibit 10 I believe is in evidence without objection. Do you recognize State's Exhibit 10?

A Yeah.

Q What is that?

A That's the car that was out to the hospital.

Q Hospital. And that's the car you were sitting on?
A Right.
Q Till SLED got there?
A Right.
Q All right. I'm gonna show you State's Exhibits Number 12, 13, 14, and just tell me whether you can identify those, yes or no. Those are marked for identification, not in evidence. Just tell me if you can identify that, yes or no. And you may not or you may.

THE COURT: Tell me what numbers they are again for the record please.

THE WITNESS: I can identify that ——

BY MR. CLEMENTS:
Q State's Numbers 12, 13, and 14. You're not sure about those? Those are for identification.
A I'm not sure about those.
Q All right. State's Exhibit Number 11 for identification, can you identify that?
A I can identify this.
Q Okay, all right.

MR. WILSON: No objection, Your Honor.

THE COURT: All right.

MR. CLEMENTS: Your Honor, I move State's

Exhibit Number 11 into evidence without objection.

THE COURT: State's 11 admitted without objection.

(WHEREUPON, State Exhibit No. 11 was admitted into evidence.).

BY MR. CLEMENTS:

Q Lieutenant Davis, you said you can identify State's Exhibit Number 11. Can you ——

A Right.

Q ——hold that up so the jury can see it and tell us that that is.

A Those are two revolvers that we, that SLED got out of the trunk of that vehicle.

Q Okay, and that was in your presence?

A That was in my presence.

Q So you know they came out the car?

A I know they came out the car.

Q Trunk?

A Right.

Q Okay.

A Yeah.

Q All right. And did SLED take those ——

A Yes.

Q ——with them?

A Yes.

Q Okay, all right. Did you handle these guns or examine them in any way?
A No.
Q You just saw them get removed from the car?
A I just seen them get removed from the vehicle.
Q Is there anything else you can tell us about these guns?
A No, that's all I can tell you about them.
Q Okay. All right, Lieutenant Davis, you were there to assist SLED if they needed you at the vehicle. When they finished with the vehicle did they move on to another site or did they go to the other site before they came to the vehicle?
A They moved on to another site and turned the vehicle back over to the owner.
Q To the owner, okay. And that was Miss Gause?
A Yes.
Q Okay. Now when they turn that vehicle back over to the owner and they moved on to another location what did you do?
A I left. I was, I was through then.
Q You were through?
A Yes.
Q So you didn't have any other responsibility on this investigation?

A No.
Q You just came out to give them an extra hand?
A I just came out to give them an extra hand.
Q Did you make any kind of report or anything yourself?
A No.
Q Okay, all right. Beg the Court's indulgence. Please answer any questions Mr. Wilson has, Lieutenant.
A Okay.

THE COURT: Cross-examination.

MR. WILSON: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. WILSON:
Q Lieutenant Davis, now as I understand it, when you came out that night you went to the incident location which is?
A Yes.
Q Withlacoochee?
A Yes, south Withlacoochee.
Q Okay. And while you were there, my understanding from your conversations with the Solicitor is that one of the things that you were looking for was you wanted to find any shell casings?
A Uh-huh.

Q Is that correct?
A Right.
Q All right. Tell us what you did in order to look for the shell casings. How did you proceed to look for them?
A Walked up and down the street and walked around in the area that supposedly had the shooting.
Q Okay.
A 'Cause ---
Q You say you walked up and down the street?
A Uh-huh.
Q You're talking about the actual paved street?
A Yes, asphalt.
Q Well, I thought that you found the blood inside the driveway?
A They found the blood like on the corner of the driveway.
Q Okay. Both puddles of blood or both spots of blood were inside the driveway. Is that a fair statement?
A That's fair.
Q Okay. And, well then why were you looking for shell casings out in the street?
A Because if you're shooting you're not, you just shooting on the outside. You're not — shell

casings jump out, they jump. And if you didn't see none in the driveway you had to try to look and see if you see some like on the street.

Q Okay.

A And that's the reason why we were walking the street 'cause shell casings can jump anywhere.

Q Well, did you look under the carport?

A I didn't go up underneath the carport.

Q Well, because guns, when they fire depending on where you're standing that would kind of determine which direction the bullet's gonna, the shell casings gonna be ejected, right?

A Correct.

Q And so if you're -- if it's ejecting from the left and then you would expect that it's gonna go a few feet to the left maybe, right?

A Possible.

Q Okay. And sometimes it doesn't even go a few feet?

A Right.

Q It just falls down.

A It just falls down. It all depends on what you're shooting.

Q So my question is, once you determine that there were two spots of blood inside the driveway of the

house, why wasn't your search concentrated to look inside that parameter to look for the shell casings?
A Because that -- the reason why I didn't do that because is because they said it was like on the street. The shooting was from the street and they was like shooting from a car. So the car ---
Q Who told you that? Who told you that there was a shooting from a car on the street?
A That's what we heard.
Q We heard from where?
A We heard from one of the guys that came up, like the Gator guy from the Gators.
Q What Gator guy?
A It's the guy from the Gator garage.
Q A guy from a Gator garage?
A Right.
Q All right, now I have no idea who you're talking about. Who is the guy from the Gator garage who told you that the shooting was in the street?
A He said that there was shooting in the street and the shots was just fired.
Q Okay, all right. So the Gator guy, does he have a name?
A I don't know his name.
Q Okay, well.

A I just knew he ——
Q How many shots did the Gator guy say was fired?
A They said several shots.
MR. CLEMENTS: Your Honor, I object to any hearsay. Now I let him go on for a while, but he's asking a lot of hearsay questions.
THE COURT: Objection sustained to any further.
MR. WILSON: I understand.
BY MR. WILSON:
Q Let me ask you this, in regards to the shell casings that you're looking for?
A Right.
Q So you're explaining to us why it was that you were then looking out in the street, right?
A Uh-huh.
Q Okay.
THE COURT: Is that a yes?
THE WITNESS: Yes.
THE COURT: Give me a yes or no for the record please to make it clear. Thank you, sir.
THE WITNESS: Yes, Your Honor.
BY MR. WILSON:
Q But my original question to you was, and still is, once you found the blood spots inside the yard

in the driveway, why wouldn't you then look in the yard for shell casings and under the carport?

A It's no reason why I can give you that.

Q Okay. How many feet are we talking about? From where the blood puddles were at, from where these blood puddles were to -- let me show you what's marked as State's Exhibit Number 20.

MR. WILSON: May I approach, Your Honor?

THE COURT: Yes, sir.

BY MR. WILSON:

Q Let me show you this photograph. We're referring now to State's Exhibit Number 20 which is a photograph.

A Right.

Q And of the yard and the house, right?

A Uh-huh.

Q Now how far from this porch was it that you found the blood spots?

A I'd say probably around about down in here.

Q Okay, so what's that, 10-feet maybe?

A Probably about 10-feet.

Q Okay, about 10-feet. And what I'm asking is, once you found the blood spots down here 10-feet away, is there any reason that you didn't look in this area in here for the shell casings?

A No.
Q No?
A No, sir.
Q All right. And to your knowledge has any shell casing been found as of yet?
A Not to my knowledge.
Q Okay. Now the Solicitor was asking you earlier about whether you can carry a gun and you said, well, I think your response to him was in the glove compartment?
A Right, yes, sir.
Q And in the trunk of the vehicle; is that correct?
A If you got, if you're carrying a shotgun.
Q If you're carrying a shot gun?
A Uh-huh.
Q What about a pistol?
A If you're going hunting.
Q What about a pistol?
A Your pistol is normally carried in the glove compartment.
Q Okay. Can you carry it in the trunk?
A Yes, you can have a gun in the trunk if -- yes, if you -- depends on the size, your vehicle.
Q Okay, well let me ask you this. Where can you carry a gun that has the serial number sawed off of

it? Where can you carry that?
A You shouldn't be carrying it anywhere.
Q Right. Okay, let me show you some photographs. Just take a look.
THE COURT: You have them marked for identification purposes?
MR. WILSON: No, sir.
THE COURT: I want them marked for identification purposes please.
(WHEREUPON, Defendant Exhibits Nos. 6 through 13 were marked for identification only.)
MR. CLEMENTS: Your Honor, may we have side bar.
(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)
BY MR. WILSON:
Q I want to show you ---
THE COURT: Hold on a minute.
(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)
THE COURT: Ladies and gentlemen, I'm gonna have to ask you to step to the jury room just a minute. Do not discuss the case. I'll get you back out here as quickly as possible.

(WHEREUPON, the jury was removed from the courtroom at 11:58 a.m., and the following proceedings commenced in open court.)

THE COURT: All right, Mr. Wilson.

MR. WILSON: Yes, sir.

THE COURT: Since now that the jury is out of the courtroom I'm gonna let you proffer. I want to hear what you're gonna ask this witness.

MR. WILSON: Thank you, Your Honor.

THE COURT: Please, sir.

PROFFER EXAMINATION

BY MR. WILSON:

Q Officer, let me show you what's marked as Defendant's Exhibit Number 6. Hold on one second. And also Defendant's Exhibit Number 7. And I will hand you what's marked as Defendant's Exhibit Number 13 for identification purposes at this time and ask you to take look at those photographs. And I would ask you, can you identify the content of those photographs?

A No, I can't.

Q Okay. So you don't recognize any of those weapons, is that what your testimony is?

A I didn't get that close to these weapons.

Q Well, let me show you State's Exhibit Number 11.

A Okay.
Q Didn't you just identify ---
A I recognize these.
Q Okay. What is the difference between those photographs?
THE COURT: Let me see that.
THE WITNESS: That one got more rust and stuff on it. These are cleaned up. These are clean.
THE COURT: Answer his question please, sir.
Restate your question, Mr. Wilson.
MR. WILSON: Yes, sir.
BY MR. WILSON:
Q My question is simply you identified what's marked as State's Exhibit Number 11.
A Right.
Q For the solicitor.
A Right.
Q And I handed you three photographs and I think they're ---
A These.
Q ---exhibits -- hold on one second. They're Defendant Exhibits Numbers 13, 7 and 6 for identification.

A Right.
Q And you said that you could not identify those pictures; is that correct?
A Right. I identify these right here. I've seen these before.
THE COURT: And that's State's Exhibit what?
THE WITNESS: This is State's Exhibit 11. I've seen these before.
BY MR. WILSON:
Q Okay. And where did you see these before?
A I seen those in the trunk of the car.
Q Okay.
A When the SLED took, had those.
Q All right. Well, let me show you what's marked as Defendant's Exhibit Number 10 for identification and ask you if you can identify that photograph?
A I can't identify this one.
Q You can't identify that one either?
A No.
Q Okay, all right. Fair enough. Now -- and Your Honor, that's all I would have on these particular photographs. I still need to ask him about the serial number.
THE COURT: You've already asked him that

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question once.

MR. WILSON: All right, sir.

THE COURT: Didn't you?

MR. WILSON: I ---

THE COURT: And he answered it. And you — let me, correct me if I'm wrong here, but you asked him is it illegal to have a gun with a scratched out serial number and his answer was ---

MR. WILSON: He said yes.

THE COURT: ---that it was. Is that right, Mr. Clements?

MR. CLEMENTS: That's right, Your Honor. He asked that general question about that general provision of law, but then he didn't ask about anything specific weapon.

THE COURT: All right. Anything further that you want to proffer regarding this, concerning this witness or from this witness, excuse me.

MR. WILSON: No, sir, I don't think so. No, sir, I don't think ---

THE COURT: Any objection to that, Mr. Clements?

MR. CLEMENTS: These -- I would — if he was going to go into this in front of the jury I would object. Since he's not I don't object.

THE COURT: Okay. Based on what I've heard from this witness and his testimony is his inability to recognize what you put in front of him which was Defendant's Exhibit 6, 7, 13 and 10 for identification purposes.

MR. WILSON: Yes, sir. And I understand, Your Honor, and but let me ask the Court this so I'm clear. Can I ask him this in the presence of the jury and ——

THE COURT: Ask him if he can identify those photos?

MR. WILSON: Yes, sir.

THE COURT: Mr. Clements, you got any objection to that?

MR. CLEMENTS: I think that's kind of —— it has no probative value 'cause he can't recognize it and I think it's being asked to have a prejudicial effect, and I think it's prejudicial and kind of last confusion and a waste of time so under that rule I would object.

THE COURT: Over your objection I'm gonna allow you to ask those questions. They're not going into evidence.

MR. WILSON: Yes, sir.

THE COURT: Do not see any prejudicial

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effect from him simply asking those questions since those exhibits are not going into evidence at least in part 'cause this witness can't identify them.

MR. CLEMENTS: Also ——

THE COURT: All right, bring the jury back out.

MR. CLEMENTS: Your Honor, before — I want to put one thing on the record. State's Exhibit 12, 13, 12 and 13, I asked the witness about that and I think they're the same two photos that were included with what Mr. Wilson was asking about. He couldn't identify mine either.

THE COURT: Okay. Well, Mr. Wilson is not arguing about that. Are you, Mr. Wilson?

MR. WILSON: No, sir.

THE COURT: For the record let me see those photographs again, Mr. Wilson, please, sir.

MR. WILSON: Yes, sir.

THE COURT: Defendant's Exhibit Number 13 which was marked for identification purpose is the same as State's Exhibit Number 12, which was marked identification purpose. And for the record Defendant's Exhibit Number 10 is the same as State's Exhibit Number 13 which cannot be identified by this witness, okay. Do you want to compare and make

sure the record is clear as to which pictures will be being referred here?

MR. WILSON: And Judge, the only ones that I intend to ask him about because I think the only ones I showed him in-camera was 6, 7, 10 and 13.

THE COURT: All right, that's what I have.

MR. WILSON: Thank you, sir.

THE COURT: Anything else before I bring the jury back, Mr. Clements?

MR. CLEMENTS: No, Your Honor.

THE COURT: Mr. Wilson?

MR. WILSON: No, sir.

THE COURT: Bring me the jury please.

(WHEREUPON, the jury was returned to the courtroom at approximately 12:06 p.m., and the following proceedings commenced in open court.)

THE COURT: Mr. Wilson.

MR. WILSON: Thank you, Your Honor.

BY MR. WILSON:

Q Officer, may I show you four items please. And I'm sorry, I apologize, I'm referring to what's marked for identification purposes as Defendant's Exhibit 6, 13, 7 and 10 and ask you if you would take a look at those items for me and tell me if

you can identify the content of those photographs.
A No, sir.
Q You cannot?
A No.
Q All right.
MR. WILSON: I don't have any other questions, Your Honor.
THE COURT: Any redirect?
MR. CLEMENTS: Briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. CLEMENTS:
Q Lieutenant Davis.
A Yes.
Q Mr. Wilson asked you about searching under the carport for shell casings and you told him you didn't. How many other people were looking around that area in addition to you?
A It was several other people looking around that area, other men.
Q So not just you?
A Not just me, no, sir.
Q And you didn't cover the entire area?
A No, sir.
Q Y'all took sections of the area?
A Yes.

Q Now let me ask you this also. You were talking to him about the Gator speed guy that worked Gator speed?
A Right.
Q Is his first name Michael?
A It could be Michael.
Q He lived in that neighborhoods?
A Yes, sir.
Q He came out while y'all were out there?
A Yes, sir.
MR. WILSON: Your Honor.
THE COURT: Hold on, yes, sir.
MR. WILSON: I object. And one, he's leading.
THE COURT: Hold on, what's your ground for the objection?
MR. WILSON: He's leading.
THE COURT: Rephrase your question. I'll sustain it on that ground.
BY MR. CLEMENTS:
Q All right. Do you know Ronnie Sanders?
A Yes, sir.
Q He live in that neighborhood?
A Yes, sir, he lives right across the street.
Q Did he come out while y'all were out there too?

A Yes, sir.
Q Were y'all able to develop any leads or followup on any information received from the Gator speed guy or Ronnie Sanders?
A No, sir.
Q Okay, thank you.
THE COURT: Any recross?

RECROSS-EXAMINATION

BY MR. WILSON:
Q Well, I thought -- and correct me if I'm wrong. I understood you to tell me that you had information from the Gator guy that said that there were shots fired.
A He said that, but we didn't find anything on that.
Q Okay. So, but you did get that information?
A Yeah, he said that -- I told you that.
Q Yeah, that's what I'm saying.
A I told you from what the guy said that was around here and you said who was that. I said the Gator speed guy.
Q Okay.
A Okay.
Q All right.
THE COURT: Anything further, Mr. Wilson?

MR. WILSON: No, sir.

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

MR. WILSON: Thank you, sir.

MR. CLEMENTS: Your Honor, I ask Lieutenant Davis be excused from his subpoena.

THE COURT: Any objection?

MR. WILSON: No objection.

THE COURT: Without objection, sir, you may be excused. You have no further responsibility from your subpoena. You're free to go. Thank you for being here.

MR. CLEMENTS: Your Honor, we call Officer Michael Hartson of the Mullins Police Department.

THE CLERK OF COURT: Raise your right hand please, sir.

WHEREUPON,

MICHAEL HARTSON,

having been duly sworn by the Clerk of Court, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q Would you please state your name and spell your last name for the record.

A Michael Hartson, H-A-R-T-S-O-N.

Q Officer Hartson, can you please tell this jury where you're employed?
A Mullins Police Department.
Q And how long have you been employed in Mullins?
A Approximately seven months.
Q All right. And prior to that seven months employment with Mullins PD, do you have prior law enforcement experience?
A Yes.
Q How long a period of time?
A Approximately three-and-a-half years.
Q And where was that time spent?
A Marion Police Department.
Q Marion Police Department. So in November — excuse me, September 29th of 2012 where were you working?
A Marion Police Department.
Q In what capacity?
A Patrol.
Q Okay. Were you working evening or the morning shift that day?
A Evening.
Q All right. And who was working that shift with you?
A Sergeant Bacchuss and Officer Smith, Derrick

Smith.
Q And y'all were the three on shift?
A That's correct.
Q And how long a shift was this?
A Twelve hours.
Q Okay. And did you have occasion to be called out to the area of Withlacoochee, south Withlacoochee?
A Yes, sir.
Q Can you please tell this jury how you received that call and how you responded and what type of call it was?
A We received a call for fight in progress, possible gunshots in the area. At first we were unable to locate anybody. As Sergeant Bacchuss stated, he spoke with somebody at that residence. I patrolled the area and cleared up after we were unable to, you know, determine what went on.
Q So did you find anybody down the road from that location?
A No, sir.
Q Didn't find out anything down the road?
A No, sir.
Q Okay. But you checked?
A Yes, sir, we searched the area.
Q Pursuant to response Bacchuss got y'all check?

A That's correct.
Q Okay. And you cleared the area?
A Yes, sir.
Q Explain to the jury exactly what that means, clearing the area?
A Well, we patrol the area. We were unable to locate any suspicious activity, fights or gunshots or anything like that, and I cleared up and conducted additional patrols, you know, waiting for my next call for service.
Q And what happened next?
A Sergeant Bacchuss notified us that there was a victim at the hospital and asked me to meet him back at that residence that he originally went to.
Q I'm gonna show you State's Exhibit Number 21 and State's Exhibits 17, 18, 19. Can you identify these exhibits that are in evidence?
A Yes, sir, I can.
Q And what is depicted in those four photographs?
A The residence where the incident occurred where we responded and I met back with Agent Bacchuss after he was notified that there was a victim and a possible assault occurred.
Q So State's Exhibit 17, 18, 19, 21 is the residence you first responded to?

A That's correct.
Q And it's the residence that you responded to the second time after getting information from the hospital?
A I did not respond, let me back up. I did not respond to that residence the first time. I responded to the area.
Q Okay.
A The second time, after we determined an assault, an incident had actually occurred, I met Sergeant Bacchuss at that location.
Q Okay. Thank you for clarifying that.
A Yes, sir.
Q Now when y'all met back at the residence there the second time, were there any individuals there then?
A No, sir, none that I saw outside.
Q Okay, all right. And can you recall if the porch light or the carport light was on or off?
A I do not recall.
Q Okay. Do you recall if there were any street lights in the area?
A I don't recall. I know from that area there are street lights in that area, not many. It is a rather dark area.

Q I show you State's Exhibit 22 and tell me if you can identify that, if that looks familiar to you?
A I believe that's a street light directly south of the residence between the south, the lot directly next door to the right if you're staring at the front of the road.
Q So that would be the only light in the area close by?
A That I'm aware of, yes, sir.
Q Okay. When you got back to Withlacoochee Sergeant Bacchuss was there -- y'all parked your cars and exited your vehicle?
A That's correct.
Q And what did you do?
A Sergeant Bacchuss instructed me to obtain some crime scene tape and start taping off the area to avoid anybody entering the area.
Q Okay, you did that?
A That's correct, I did.
Q Okay. And after you taped off the area what did you do next?
A I was advised to clear up and stay ready for any additional calls that may be coming out because Officer Smith was at the hospital and Sergeant Bacchuss was at the residence, and we needed

somebody to catch any additional calls that may come out so I cleared up at that time.
Q Did you, before you cleared up did you look around any with your flashlights or with your eyes or anything?
A I did not. All I did that I recall, all I did was I taped off the area and Corporal Sergeant Bacchuss advised me that I could clear up and catch any calls that may come out.
Q Did any other officers arrive before you cleared?
A No, sir.
Q Okay. After you went back, you cleared out, you went back to patrolling; is that correct?
A That's correct.
Q What is the next thing you recall or the next thing you did that involved this investigation?
A I was advised, I believe it was by Lieutenant Smith, to look for the subject that may possibly live at that residence. I was advised to check with Fusion Nightclub, and I was able to locate him, Mr., I believe it was Charles Wilson?
Q Charles Wilson, you found him there?
A Yes, sir.
Q Okay. All right, when you found him did you do?
A I asked him to step outside with me, and I

immediately notified Lieutenant Smith who arrived and spoke with Mr. Wilson.

Q Okay.

A I had no further interaction.

Q Okay, all right. And what did you do next in regards to this investigation?

A I cleared up at that time, and it was only later, several hours later, that I heard Sergeant Bacchuss calling for an officer to assist him on Baker Street, that he had located the possible vehicle, the black jeep.

Q And who responded to back up Sergeant Bacchuss?

A I did.

Q Okay. And when you got to that location what did you find?

A I observed Corporal Bacchuss — or he was Corporal at the time. That's why I keep referring — Sergeant Bacchuss standing with both subjects that were in the vehicle Ky Graham, and the defendant.

Q Ky Graham?

A Ky, I believe Ky Graham, yeah.

Q And the defendant. You see the defendant in the courtroom?

A I do.

Q And can you point him out for us?
A Right there wearing the white shirt with the gray in color tie (indicating).
Q May the record reflect he has identified the defendant. Is that who you saw out there with Ky Graham?
A Yes, sir, I did.
Q And Anthony Bacchuss?
A That's correct.
Q And you were there for backup. Did you do anything at that time?
A At that time Sergeant Bacchuss contacted Lieutenant Smith and Lieutenant Flowers, and they arrived on scene and took over from there.
Q How long did it take them to get there?
A Not very -- probably two minutes make.
Q All right.
A Did not take that long.
Q Okay. So you as a patrol officer, would you normally interrogate someone?
A No.
Q Or interview someone?
A No.
Q Did you do it on that occasion?
A No, sir.

Q Did you have any conversation with either ——
A No, sir.
Q ——either of the occupants of the jeep?
A No, sir.
Q Okay. I'm gonna show you State's Exhibit Number 1 and 2 and 3. If you can identify these for us please do so.
A Yes, sir. That's the jeep that the defendant and Ky Graham were riding in that we had stopped on Baker Street.
Q Okay, all right. Did you have any occasion to look in that vehicle or look in ——
A No, sir.
Q ——in the windows or anything?
A No, sir, I do not recall looking in the vehicle at all.
Q Okay. That would have been somebody else's job to do that?
A Yes, sir. We were advised to just sit by with the defendant and Ky Graham until the investigators arrived.
Q Okay, all right. After you cleared Baker Street area where the jeep was and where y'all encountered Mr. Woodbury and Mr. Graham, what did you do next?
A Well, when I cleared up I was, I was asked to

transport the defendant to the police department for the investigators.

Q Okay. And did you do so?

A I did.

Q Okay, all right. And you didn't have any conversation with him?

A No, sir.

Q Okay. Now after you transported him to the police department did you have anything else that you did in this investigation?

A No, sir, not that I recall.

Q Okay. That was the extent of ---

A Well, let me back up. After later on in the early morning hours after they conducted their interviews and everything, he and I transported him to Marion County Detention Center.

Q Okay, all right. Did you transport anyone else?

A No.

Q Is there anything prior to this that you did that we left out?

A Not that I recall.

Q Okay. Please answer any questions Mr. Wilson may have. Thank you.

THE COURT: Cross-examination.

CROSS-EXAMINATION

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BY MR. WILSON:
Q Do we know who called 9-1-1 to report the gunshots?
A Not that I'm aware of, sir.
Q You don't know?
A I do not know.
Q All right. So if I'm clear, and just so I am, as I understand it what you're saying essentially is that you went to the residence and sealed it off for security purposes?
A Yes, sir.
Q All right. And then your next assignment was you went to assist Officer Bacchuss when he had the vehicle stopped?
A That was several hours later on Baker Street.
Q Okay.
A Yes, sir.
Q Did you do anything in regards to this case in between that?
A As I stated, I was, I was advised to look for Charles Wilson who is a resident at south Withlacoochee residence.
Q All right.
A He lives there. I was advised to go see if I could locate him at Fusion Nightclub and I did.

Q Okay. And when you got to Fusion Nightclub do you know what time of night that would have been?
A I don't recall. The incident occurred approximately 11 p.m. It would probably be an hour or so later maybe.
Q Okay, all right. And did you go inside the club?
A I don't recall. I think I spoke with some employees there that stand at the door and asked them if they had seen him and I think they walked in and asked him to step outside.
Q And he came outside and spoke with you?
A He came outside, and I asked him to, you know, step over with me for a moment, and it was shortly thereafter that -- I didn't have any detailed conversation with him or shortly thereafter Lieutenant Smith arrived on scene.
Q And you stayed with him until ---
A I did.
Q ---Lieutenant Smith arrived?
A Yes.
Q Okay. Now when you went to assist Officer Bacchuss when he had the black jeep stopped, did you see Mr. Woodbury there?
A I did.
Q Okay. Did you any conversation with him?

A Not that I recall.
Q Okay. Did he give you any difficulty?
A No, sir, he was very inquisitive about what we were talking to him about or interested, you know, that's all.
Q All right. Didn't threaten you?
A No, sir.
Q Okay. Use any weapon on you or anything like that?
A No, sir.
Q All right. No other questions.

THE COURT: Any redirect?

MR. CLEMENTS: Just one question.

REDIRECT EXAMINATION

BY MR. CLEMENTS:
Q Mr. Wilson asked you about Mr. Woodbury's demeanor. What if any indications were there that he had been drinking or was under the influence of alcohol?
A I don't recall smelling any odor of alcohol on him. I mean, other — the other only thing I recall is that he was very inquisitive, very — seemed paranoid in my opinion, was very inquisitive about why we were talking to him.
Q But he wasn't drunk or intoxicated?

A Not that I recall.

Q Okay. Thank you.

THE COURT: Mr. Wilson.

RECROSS-EXAMINATION

BY MR. WILSON:

Q I'm just unclear. Are you speaking of Mr. Woodbury or Mr. Wilson? Who, when you were referring to somebody being intoxicated, who were you referring to?

MR. CLEMENTS: Mr. Woodbury was my question of course.

THE WITNESS: That's who I was referring to was Mr. Woodbury.

MR. WILSON: Okay, all right.

THE COURT: Sir, you may step down. Thank you.

Call your next witness.

MR. CLEMENTS: We call Captain Cindy Barr.

WHEREUPON,

CINDY BARR,

having been duly sworn by the Clerk of Court, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q Would you please state your name and your

occupation for the record.
A Cindy Barr, I'm Captain with the Marion Police Department.
Q Captain Barr, how many years do you have in law enforcement?
A Prior to working with the Marion Police Department in 2000 I was working with the sheriff's department in '95 up until 2000. In 2000 I went to the police department up until the present time.
Q So that's almost 20 years in law enforcement?
A About 19.
Q Okay, all right. I don't want put too many on there. And so I guess you started working law enforcement when you were four years old?
A Not quite, '95.
Q All right, sorry about that, it's about lunch time, my brain is — now if you would please, would you tell this jury how you came to be notified about the investigation that was going on regarding the stabbing and fighting on Withlacoochee on the date in question which was in 2012, September 29th?
A Yes. Please the Court, on September the 29th, 2012 I was notified by Sergeant Bacchuss by telephone and I was at home. I believe it was maybe about a quarter till 12, I'm not sure, but it was

between 11:15 and 11:45. After he contacted me he gave me a briefing on what had happened, and so I told him I was in route. So I went to [redacted] Withlacoochee where I seen him, Lieutenant Smith, and I believe Lieutenant Davis. Tape was already up around the property and he was telling me about a stabbing that may have occurred there. And so right before I started looking around it started raining real hard and so I really couldn't, you know, do much there. The Chief had notified me and told me that there was somebody at the hospital that could, that was in critical condition, and so we were — we had to call in to SLED because when someone die we have to call in SLED and I ——

Q What did you call SLED for specifically?

A Well, SLED was called because he died.

Q Okay.

A He had — someone had died.

Q And Marion PD, y'all don't have a forensics or a crime scene unit, do you?

A No, we don't have that at all. We call SLED for all of that.

Q So SLED does all the forensic crime and scene investigation?

A Yes.

Q Okay. Did they respond to Withlacoochee?
A Yes.
Q Were you still there by the time they got there?
A I stayed there to wait for them because Lieutenant Flowers was told by the Chief to do a, to get a search warrant signed.
Q Okay, all right. And so you waited there and maintained that position in Withlacoochee until SLED arrived?
A Yes, I did.
Q Okay. Did you have occasion to -- would any of the neighbors come out, outside?
A Yes. Mr. Ronnie Sanders that stayed right, you know, in front of the location I was at, he had came out.
Q Do you know the man that works at Gator Speed?
A I don't know him.
Q Did you see him that evening?
A Yeah, he just was walking out. He had his dog. And you know how people do when they see us out, they want to know what's going on; but neither one of them had any information about what had happened at that location.
Q That y'all could follow up on?
A That we could follow up on, no, we didn't have

anything.
Q But y'all did talk to them ---
A Yes.
Q ---to see if they did know something?
A Yes, they didn't know anything.
Q Okay, all right. Now so they had no additional information than what you originally gotten. Were you able to speak to anyone else other than those two on the scene there?
A Not at all, no.
Q Okay, all right. Did you conduct an interview with anyone in regards to this, yourself?
A No, I didn't.
Q Okay. After Lieutenant Flowers obtained search warrants were you present or did you participate or assist in any way in executing those search warrants?
A I was present at [redacted] Withlacoochee and SLED, they'd done everything.
Q So they executed the search warrants?
A Yes, they did.
Q Did you go to Baker Street at all?
A Yes, I also, after we finished there, went to Baker Street for the black jeep. And so until a search warrant was secured by Lieutenant Flowers get

signed by a judge, then SLED had came and they did the searching of the vehicle.
Q So you stayed at the jeep until SLED finished with Withlacoochee?
A I stayed at Withlacoochee, and then when we finished with Withlacoochee, then I went to Baker Street.
Q Okay.
A And I stayed with that vehicle until a search warrant was obtained.
Q So did SLED go to hospital prior to going to the jeep or do you recall?
A I don't re-- I'm not sure, but I had, you know, waited by the jeep until they cleared up.
Q Okay. When they came and they started inventorying and executing the search warrant on the jeep did you remain present while they executed the search warrant?
A I remained present while they were executing.
Q Did you observe them doing that?
A Yes, I did. Yes, I did.
Q I'm gonna show you some exhibits that have been marked for identification. Tell me yes or no if you can identify these exhibits that are marked for ID, State's Exhibit 4.

A Yes, I recall this. I think it's the jeep.
Q All right. Don't tell me what it is yet, just tell me whether you can identify it or not. State's Exhibit Number 5?
A Yes.
Q State's Exhibit Number 6?
A Yes.
Q State's Exhibit Number 7?
A Yes.
Q State's Exhibit Number 8?
A Yes.
Q State's Exhibit Number 9?
A Yes.

MR. WILSON: Your Honor, I have a matter we probably need to take up.

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

THE COURT: Mr. Clements, you may continue.

MR. CLEMENTS: Thank you, Your Honor. If it please the Court, I would move State's Exhibits 4, 5, 6, 7, 8, and 9 into evidence at this time.

THE COURT: Subject to Defense counsel's objection they're admitted into evidence.

(WHEREUPON, State Exhibits Nos. 4 through

9 were admitted into evidence.)

MR. CLEMENTS: Thank you, Your Honor, I would ask permission for Captain Barr to step down and stand in front of the jury.

THE COURT: Okay.

BY MR. CLEMENTS:

Q Captain Barr, you had testified that you were present, you observed them as they executed the search warrant on the jeep?

A Yes, I was.

Q Okay. Now State's Exhibit Number 1, 2, and 3 that are in evidence, you recognize that?

A Yes, sir.

Q Is that the jeep Mr. Woodbury was in?

A I didn't see him in it, but that's the jeep I was at when SLED executed the warrant.

Q Good answer, fair enough. Mr. Woodbury was gone by the time you got there; is that correct?

A I have not -- I never seen Mr. Woodbury.

Q Okay, all right. Thank you for clarifying that for me. Now State's Exhibit 4, can you explain to the jury where that was and what that is there that looks like a brown stick with gold bands on it?

A Right here, this is the picture SLED had taken. It was in the back, you know, when you pull up the

back of the jeep and where the stuff is sitting at, that's where this was located at.
Q Okay. And how is State's Exhibit 5, how is that picture a little bit different? It's closer?
A It seems to be closer, the same area.
Q Okay, all right. Can you explain to this jury what State's Exhibit Number 6 depicts?
A It's — it depicts picture 5, but it's closed and it's partially open.
Q All right. State's Exhibit 7, can you tell the jury what that depicts?
A It depicts five closed and number 7 depicts that it's open.
Q All right. State's Exhibit Number 8, compared to number 5?
A Yes. Compared to Number 4 it's closed. Number 8, that is open. That looks, it appeared to be on a, in the vehicle on a seat.
Q Are these the same items depicted in both pictures?
A That I recall, yes.
Q All right. And lastly, State's Exhibit Number 9?
A Yes, another different picture, but you know.
Q All right. What is this?
A It looks like some knives. That's all I can

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figure, some knives.
Q All right, thank you. You can have a seat, ma'am.
MR. WILSON: Judge.
(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)
THE COURT: Ladies and gentlemen, I'm gonna ask you to step to the jury room just a minute. Do not discuss the case. I'll get you back out here as quickly as I can. Thank you.
(WHEREUPON, the jury was removed from the courtroom at 12:39 p.m., and the following proceedings commenced in open court.)
THE COURT: Mr. Wilson, if you would, you had an objection. We had it over here at side bar as it related to exhibits 4, 5, 6, 7, 8 and 9 which I admitted into evidence in the presence of the jury subject to your objection. At this time since the jury is out of the courtroom I'll give you an opportunity to put on the record what your objection was at side bar. That couldn't be picked up obviously because we were at the opposite end of the Bench from where the court reporter is. To make the record clear and protect the record for your client, please put on the record anything as far as that

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objection went to.

MR. WILSON: Thank you, Your Honor. That was regarding the knives, the pictures of the knives which you referred to which is exhibit 7.

THE COURT: Should have been 4, 5, 6, 7, 8 and 9.

MR. WILSON: That's correct. And Your Honor, those are pictures of the alleged murder weapon as the State would have it. And the allegation is that these were found in the vehicle of the defendant. And my objection is, is that the knife itself or sword or whatever it is, is not in evidence. And if it turns out that it's not admitted into evidence, then these photographs would have already been submitted into evidence and so it would have come in through the back door, and I think that would be highly prejudicial to the defendant to have those pictures in evidence when, in fact, the knife for some reason is actually not in evidence or never gets into evidence. And that would be my objection, that it be highly prejudicial until and unless the actual item is ——

THE COURT: The alleged murder weapon?

MR. WILSON: Yes, sir.

THE COURT: Okay, all right. Subject to

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your objection I ruled at side bar in the presence obviously of you and Mr. Clements at side bar outside of the earshots so to speak of our court reporter, indicated that I would admit them into evidence and would allow them into evidence which I did subject to your objection. Now anything further on that issue?

MR. WILSON: Nothing further on that issue.

THE COURT: Now I've asked the jury and they have exited the courtroom due to another objection that Mr. Wilson had, and that is, the actual knife or swords or whatever you want to call them, the alleged murder weapon——

MR. CLEMENTS: State's Exhibit 23.

THE COURT: Which is State's Exhibit what?

MR. CLEMENTS: 23, Your Honor.

THE COURT: For identification purposes it was premarked prior to trial as State's Exhibit Number 23. I've asked the jury to leave while that item of evidence is brought out of the box for this line of questioning. Based upon that I would allow you, Mr. Clements, to continue your line of questioning with this witness as to that item of evidence.

MR. CLEMENTS: Thank you, Your Honor.

PROFFER EXAMINATION

BY MR. CLEMENTS:

Q Captain Barr.

A Yes, sir.

Q I'm bringing to you State's Exhibit Number 23, and in this box here can you tell me if you can identify this item?

A Yes, sir, that's ---

Q And how can you identify this item?

A I -- that's the item that appears to have been in the jeep that I seen when SLED executed their warrant.

Q And you saw SLED collect this?

A Yes, I did.

Q Okay. And you saw them take pictures of it?

A Yes, I did.

Q And you saw it together like this?

A Yes.

Q And you saw it apart like this?

A Yes, sir.

MR. CLEMENTS: Your Honor, at this time we move to have State's Exhibit 23 placed into evidence.

THE COURT: Any objection?

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MR. WILSON: Yes, sir, Judge. This item is unaccounted for from the time, from the time they say that they -- she said she didn't take it. She says that SLED took it. It's been unaccounted for until today. How do we -- there is no way -- she says it appears to be; she didn't say it was. It can't come in like that without something more substantial than that. She's not saying -- she's not saying my markings are on here, these are the ones I took out of the trunk of the car on such and such a date, or these are the ones that I observed because I put my marking on it. That's not what she's saying. What she's saying, well yeah, this looks like the one I had that was in the trunk of the car. That is not sufficient to have this come into evidence. Where has it been, how has it been changed, if it has been changed, we don't know. And I don't know what SLED did to it or if they did anything to it. I don't know where it's been. But I know that it has a SLED seal on it and somebody broke a seal.

THE COURT: They broke it right here in the presence of all of us as we sat here this morning.

MR. WILSON: But ---

MR. CLEMENTS: It got sent back from SLED back to Marion PD and they maintained it in their custody until that time. And Your Honor ---

THE COURT: Hold on a minute, I'm gonna let you talk, Mr. Clements.

I'm gonna let you finish any objection you have, Mr. Wilson.

MR. WILSON: Yes, sir, my objection is this. My objection is that even if they did break it this morning, and I -- if the Court says that I'll accept that. That doesn't satisfy the test. This, the Solicitor has to account for this whereabouts of this item from whenever they took it out of the car. Nobody has testified yet that they took this item out of that car, not one soul.

THE COURT: So what you're saying or what your objection is that they failed to establish chain of custody at this point as to that item of evidence?

MR. WILSON: It's an item of evidence; it's even more than that. They at least have to show that this person has had it, had control of it, and this is the same one. And they've not established that.

THE COURT: All right. Are you telling me

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that the State has to bring in here every person that's put their hand on that item of evidence since it was taken ——

MR. WILSON: No, Your Honor.

THE COURT: ——or allegedly since this item, State's exhibit number 23, was taken allegedly taken from your client's car that night?

MR. WILSON: No, sir. What I am saying though, Your Honor, is that what they have to establish is that this item was taken, who took it, and what they did with it, and that that's the same one; and that has not been established.

THE COURT: All right.

Mr. Clements.

MR. CLEMENTS: Your Honor, this isn't a fungible item, and she saw SLED collect it. I got that officer coming. I also got the officer that brought it back from SLED and maintained it since that time. But I don't think I have to put up a complete chain of custody and it's -- number one, it's not a fungible item and it's certainly not an item that can be easily confused because it's a very extraordinary unusual item.

THE COURT: Well, I'm gonna sustain his objection as to the admissibility of it right now

until the proper person who actually confiscated the weapon took it, and they can testify as to what was done it, etc.

MR. CLEMENTS: Your Honor, let me ask this. May I ask her without revealing what it is, ask her if she can identify this and if she saw it collected?

THE COURT: You can ask her that. Any objection to that?

MR. WILSON: Except she's answered already that this appears to be the item. That was her statement.

THE COURT: That's exactly right. That's what her statement was on the record.

MR. CLEMENTS: Yes, sir. And ——

THE COURT: And you can't ——

MR. CLEMENTS: I'm talking about in front of the jury can I ask her -- I'm not gonna ask her if it appears. I'm just gonna ask did she collect it and does she recognize it, not what it is or ——

THE COURT: She can say ——

MR. CLEMENTS: ——be what it is or anything.

THE COURT: Absolutely she can do that; but her answer, she's already answered that

question on the record once and her answer should be consistent with what she's already testified to.

MR. CLEMENTS: Yes, sir.

THE COURT: Okay.

MR. CLEMENTS: Yes, sir.

THE COURT: Anything else before I bring the jury back out? Mr. Wilson, anything else before I bring the jury back out?

MR. WILSON: Nothing, Your Honor.

THE COURT: Mr. Clements, anything further?

MR. CLEMENTS: No, Your Honor.

THE COURT: All right, bring the jury please.

(WHEREUPON, the jury was returned to the courtroom and the following proceedings commenced in open court.)

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

Mr. Clements, you may continue.

MR. CLEMENTS: Thank you, Your Honor may it please the Court.

BY MR. CLEMENTS:

Q Captain Barr, I'm showing you State's Exhibit 23 and I'm gonna ask you, yes or no, can you identify

this? Yes or no.
A Yes.
Q Other question, was this collected by SLED in your presence?
A Yes.
Q Where at?
A On Baker Street.
Q From where?
A From the back of the black jeep I showed you on the picture.
Q Okay, all right.

MR. WILSON: Your Honor, I have a matter I need to discuss.

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

BY MR. CLEMENTS:
Q Captain Barr?
A Yes.
Q After you finished sitting on the jeep and stayed there with SLED while they executed the search warrant, when they finished executing the search warrant what did you do next?
A After the search warrant was executed then we all went back to the Marion Police Department because they had papers that they had to do.

Q Okay, all right. And then after that did you do anything else in the investigation of this case?
A No, I don't. No, I didn't.
Q Okay, you didn't go to the hospital?
A I didn't do -- what I told you all is what I did.
Q I just want to be sure I wasn't leaving something out.
A Yes, sir.
Q Please answer any questions Mr. Wilson may have.

THE COURT: Cross-examination.

MR. WILSON: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. WILSON:

Q I just have a couple of questions, ma'am. Now earlier you testified, did you not, that term in the box appeared to be the item that you saw SLED take pictures of and that you saw them collect; is that right?
A Yes, sir.
Q But just now you changed your story and now you said that is the item that was done. Is that what you just did?
A The item that I said appeared to be what SLED had collected on Baker Street out of the jeep --
Q Right.

A ——is the same weapon that appeared that he asked me did I see SLED take. And it was. I didn't take any pictures. I don't have a photographic memory of what it was. I remember the item, and it came apart and it had, you know, sharp ends.

Q So the truth of the matter then is that you really can't sit here and testify that positively that that is the same one. It appears to be, looks like it, but you're not saying that absolutely positively that is it?

A It was similar.

Q Okay.

A It looks similar and ain't nothing guaranteed.

Q All right, that's fair enough. Thank you so much.

THE COURT: Anything else? Anything else, Mr. Wilson?

MR. WILSON: No, I'm sorry, Your Honor.

THE COURT: Any redirect?

MR. CLEMENTS: No, your Honor.

THE COURT: You may step down. Thank you.

THE WITNESS: Thank you, Your Honor.

MR. CLEMENTS: Your Honor, our next witness may take a little while. This seems to me in my humble opinion a good time for a lunch break.

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THE COURT: The jurors are shaking their heads over there. Ladies and gentlemen, what we're gonna do at this time is I'm gonna let you go to lunch. Do not, do not discuss the case. My instructions remain the same. Do not discuss the case, don't do any independent investigation on your own. You're not to talk with anybody, anybody about the case until you're instructed do so by this court. I am going to ask you all to be back at 2:15, at 2:15. That will give you an hour and twenty-five minute, twenty minutes for lunch. Be back in your jury room at 2:15, and we will resume trial of this case as quickly or promptly at that time as we can.

I am going to ask you before you come back out, though, when all of you get back in there before I bring you out I want you to select a foreperson. I want you all to select a foreperson. I will tell you, these two young ladies on the end are alternates; they cannot be the foreperson. The twelve of you who were initially selected, one of you all has to be the foreperson, but I'm gonna allow you to select a foreperson. I want you to write it on a piece of paper and give it to the bailiff who will in turn give it to me when you all

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come back. And whoever you elect or select as the foreperson will sit right here where this young lady in the purple jacket is, and that will be the foreperson's assigned seat throughout the remainder of this trial, okay. Please be back at 2:15. Look forward to seeing you then. Thank you.

Everybody remain seated while the jury exits the courtroom.

(WHEREUPON, the jury was removed from the courtroom at 12:54 p.m., and the following proceedings commenced in open court.)

THE COURT: Anything from the State before we break?

MR. CLEMENTS: No, Your Honor.

THE COURT: I just want — Mr. Wilson, let me make this clear for the record. State's Exhibit Number 23 which is not in evidence at this time, I want it clear for the record that as Mr. Wilson was talking he may or may not have seen but I want it abundantly clear that I, the Court, personally observed as Mr. Wilson was talking, Mr. Buddy — and I don't know Mr. Buddy's last name who's seated by Mr. Clements — he was the one that opened the seal on exhibit number 23. At Mr. Clements' direction he asked him to come up and he broke the

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seal, looked like with a pocket knife, I couldn't see, but broke the seal on exhibit 23. And I want to make it clear for the record it was, in fact, done in here in the presence of the Court.
Mr. Wilson, I don't know that he saw it, but the Court certainly saw it and I want that clear for the record, okay.

MR. CLEMENTS: Thank you, Your Honor.

THE COURT: Anything else from the State before we break for lunch?

Mr. Wilson?

MR. WILSON: No, Your Honor.

THE COURT: Any matters that we need to take up at 2:15, or not specifically, are there any matters we need to take up before I bring this jury back. I've asked them to be back at 2:15. Are there any matters we need to take up before they come back?

MR. CLEMENTS: Not that I can think of.

THE COURT: All right. What about a possible -- is there -- and we discussed this in chambers briefly this morning about a Jackson v. Denno hearing. Is that going to be an issue? Sir?

MR. WILSON: Yes, sir.

THE COURT: All right. Is the State

prepared to go forward on that issue?

MR. CLEMENTS: Yes, sir.

THE COURT: Okay. What I want y'all to do, it is 12:55. I want y'all to be back here at 1:55 and let's deal with that for at least 20 minutes prior to the jury coming back in. I don't know how long you all expect it to take; but one of my, I do not make, I do not like to make a jury sit back there and wait. Certainly I understand things come up during the course of a trial, but y'all, we don't have any control over. But that's something we can deal with without making them sit back there and wait, okay.

MR. WILSON: Yes, sir.

MR. CLEMENTS: Thank you, Your Honor.

THE COURT: 1:55 for lawyers and court personnel. I've asked the jury to go.

(WHEREUPON, a lunch break was taken and court resumed at 1:57 p.m.)

THE COURT: Is the State ready to proceed?

MR. CLEMENTS: We are, Your Honor.

THE COURT: Defense counsel?

MR. WILSON: Yes, sir.

THE COURT: All right, let's proceed.

MR. CLEMENTS: We call Lieutenant Tony

Flowers to the stand.

WHEREUPON,

TONY FLOWERS,

having been duly sworn by the Clerk of Court, testified as follows:

PROFFER EXAMINATION

BY MR. CLEMENTS:

Q Would you please state your name for the record and say where you work.

A Lieutenant Tony Flowers. I work for the Marion Police Department.

Q Lieutenant Flowers, I'm gonna get right to the point. This is about — this is called a Jackson v. Denno hearing, a hearing about the admissibility of a statement given by the defendant, whether it's freely and voluntarily given. I'm gonna ask you about the statement. Let's stick to that in the interest of time. We're gonna have a jury waiting and you'll be able to testify to anything else you know later.

A Okay.

Q All right. Were you the investigator assigned to the case where Ian Gause and Rishawn Gause were stabbed by Richard Woodbury?

A I was.

Q And did you have the opportunity to talk to Mr. Woodbury?
A I did.
Q And did you take a statement from him?
A We did.
Q And how did you take that statement?
A We took a video. We videotaped the interview and we talked with him.
Q When you videotaped the interview what did you in regards to taking notes or anything like that for a report?
A I don't remember exactly as far as note wise. I just, I know we did videotape the interview.
Q Okay. Did you also enter a report?
A Yea, I did a report on -- I think Lieutenant Smith actually put in his notes about what Mr. Woodbury said.
Q And Lieutenant Smith, did he do this interview with you?
A Yes, he was in the room with me.
Q And he reduced it to writing for a report as to what was in the report?
A Yes, sir.
Q And what was in the interview?
A Yes, sir.

Q What happened to the video?
A The best I — the best recollection I got is I know the Solicitor's Office wanted copies of everything.
Q Yeah?
A We took the, Mr. Woodbury's statement, Mr. Graham's statement, and Mr. Davis' statement videotaped, all three of them, up to the Solicitor's Office. They made copies. From the best I can remember they gave us back Mr. Graham's and Mr. Davis' statements, said they were having trouble with Mr. Woodbury's statement.
Q Couldn't play it, right?
A They couldn't play it. They were gonna get some guy named Keith to look at it. And I don't ever remember getting the video back.
Q All right.
A And that's all I remember.
Q So y'all never went to fix it, don't know what happened to it.
A I don't know what happened to it. He said he had to get Keith to look at it.
Q Now did you subsequent to that when you couldn't find the video, did you and Investigator Smith do anything to notate what was in the interview?

A Yes, we did. I know I wrote a letter to the Solicitor's Office basically about the video. I can't remember exactly what the letter said.
Q Okay, all right. Is this a copy of that?
A Yes, it is.
Q Okay. Is it — do you recall when the interview was done on Mr. Woodbury?
A It was done approximately 5:00 that morning of September 30th, 2012. I have 2013 on this paper which is a mistake I made, but it was actually 2012.
Q All right. Do you have independent recollection of what happened with the interview?
A Yes, I do.
Q Can you tell what you did as far as bringing in Mr. Woodbury and advising him of his rights and getting his interview done?
A Yes, sir. Lieutenant Smith and I were in my office, brought Mr. Woodbury down to my office. Prior to interviewing him I advised him I was gonna to videotape the interview, I had to advise him of his rights. I read him his rights. He seemed hesitant at first to want to talk and then he had some questions, but we said we couldn't talk about it until, you know, we got through with the advisement of rights. And lieutenant Smith advised

him, said, you know, if you don't want to talk there's nothing else we can tell you, this interview is over. So he sit there for a minute and he said, I'll talk to you guys, and he signed the waiver of rights stating he did wish to talk with us at that time.

Q All right. Is this — what is this? I need to mark this for identification first. State's 24.

(WHEREUPON, State Exhibit No. 24 was marked for identification only.)

BY MR. CLEMENTS:

Q Can you identify what's been marked State's ID Exhibit 24?

A I can.

Q All right.

A Yes, sir.

Q What does State's Exhibit 24 for I.D. represent?

A That's the advisement of rights form and the waiver of rights where we advised Mr. Woodbury of his rights and where he signed saying he wished to waive them at this time. It was witnessed by Lieutenant Smith and myself and September 30th at 5:14 a.m.

Q You recognize those signatures?

A I do.

Q Mr. Woodbury's signature on there?
A Yes, it is.
Q Did you observe him sign this?
A I did.
Q Okay. Was he under any duress or coercion from you to do this?
A No, sir.
Q How about his mental demeanor or any evidence of any influence of alcohol on his demeanor or decision making or any drug taking, any indication of that?
A No, sir.
Q He appeared to be sober and not drunk or not high or not confused?
A No, he appeared normal.
Q Okay, all right.

MR. CLEMENTS: Your Honor, we'd enter this in at this point in time, State's Exhibit 24.

MR. WILSON: No objections.

THE COURT: All right, without objection State's Exhibit 24 admitted.

MR. WILSON: And Your Honor, just so the record is clear, no objection for purposes of the hearing, this hearing.

THE COURT: All right.

BY MR. CLEMENTS:

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Q Okay. What did Mr. Woodbury tell you?
A Mr. Woodbury told us that he went over to — I don't think he said the exact address, but the house [redacted] Withlacoochee, walked in —
Q Did he tell you who he was with?
A I believe at the time, yeah, at the interview 'cause I remember — and I think his name was Lamont.
Q Ky Graham and Lamont Davis?
A Yea, those two were with him at the time.
Q Go ahead, what did he tell you?
A Went over to Withlacoochee. I think he said he went over to see somebody. I'm not sure what he went over there for. He said he spoke to everybody over there. And then when he was walking away or something Mr. Gause, Ian, said hey, you can't, oh, you can't speak to me or something, you can't speak to everybody. And Mr. Woodbury said, you know, he goes, I spoke to everybody, you know, you know, like I really don't have a bother with you, I don't want to mess with you. He kind of felt like he was one of these — trying to go back to his car. He had saw whoever he had to see and he was going back to his car. He said at that time Ian kind of approached him. I don't know if he — I don't

remember if he displayed a firearm to him or not. He said he felt kind of threatened, you know, he was just wanting to leave. And Ian kept coming toward me, coming to me; and Ian goes, we end up having a altercation, fighting, or got in a fight. And he heard — he said he had a pocket knife, and he pulled a pocketknife out and he stabbed Ian with it. He said he heard a gunshot, I remember that, heard a gunshot. And then he was kind of fuzzy about exactly when he left but he did — I remember him telling he had a pocketknife. That's what he cut Ian with to get him off of him. And we asked him where the pocketknife was at. He said, I don't know, I threw it out of the window when I was leaving, I don't know where it's at. I was going down the road and he threw it out the window is what he said.

Q Okay, all right. And did he tell you anything else that you can recall?

A I remember we asked him if he had — if Ian had any problems or anything. And he said years ago, I guess they used to leave near each other and they may have had problems then, but it — from talking to Mr. Woodbury it seems like it, whatever problems they had it was behind them but he didn't really

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associate with Ian at all.
Q Did he tell you that Ian pointed a gun at him and chased him around?
A I remember something coming up about that. I don't remember exactly when it was told to me. Thinking back I can remember that being in, in my notes. I can't remember exactly at which point he told me that.
Q Okay, but he told you sometime during the interview ——
A I remember he said something about them running around the car, chasing around the car.
Q And that was at some point during the interview but you're not sure?
A Yea, I'm not exactly when it was, exactly sure when it was.
Q All right. Is there anything that Mr. Woodbury said or acted out in any way that he was uncomfortable to talk to you or didn't walk to talk to you or any time did he ask for a lawyer?
A When we first started he had, he seemed like he had questions but we explained to him we cannot ask you any questions or talk to you about it until we advise you of your rights, you know, and you state you don't want to do it. If you don't want to do it

you don't have to.
Q So he was asking you questions before you give the rights ---
A He was trying to wanting to know what was going, what was going on. And we were explaining to him we can't explain anything to you or talk about it until we advise you of your rights and you sign this waiver of rights form. And he stated he didn't want to argue at that time, really didn't have anything to hide. I mean, he was going to tell us what happened. Never one time during the interview he said I need to talk to a lawyer; he never said that.
Q Okay. And y'all didn't force him to do anything?
A No, because I remember before, you know, the interview was over we asked him is there anything else you need to add. He said, no, not at this time.
Q Okay. Please answer any questions Mr. Wilson may have.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. WILSON:
Q Let me ask you, you did a statement regarding the video; is that correct?
A Yes, sir.

Q And was that supposed to be like a comprehensive story of what occurred on the video?
A To the best I can remember it was kind of like, yeah, what we discussed or what went on during the interview.
Q Okay. One of the questions I had is, you told the Solicitor that he said that he was, that he was gonna get his pocketknife at some point. Now is that actually what he said?
A I remember him saying something to the -- said he had, he got his pocketknife and he cut him.
Q Well, but did he say that or did he say, I pulled a knife from, he pulled a knife from his pocket which is what you say in the statement?
A It may have been knife in the pocket. I don't remember exactly how it was.
Q Let me ask you this, when did you do this statement which is signed by you?
A Can I see it?
Q Yes, sir.
A This was probably done when we couldn't find the video, maybe October, sometime October of last year 2013.
Q Okay. Now if you look at the bottom there it's dated September 2013.

A Yeah, and that was an error I made because it was actually September 30th, 2012, is when I interviewed Mr. Woodbury; but being it was 2013 at the time, I just, I guess mistakenly put 2013.
Q Okay. Did you have any notes from the videotaping?
A As far as handwritten notes?
Q Yes, sir.
A I may have written down like Ky Graham's name and Lamont Davis and maybe where they lived at. Other than that, I don't remember really having any notes.
Q Now those names are not in that statement that you have written there.
A Okay.
Q Ky Graham and Lamont Davis, they're not mentioned anywhere in there, are they?
A No, sir.
Q Okay, all right. And that's what my question is now, you're making this statement, you're making, drafting that statement there a year after the incident occurred. And what I'm trying to find out is, in order to make that statement did you have notes that you could go back to look at so that you could make, draft that document that you just reviewed?

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A No, I think what I did with this was myself and Lieutenant Smith talked about it.
Q Yes, sir.
A You know, of what all was said, and that's what I -- as far as any handwritten notes like what, who said, all that stuff is detailed like this is, no, I don't have any handwritten notes.
Q Now how long was the video that you took to the Solicitor's Office? You said you actually took the video along with couple of others to the Solicitor's Office to be copied and then you never got them back. Is that a fair statement?
A Yes, sir. Well, I got back the two witness.
Q Okay. But you didn't get back the defendant's?
A Like I said, the Solicitor's Office said they gave it back to us. I think she said that she'd given it to Lieutenant Smith, the best I can remember.
Q Okay?
A I know she didn't give it to me. Lieutenant Smith did not remember getting that back from them. He remembered getting the other two videos.
Q Okay. Well, would there be a log -- when you take evidence to the Solicitor's Office for them to copy or you use, whatever, is there a log that you

use where you log it out to them and then when you get back you log it back in?
A Usually there's -- what you call it? — a kind of a list of everything that we give them.
Q Okay, all right. And just let me ask you, let's go back to the defendant for a minute. My understanding is that at some point in time when you were meeting with him to take this statement from the videotaped statement that we've been talking about?
A Yeah.
Q You said that you talked to him, that you read him his Miranda, and he apparently understood Miranda. Is that what you're saying?
A Yes, sir.
Q Did you ask him if he'd been drinking?
A Yes, 'cause it on here. He initialed. He said no.
Q Could you smell alcohol on him?
A I could not.
Q Okay. Were you aware that when he was booked in at the jail that they checked that he was under the influence of alcohol?
A No, I was not aware of that.
Q You weren't aware of that?

A No.
Q Have you ever seen the booking report?
A For his?
Q Yes, sir, for him?
A I — no, I haven't seen the actual one from out there, no.
Q Wasn't he actually taken after he gave the video statement, then he was taken from that location and deposited at the jail, right?
A Yeah, after we get through interviewing him he was taken to jail.
Q So he would have gotten in the jail after he had been interviewed by the police or by you and whoever and had actually made a statement?
A Yes, sir.
Q All right. Now, well, did you ask him where he had been between the times of the incident which was somewhere around 11 to, what, you did this five a.m. in the morning, five something?
A Yeah, it was 5:14 a.m.
Q So five, six hours later did you ask him where he had been during those five hours?
A I'm sure I did. I can't remember exactly how it was worded or what or what exactly was said. I know he ——

Q Did you ——
A I can't remember if he told me or some, or one of the other guys that were with him told me that they were at the club. I know it was said that they were at Club Fusions.
Q So you knew when you were taking the statement from him that he had been to a club called Club Fusion?
A Yeah.
Q Okay. And do you have any personal knowledge as an officer of what they do out at Club Fusion in terms of whether they sell alcohol or liquor or?
A Yeah, they sell alcohol.
Q Okay. And so knowing that, my question is did you ask him how much, if any alcohol, he consumed while he was at Club Fusion?
A I asked him are you under the influence of alcohol or drugs. He stated no.
Q Okay, all right. And now as far as the statement is concerned, and I'm referring to the statement that's dated September 30th. You're saying you don't know when you actually wrote it. You think it was in October?
A It was, it was sometime in October.
Q Why do you think it was in October as opposed to

—

A Because I remember they were wanting the video to look at the videos again.

Q Okay.

A Review them before last term of court. And as I was looking for them I said, I only have Mr. Graham's, Mr. Davis' videos, I don't have Mr. Woodbury's video. And myself and Lieutenant Smith talked about it, and we had taken them up there to get copied a few months earlier. And evidently, Mr. — they were having problems with Mr. Woodbury's so they were gonna keep it and I guess an IT person was gonna look at it to see if they could make a copy of it.

Q Now what kind of device was the video recorded on? Was it on CD or was it VHS —

A A little small —

Q —or cassette?

A A little small CD, DVD.

Q Okay. And do y'all not have at the police department machine capable of producing a copy of that cassette?

A The person that does that for us was actually out I think that week, and she's the one familiar with that. That's why we took them up there to get

copies.
Q Okay. Court, bear with me just one second.
THE COURT: Let me see that please.
BY MR. WILSON:
Q Just let me ask you as far as your testimony is concerned about the incident. Well, let me first back up and ask you, do you have independent recollection of the conversations that you had with Mr. Woodbury on the night of the incident which would have been September 30th or the morning after September 30th, actually have any independent recollection or any notes from that meeting?
A I don't have notes. I can remember — I can't remember verbatim what was said in there. It's bits and pieces I can remember.
Q And is the statement that you wrote the best recollection that you would have, or is your memory today better than what's in this document that you wrote?
A Can you say that again?
Q What I'm asking you, again, is your memory today better than what you wrote in October of 2013? I think you say it was October 2013.
A Yeah, it should be about the same.
Q Okay, all right. So is there anything that's not

contained in this document that you're, that you would testify to today that is not contained in this document that you say the defendant said?

A I need to read it again real quick.

THE COURT: Here you go.

MR. WILSON: Thank you, Your Honor.

(Pause while the witness reads document.)

THE WITNESS: I don't remember anything right off the top of my head other than what I have in this statement.

MR. WILSON: I don't have any other questions; but Your Honor, I would ask that — I don't know what the Solicitor's plans are, but I would ask the lieutenant be available because we'd like to call him during the case.

THE COURT: Lieutenant whom? Flowers?

MR. WILSON: Flowers, yes, sir.

MR. CLEMENTS: He's going to be here.

THE COURT: Anything in redirect?

MR. CLEMENTS: Briefly.

(WHEREUPON, State Exhibit No. 25 was marked for identification only.)

BY MR. CLEMENTS:

Q This has been marked State's exhibit for identification 25. Can you tell me, can you

identify that, know what that is?
A A booking report.
Q A booking report?
A Yes, sir.
Q For who?
A For Mr. Woodbury, Mr. Allen Woodbury.
MR. WILSON: Is he offering that as an exhibit?
THE COURT: It's marked for identification at this time only.
BY MR. CLEMENTS:
Q Can you tell me anywhere on here on these three pages where it says Mr. Woodbury was under the influence of alcohol?
A I don't see anywhere on here.
Q It's not on there, is it?
A No, sir.
MR. CLEMENTS: Your Honor, we would enter this into evidence at this time.
MR. WILSON: I object, it's not admissible.
THE COURT: Purposes of this hearing are you objecting to it?
MR. WILSON: No, sir, not for this hearing.

THE COURT: I'll admit it for purposes of this hearing only.

MR. CLEMENTS: Yes, sir, that's why I wanted to admit it.

THE COURT: It's a whole another issue if you're asking it be admitted in evidence at the trial of the case. I will allow the admission of it for purposes of this hearing only. Anything else, Mr. Clements?

MR. CLEMENTS: No, sir.

THE COURT: Mr. Wilson.

MR. WILSON: Yes, sir, I apologize.

RECROSS-EXAMINATION

BY MR. WILSON:

Q Officer, let me show you this document.

(WHEREUPON, Defendant Exhibit No. 14 was marked for identification only.)

BY MR. WILSON:

Q Let me show you this document and ask you if you know what that is?

A That's an incident report.

Q Okay. And is your name at the bottom of it along with two other officers?

A My name is.

Q Yes, sir. And let me ask you in regards to that

document, if you look on there does it say that the defendant was using alcohol on that night?

A It has subject highlighted as saying yes.

Q Okay. And that's an official report that was done by your department?

A It was done by Corporal Bacchuss.

Q Okay.

MR. WILSON: For purposes of this hearing I would offer this.

MR. CLEMENTS: No objection, Your Honor. I just want to ask two questions about it.

MR. WILSON: I'm finished, Your Honor.

THE COURT: Go ahead, Mr. Clements.

FURTHER DIRECT EXAMINATION

BY MR. CLEMENTS:

Q Mr. Flowers, it says on here that he's using alcohol, right?

A It said ---

Q Use of alcohol is checked yes?

A Yeah, checked yes.

Q Nowhere does it say he's under the influence of alcohol?

A Nowhere in the narrative down there where the actual statement is written there's nothing about alcohol.

Q So I'm gonna ask you again, was he under the influence or drunk?
A He was not — he was not — he did not appear to be under the influence or drunk. I asked him when I interviewed him was he under the influence, and he stated, no, he was not.
Q Okay. But that doesn't mean he couldn't have been using some alcohol?
A He could have — I didn't smell anything on him. He didn't look like it.
Q All right. Thank you.

MR. WILSON: Nothing further, Your Honor.

THE COURT: You may step down. Thank you.

MR. CLEMENTS: Your Honor, I have Lieutenant Smith available if it's necessary as far as to the issues of Jackson v. Denno, whether his statement was freely and voluntarily made.

THE COURT: I leave it up to you. You're the one whose got to show by a preponderance of the evidence as to whether or not you feel like you need to put it.

MR. CLEMENTS: I really wasn't intending on putting in the statement period, but Mr. Wilson was the one who wanted the Jackson v. Denno hearing. If I have not met that threshold I'm ready to make

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THE COURT: I'm not gonna give you a second — I'm not gonna give you a second bite at the apple if I'm gonna — if you feel like you need to put it up, you know what your burden is, if you feel like you need to put it up. I'm not gonna rule on it, then open it back up and allow you to put more in if I were not rule in your favor.

MR. CLEMENTS: I understand, Your Honor. I just wanted to save time for the Court, and if it was unnecessary I didn't want to be redundant. Sometimes I think I met burden but the judge disagrees with me so I beg the Court's indulgence one moment. I'm done, Your Honor.

THE COURT: Anything by way of argument first from the State?

MR. CLEMENTS: Your Honor, there is testimony from Lieutenant Flowers was that went over Miranda rights with Mr. Woodbury, that before they could finish with him he was asking him a whole bunch of questions.

THE COURT: Hold on just a minute. Mr. Wilson, you got anything to put up with regards to this issue?

MR. WILSON: No, sir.

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THE COURT: All right, I'm sorry, you may continue.

MR. CLEMENTS: There's testimony from Lieutenant Flowers that he was asking a bunch of questions about what's this, what was going to ask, what's this about, and they said we can't talk to you till we got to finish going through Miranda rights with you. They went through the Miranda rights. He agreed to talk with them, said he didn't want a lawyer, and there's nothing that appeared to them that he was doing this under duress or coercion. And Lieutenant Flowers testified they didn't coerce him, didn't put him under duress, that he freely and voluntarily made a statement. And I think that's the issue of Jackson v. Denno, whether when his statement was freely and voluntarily given. I would propose it was.

THE COURT: All right. Mr. Wilson, anything by way of argument?

MR. WILSON: Yes, sir, a little bit. First let me say, Your Honor, I don't disagree that as far as the voluntariness aspect with Jackson I don't, based on what has happened and what the testimony is, I don't really have an issue with that.

THE COURT: Okay.

MR. WILSON: The officer was very clear, and I have not presented anything contrary to that so I'm good with that. Where I'm having problems, though, is the next step is that the tape is no longer available to me, and I can't use it. And my concerns are that even now, just in t he brief little encounter we've had, the officer's memory about what occurred is not that good and conflicts with even the written statement that he has given which gives me even more pause as to what might be on the statement on the actual video because one of the things the officer says is he says, well, you know, I think that there was mention of Lamont Davis and Ky Graham on the video. Well, there is absolutely nothing about Ky Graham and/or Davis in the written statement. And in addition, he said, well, he said that he was going to pull out a pocketknife. Well, that's not what he said, at least according to the written statement. What he said is, I'm gonna pull a knife out of my pocket is what he told the officer which is what's in the statement. My concern is that obviously the only best evidence for that would be the video which we don't have which was lost, no question either by the

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police department or by the Solicitor's Office. Either way the defendant is deprived of the benefit of that, and we would argue that we would be at a minimum entitled to a spoliation charge even if the Court decides to allow them to proceed with any testimony that was given during that video.

THE COURT: All right. Well, for purposes of this hearing the Court is to determine whether or not, whether or not the State has put forth enough evidence to determine for the Court to determine whether or not the statement given by the defendant was voluntarily given and was taken in accordance with Miranda. First of all, certainly the defendant was in custody at the time. I hadn't heard anything to the contrary. He was in custody at the time this statement was taken. What was admitted into evidence, I guess for purposes of this hearing, is State's Exhibit Number 23, is a copy of Miranda rights with which appear to have been signed, witnessed by Lieutenant Flowers and Smith, Officer Smith indicating that the defendant had been advised of his rights, that he understood those rights, that he could read, that he was not under the influence of drugs or alcohol. Based upon the totality of the circumstances the Court has heard no testimony or

any evidence that would give the Court any concern that there were threats of violence, promises made to this defendant, or any exertions of any improper influence for purposes of obtaining the statement from this defendant. Therefore, based upon the totality of the circumstances the Court believes that the statement should be admitted and will admit it if the State chooses to go that route.

Anything further at this time, Mr. Clements?

MR. CLEMENTS: Not on that issue, Your Honor.

THE COURT: Anything further at this time, Mr. Wilson?

MR. WILSON: No, sir. No, sir. And I'm -- just so I'm clear, I know the Court saying that if the State wanted to put it in they could. I guess my question would be, if they don't and I want to do it, is that's also permissible.

THE COURT: It's certainly admissible.

MR. WILSON: Okay. Thank you.

MR. CLEMENTS: Your Honor, we take the position that the statement that was given was self-serving. We would also ask to reserve the right to wait, if and when that comes up, for any ruling and

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allow us to make argument at that time.

THE COURT: I'll do that. I'll do that. Did you have any issue, Mr. Wilson, or was my ruling clear as relates to you had a — your argument was not so much to the voluntariness of it but to the issue of the fact that the video doesn't exist anymore?

MR. WILSON: Yes, sir, that's correct.

THE COURT: And with regards to that, the Court I believe that that certainly goes to the weight or the credibility, not necessarily the admissibility, and therefore, would certainly deny your request to be excluded on that level as well, okay.

MR. WILSON: Yes, sir.

THE COURT: I just want to make a ruling for the record. You objected to it, and I think the rule require that the Court give you a ruling on it to protect your position.

MR. WILSON: Yes, sir, absolutely.

THE COURT: Just want to make sure that's clear. Anything from the State before I bring the jury out?

MR. CLEMENTS: No, Your Honor.

THE COURT: Anything further from Defense

counsel?

MR. WILSON: No, sir, Your Honor.

THE COURT: All right. If you will bring me the jury please.

(WHEREUPON, the jury was returned to the courtroom at approximately 2:31 p.m., and the following proceedings commenced in open court.)

THE COURT: Ladies and gentlemen, I hope you all had a good lunch. We're ready to proceed this afternoon with the trial of this case. I had asked the jury when they came back to elect a foreperson and they have done so. The foreperson is juror number 166, Ms. Eunice White who is seated in the foreperson seat and that will be your assigned seat, Ms. White, throughout the trial of this case, okay? Thank you much.

(Court's Exhibit Number 1 was marked and made a part of the record.)

THE COURT: Is the State ready to proceed at this time?

MR. CLEMENTS: Yes, Your Honor.

THE COURT: Defense counsel?

MR. WILSON: Yes, sir.

THE COURT: Call your next witness please.

MR. CLEMENTS: Your Honor, we call Agent Scott Hardee from SLED.

THE CLERK OF COURT: Mr. Hardee, if you would place your left hand on the Bible and raise your right hand.

WHEREUPON,

L. SCOTT HARDEE,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: Thank you.

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q Could you please state your name for the record and spell your last name please.

A It's Leland Scott Hardee, H-A-R-D-E-E.

Q Can you please tell this jury where you work.

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

Q What does it mean to be a senior special agent?

A I'm a certified law enforcement officer for the State of South Carolina with statewide jurisdiction. The senior part is because I've got some time in -- it's a, I guess, it's a promotion based on longevity.

Q And what does SLED stand for, what does it do?

A SLED stands for South Carolina Law Enforcement Division, and they assist other agencies working crime scenes, arsons. We also, we are class one certified officers. We have full arrest authority jurisdiction just like any county or municipality. But predominantly we're an assisting agency where if an agency, in this case Marion Police Department, asks for our help with a crime or investigating a crime then we respond to assist them.

Q How long have you worked in law enforcement?

A Since 2000, April of 2000, so almost 14 years.

Q And how long have you worked with SLED?

A Since April — I'm sorry, May 2nd of 2008.

Q All right. And before working with SLED where did you work?

A With the Florence Police Department.

Q Okay, and do you have any other law enforcement experience other than SLED and Florence PD?

A No, sir, I do not.

Q Now in January — excuse me, in September 2012, were you a senior special agent then?

A No, at that time I was still a special agent. I didn't have my five years in yet so.

Q And were you assigned to one particular bureau of SLED?

A During that time I was assigned to the crime scene latent prints department at SLED.
Q And what does the crime scene latent prints department do?
A The crime scene aspect of it we respond to crime scenes at the request of an agency to assist with investigating, finding, collecting physical evidence and document about the scene and transporting that evidence back to SLED at the agency's request for further analysis in the lab. Latent prints, which is what crime scene fell under, was a department and that lab that looked at latent prints to make for identification.
Q Kind of like CSI?
A Sort of like but not as glamorous.
Q All right. Did you have occasion to be called to assist Marion Police Department September 29th, 2012?
A Yes, sir. I received a call from our operations which would be the equivalent of central dispatch. They stated they received a call from Marion Police Department requesting crime scene. I was on-call that week, and they gave me that contact number. I made contact with a Detective Barr I believe, if memory serves. She advised me of what they had

going on over here. I told her I would be in route. So I called my partner who resided closer to Columbia. I live in Florence and so it didn't take me any time to get here, and I responded. She actually got here shortly after I did so.

Q What was your partner's name?

A Her name was Melinda Worley.

Q Okay. And when y'all go respond to a crime scene and do forensics do you always do that in pairs?

A Yes. We've come to find out that working in pairs is the old saying four eyes are better than two. We go back and check behind each other and you confer with each other. She may have an idea that may have slipped my mind and vice versa, and we just — when you get a good team you can kind of feed off each other and work better together.

Q And where did y'all respond, to what address do you know?

A I know it was on Withlacoochee [redacted], I think, if memory serves, in that area.

Q South Withlacoochee?

A Yes.

Q All right. And when you got there what did you find at that scene?

A There —

Q What was the nature of the call?
A The nature of the call, originally Detective Barr advised that there was -- it was a shots fired, fight in progress call. They found one of their detectives had found some blood on the scene, and then she told me that two individuals were at the Marion County hospital. One had died as a result of stab wounds and then they were -- and it was discovered during the conversation, she said that Marion County actually responded to that scene. But it was discovered that the incident location was within the city limits of Marion, and she was calling for us to help collect evidence and provide assistance with that scene.
Q All right. So what was the first scene that you responded to?
A It would be the initial scene which was [redacted] Withlacoochee, south Withlacoochee.
Q Thank you. Now when you got there who was present on the scene then?
A Detective Barr with Marion Police Department.
Q What agency?
A I believe if memory serves, Officer Bacchuss was. He came, he kept on coming and going because they were looking for the vehicle. Chief Jim Gray

arrived at some point and he was there for a while, and that was about it.
Q When you got there and you were briefed on what all you had. What do y'all do? What does the crime scene unit do? Take us from the start of your process to the end of it. Tell us what you do.
A Basically as soon as we get there we start getting the whos and whats, the names of everybody involved, officer's names, victim's names, suspect's names if there's a suspect at the time. We take — we find out what the temperature is, the times everything happened. All that stuff that can play a factor in any crime scene investigation. After —
Q What was the weather like when you were there?
A It was rainy and my notes had it as 70-degrees at that night so, and of course everything is approximate. My thermometer may be off from some else's so I put everything approximate. After we get the initial information and get a briefing from the officers on scene we — that's part of our note taking. We take a few more notes, then we immediately start recording the scene by camera taking photographs at the scene as it was so that nothing will be lost later, especially when you have rain, some kind of weather that can cause evidence

to possibly be spoiled or lost or changed somewhat so we immediately start taking photographs. And after that we — after everything has been photographed if there's evidence that we're gonna collect from the scene we, as a general rule, we'll put markers down and take photographs again showing where the items of evidence are in the photographs. And then after that we collect that evidence and we package it and we secure it inside our vehicle.

Q Did you go over that entire scene there at south Withlacoochee?

A We did. We walked. And during the photographs, the photograph taking, that gives us time to walk around and look at everything because we're taking photographs of the house, the vehicles that are on scene during at that time. We're taking photographs of the fence. If it's a — for example, if it had been a break-in we would take photographs of the door. We take photographs showing if there was damage to the door, stuff like that. In this case it wasn't obviously; but in fact, we didn't even have need to go inside the house because everything, as we were told, occurred outside of that residence so we spent most, all the time actually, photographing and documenting that actual yard.

Q Okay. I'm gonna show you State's Exhibit 17. Do you recognize that?
A That would be the house that we responded to ——
Q All right.
A ——initially.
Q And State's Exhibit 18?
A That's another side of the house. It's still the front or front facing the actual road, and this was just taken from a different corner.
Q State's Exhibit 19?
A The house again. Well actually, right next to the fence. You can still see the crime scene tape in place.
Q All right. And State's Exhibit 21?
A That's the same residence with a photograph of the minivan that was under the carport.
Q A little closer?
A Yeah, just a closer view of it.
Q State's Exhibit 22?
A That is a street light that was turned off or it was off.
Q Okay. Now where this van is under this carport, did y'all look under there good for any evidence?
A We did, and we looked at the exterior of the van and 'cause, you know, on vans you look for, like in

this case we had a stab wound. You suspect to see blood. And so we look on surfaces for blood; and if we find any, we photograph it. We also photograph it to-scale, just a fancy way of saying we get a ruler and put there right beside it and photograph it again.

Q Were you also looking for anything other than blood?

A Yes. Since there were shots fired we were looking for bullet holes and stuff. Didn't locate any bullet holes, didn't locate any blood on that vehicle or on the exterior of the house.

Q Any shell casings under the shed or in the yard?

A Not that we located, no, sir.

Q Couldn't locate anything?

A No, sir.

Q Did you locate anything of evidentiary value at Withlacoochee that you collected?

A No, we didn't collect anything from there. I saw, if memory serves, I saw suspected blood droplets on some rocks, gravel, or something like that, but we were -- Investigator Barr advised that Lieutenant Smith had already collected blood swabs from that location and so there was no need for us to collect any so we didn't collect anything

additional at that scene.
Q And there was nothing else additional found?
A No, sir, was not there at that scene.
Q About how long did it take y'all to process this scene at Withlacoochee?
A Not too long. I wouldn't say any more than an hour, an hour-and-a-half tops. We had to wait for a while for the search warrant to come in so that we could go because we worked with search warrants. Very rarely will we work with a consent to search, which basically consent to search is, if you're not familiar, is the homeowner gives us the right to work and process that scene. With a search warrant the Court gives us that right. And as a general rule we also work with a search warrant.
Q Now part of your job as a forensic officer, does that require you to, or do you normally interview witnesses or is that somebody else's job?
A That's usually -- we're -- SLED is kind of unique in that we, if you have crime scene you work crime scene. If you had -- if you're firearms you work firearms. If you're a field agent, a field agent is classified as an investigator. They talk to people and stuff like that. The department that I'm currently in is arson, and that's one of those rare

departments where we work the crime scene and we investigate so normally we just -- in that case I was in crime scene. I worked only the crime scene, didn't talk to any witnesses except to get the information that I needed to do the job better. Like, for example, if I'm not jumping ahead, we're arrived at a hospital.

Q We're getting ready to go there next.

A Okay, then I'll stop and let those questions be asked.

Q You don't do interviews. You collect physical evidence?

A That's right. We collect physical evidence.

Q Now you finished up at Withlacoochee.

A Yes, sir.

Q Where did you go next and why?

A After we finished up with that scene we were advised that County had gotten -- actually, beforehand County had gotten out with the victims at Marion Hospital. They were called by Marion County Hospital, or Marion Carolinas Hospital Systems, that you had two vic-- a stab victim there so they responded and it was determined, as I stated earlier, that that was our victim from Withlacoochee. So we responded out there to process

the vehicle that had been left at the ER entrance right close to where the ambulances drive up underneath the canopy and then to go and collect evidence from the victim in this case.

Q When you got there to the hospital what did you do?

A Lieutenant Walker Davis was there securing the scene. There was family members there. The search warrant was already in hand so we immediately started photographing the vehicle that the two victims had arrived at the hospital in. And again, and by that we also get the VIN, the license tag, that kind of information. We look and see if we can find the registration to find out who the owner of the vehicle is and stuff like that. Then we look for any evidence, physical evidence, that we can collect that would help tie that vehicle to the victims, to the scene, connect everything.

Q I'm gonna show you a couple of photographs that have been marked for identification purposes.

A Yes, sir.

Q State's Exhibit Number 20 for I.D. You recognize that picture? Can you tell us what that is?

A This is a photograph of the residence [redacted] Withlacoochee; and it's got a, looks like a car,

van, mini van right there.
Q And did y'all take that photograph?
A Yes, sir. We took all the photographs of that scene so far that I've seen that you gave to us.
THE COURT: Which exhibit was that?
MR. CLEMENTS: Number 20, Your Honor. Your Honor, we move State's Exhibit Number 20 into evidence at this time.
THE COURT: Mr. Wilson?
MR. WILSON: No objection, Your Honor.
THE COURT: Without objection State's Exhibit Number 20 admitted into evidence.
BY MR. CLEMENTS:
Q Now the kind of car that was at the location at the emergency room entrance to the hospital, you recall what kind of vehicle that was?
A It was a four door silver, silver-ish color Ford Focus if I recall.
Q Okay.
A I think it was a Ford Focus.
Q And what -- did y'all conduct inventory in search of that car?
A We did. As part of our search, I mean, we look at everything. And in the -- that car was actually pretty clean, I mean, as far as items go. There was

blood in the — or suspected blood, I'm sorry, in the passenger seat. And there was a — in the driver's seat there was like a black seat cover and observed suspected blood there as well. And in the rear seat there was a Coca Cola bottle, I believe the alcohol, and those were things that stuck out from there. And then in the trunk of the car there was a book and two pistols.

Q All right, I'm gonna show you what's been marked State's Exhibit Number 12. Can you identify that and do you know what that is? Just tell us yes or no.

A Yes.

Q Did y'all take that picture?

A Yes, sir, I did.

Q How about State's Exhibit 13, same question?

A Yes, sir.

Q How about State's Exhibit 14, same question?

A Yes, sir.

MR. CLEMENTS: No objection? Your Honor, we'd move State's Exhibit 12, 13, 14 into evidence at this time.

THE COURT: Without objection State's Exhibits 12, 13, and 14 admitted into evidence.

(WHEREUPON, State Exhibits Nos. 12, 13, 14

were admitted into evidence.)

MR. CLEMENTS: All right. Your Honor, I would ask permission for Agent Hardee to step down in front of the jury.

THE COURT: Sir, you may step down.

BY MR. CLEMENTS:

Q Stand in the back a little bit so everybody has got a good angle so I can see. I'm gonna stand over here and keep your voice up so the court reporter can get it. State's Exhibit 10, can you explain to the jury what that is, who took that picture and ---

A Okay. At that time in point this is the vehicle that we, myself and Agent Worley saw it at the ER entrance. It was the victim that we were -- I'm sorry, it was the vehicle that we were told actually was driven by the victims to the ER.

Q All right. Now when y'all do a processing of the vehicle, tell me what does that all require you to do?

A In this instance, and since we knew who the vehicle belonged to we also knew who drove the vehicle to the hospital, the identity is no longer a concern to us. We were told that the victim had passed away was in the passenger seat was driven by his brother. So in that case, more or less, more of

inventory and collecting for, in example, would be blood so we collect some swabs and just more or less documentation, photographing the scene.

Q All right. I show you State's Exhibit Number 11. Do you know what that depicts and who took that statement? I mean, who took that picture, excuse me.

A This photograph was taken by either myself or Melinda Worley.

Q Your partner?

A My partner. And she was actually the one that discovered the guns in the trunk of the car and then -- 'cause I was at the front of the vehicle. And she said for me to come and look at what she found; I said okay. And so I came back and we discovered, or she discovered, these two guns in the trunk of the vehicle and so we photographed it and documented it.

Q All right. Now what type of the gun here is on the right and the left-hand side, my right, the jury's left. What type of gun is that called?

A This is a revolver. It's a ---

Q And the one that's on the other side, what kind of gun is that?

A It's gonna be a semiautomatic pistol.

Q Now the revolver, when you took that in to collected it for evidence how many shot revolver was that, do you recall?
A It was a five shot I believe.
Q And were any of the chambers empty or all five had bullets in it?
A All five had unfired cartridges inside.
Q Okay. So it was complete, fully loaded?
A Yes, sir.
Q No spent cartridges?
A No, sir.
Q Okay, all right. Now was the magazine on the automatic because it has a magazine instead of a cylinder, correct?
A I'm sorry, repeat that.
Q The automatic has a magazine with bullets instead of a cylinder with bullets; ——
A Yes, sir.
Q ——is that correct?
A Yes, sir yes, sir.
Q Would you be so kind to explain to the jury what I'm asking you about a cylinder and a magazine.
A Okay. This is on my own personal knowledge with firearms because I'm not a firearms examiner. A revolver uses a cylinder that revolves each time a

shot fired to an unfired cartridge. It doesn't eject those cartridges. They stay inside the cylinder until they're manually removed by the person or someone by having the gun. A semiautomatic is different because you actually load a magazine for whatever the number it can hold, and you would you insert it inside the grip of the gun. And when you fire it, first of all, you have to pull the slide back. When you pull the slide back that loads one round into the chamber taking one out of the magazine. Once that's happened take it off safety — guns don't have an external safety. You pull the trigger. The blowback from that gun, will pull the slide back, it will eject that cartridge and then in that sense it'll — or actually cartridge case, and then another cartridge, fire cartridge, from the magazine is then taken into the chamber.

Q And that's why you look for shell casings at a crime scene?

A Correct. If we find any shell cartridge cases from at a crime scene, chances are, almost 99 percent chance, a semiautomatic weapon was used. If you don't locate any, then either person released their brass, which means they picked up their

cartridge cases after they left or it was a revolver was used and they didn't eject those cartridge cases.

Q Or you just couldn't find them?

A Or we just couldn't find them. It's always that. It could be heavy in brush, I mean, or kicked, run over, picked up by a tire and carried off somewhere else so there's any number of reason why.

Q But these are the two guns that were in the trunk of that car?

A Yes, sir.

Q Okay. Now quickly go through these, State's Exhibit 12, tell the jury what that is.

A All right. This is the revolver of the gun of the revolver that was discovered in the trunk as it was before we touched it.

Q So that's where it was in the trunk?

A Yes, sir.

Q Okay, all right. State's Exhibit 13?

A Okay. Another photograph of the contents of the trunk prior to us touching anything. That's gonna be the semiautomatic that was located.

Q Okay. Now State's Exhibit 14?

A Okay.

Q Explain that to the jury to make sure everybody

sees it.
A I'm sorry, I'll come over here. This is going to be the driver's seat to the Ford Focus, and that was actually that black cover that was over the seat.
Q Okay. What was on that cover?
A It was wet 'cause it had been raining. And if I'm not mistaken, there was some suspected blood on it also.
Q State's Exhibit 15, why did y'all take that picture and what is that of?
A This is the passenger seat, front passenger seat to that same vehicle, as you can see the center console right there and then you got the black seat cover right there. And that had a significant amount of suspected blood in that seat.
Q Okay. That was where the passenger died riding?
A I don't know if he died there, but that's where we were told he had been sitting because his brother had driven him to the hospital.
Q State's Exhibit 16?
A That's gonna be the center console to that vehicle between the driver's seat and the passenger seat. There's a passenger seat, seatbelt, and cup holders, and that was a photograph of suspected blood also.

Q Okay. You can have a seat.
A (Witness complies.)
Q What pieces of evidence would -- tell me, is there anything else you noticed visually in the car that was significant or out of the ordinary?
A No, it had -- the only thing, it had a Texas license plate, and we were told that it actually belonged to the sister of the victim, victims.
Q Nothing unusual on the outside or inside of the car?
A Oh, there was some -- on the passenger's door there was a bullet, suspected bullet holes, but we were told that was from a -- it had no bearing on this investigation.
Q Okay. Did you collect anything of evidentiary value from the vehicle itself and where from?
A We collected blood swabs, or suspected blood swabs. We also collected the two handguns and their contents, and I believe that was it.
Q Okay.
A And of course the photographs.
Q Okay. And that was it as far as that Ford Focus?
A Yes, sir.
Q What did you do next?
A After we were finished processing the vehicle we

went to the hospital morgue and collected -- from the victim we collected a set of postmortem prints and what we consider, called postmortem prints, and a GSR kit and we did the GSR, go back there. GSR stands for gunshot residue. And we use a two part test that we try to collect particles that indicate a gun was recently fired from the hands of somebody.

Q And who did you do the gunshot residue test on?

A That was gonna be Ian Gause.

Q The deceased victim?

A Yes, sir.

Q Okay. Did you do any other gunshot residue test?

A No, that was the only one we did.

Q Do you know the results of that test?

A No, sir, I do not.

Q Okay. That's not what you do?

A No, sir.

Q Okay, all right. Now when you gather that you submit it to SLED; is that correct?

A Correct. After ---

Q They test it and send it back to the local agency?

A Yes, sir.

Q All right. As far as the Ford Focus, was there anything else, or the hospital, was there anything

else done by you?
A No, sir. No, sir.
Q All right. So where did you and Agent Worley go next?
A When we finished there Lieutenant Davis advised us that they had located the vehicle that Officer Bacchuss had gotten out with when he originally arrived at the initial scene on Withlacoochee. And they — he said that we need to go over there 'cause they've got the vehicle. It was in the yard at this house, and so we followed.
Q Is that Baker Street location?
A I'm sorry?
Q Was that Baker Street?
A Yes, sir, we followed him there. And they already had a search warrant, and Investigator Barr and another officer — I can't recollect his name — they were both on scene securing the vehicle.
Q Okay, all right. And so then y'all had the search warrant so you executed the search warrant?
A Yes, sir.
Q And processed the vehicle?
A Yes, sir. And in this case they had already gotten out with the people so, again, there was no question as to who the vehicle belonged to. And so

we photographed the vehicle, documented what we saw inside.
Q Who did the vehicle belong to?
A I can't recall.
Q You don't know?
A No.
Q Okay, all right. But then again, that's not, that wasn't part of your job at that time?
A No, sir.
Q Okay. And the owners or the passengers of the vehicle were not there by the time, they were already gone by the time you got there?
A Yes, sir.
Q So what did you to do process this vehicle?
A Again, photographed it, looked for any physical evidence that would tie it into the initial crime scene; and in that case we actually did locate an item that proved to be part of the scene.
Q All right. Let me show you State's Exhibit 1 through 9. If you'd look at those and tell me if you recognize and took all these pictures.
A Yes, sir, I was the one who took these photographs.
Q Okay.
A And I do recognize them.

Q All right. I'm gonna show you what's been marked State's for identification purposes Exhibit 23. I want to ask you if you recognize that and know what that is and how you know what that is.
A Yes, sir. Actually it's the item that we recovered from the, the cargo area of that jeep Cherokee, Grand Cherokee.
Q And how do you know that's the one you recovered?
A It's got my initials and the date on it and the tape. It also has my handwriting which I can obviously identify, and in the bag that it was originally placed in to be transported back to SLED headquarters.
Q Okay, all right.
MR. CLEMENTS: Your Honor, at this time we'd move State's Exhibit 23 into evidence.
THE COURT: Any objection?
MR. WILSON: No objection.
THE COURT: Without objection State's Exhibit Number 23 admitted into evidence 23.
(WHEREUPON, State Exhibit No. 23 was admitted into evidence.).
MR. CLEMENTS: Your Honor, I'd ask for Agent Hardee -- I don't want to exercise him to death, but if he can step down one more time.

THE WITNESS: No, I don't mind. Believe me, I can probably use some exercise, ain't no problem about it. I was being nice to myself.

BY MR. CLEMENTS:

Q Now that I've got you with the gloves on let me talk about the pictures real quick.

A Okay.

Q State's Exhibit 1 is what?

A This is the jeep Grand Cherokee that we were escorted to?

Q On Baker Street?

A Yes, sir.

Q State Exhibit 2, same vehicle different angle?

A Same vehicle different angle including license tag.

Q State's Exhibit 3, the same vehicle different side?

A Yes, sir.

Q State's Exhibit 4 is a picture of what?

A This is the speaker box that -- I assume that was in the cargo area -- and this is a long cylinder that when you actually pull it apart two blades are housed inside.

Q Okay. State's Exhibit 5, a closer picture?

A Closer picture of the same item.

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Q State's Exhibit 6?
A Actually what I just told y'all. So everybody can see. Starting to pull apart. You start to see the two knife blades coming out.
Q And you took these pictures?
A Yes, sir.
Q State's Exhibit 7?
A Actually this is when they've been both removed, just placed and removed from each other to where now they are two separate weapons.
Q And State's Exhibit 8?
A Just a different photograph showing the entire thing.
Q And State's Exhibit 9?
A Different angle, same picture.
Q And what is that they're laying across there?
A That is going to be the seat to the — a seat to the Grand Cherokee.
Q Now if you would please, if you will pull out State's Exhibit 23 for us.
A Okay. This is the original packaging. We package items in paper if we're gonna do further analysis to it. Like in this case it was checked for prints, got my initials and another initial there. And as you can see it has our lab number and

the item it was logged in as. A further example that this was the same item that we processed that was recovered from the scene. Once you pull it apart you have two blades, not exactly sharp but they do have a point. And again, you can tell also, you look SLED's lab number, the item number, and two initials including my own. Even when we process something we work in teams of two, that way there's usually, especially like I was in training evidence processing at the time. I was signed off as a crime scene investigator but to process stuff in the lab you have to go through another training process. In that case we have a senior agent that has already passed the processing lab to come up behind us, work with us. They add their initials to it as well just to say what Scott did was what we would have done. He was under our supervision at the time.

Q And when you first found this and saw this what did you think it was? Do you have any idea?

A No. Actually at first it was, it was a two, and like I said but you see it's got this little crease right here once you pull it you got two blades.

Q When you look at it can you tell if it's a weapon or deadly weapon at all? Can you ——

MR. WILSON: Your Honor, object to the

Solicitor testifying as to his characterizations.

THE COURT: Objection is sustained.

BY MR. CLEMENTS:

Q What happens when you pull it apart?

A Two blades are exposed.

Q Ever seen one of these before?

A No, sir.

Q Ever seen one since?

A No, sir. Again, also if you'll notice the bag itself has a identifier for what it is that we placed it in the bag. I'm usually pretty good about putting date and time that I collect it just because it helps me remember, and then we transported from lab for analysis so it stays in our custody until it's sent.

Q And they sent it back to local agency?

A To my knowledge once I finished with it it goes on to if it had a request from other departments then it goes to those. If not, it gets sent but that's not done by me.

MR. CLEMENTS: Beg the Court's indulgence a moment.

THE COURT: Yes, sir.

BY MR. CLEMENTS:

Q Agent Hardee, you said you collected GSR from Ian

Gause's dead body; is that correct?
A Yes, sir, I did.
Q Can you please tell the jury how you did that, where you did that from?
A Okay.
Q And what is the purpose of it?
A Okay. GSR which stands for gunshot residue, as I alluded to earlier, it's a test that we do. It picks up particles. There's a two part test. You have a dry test and a wet test. The dry test is basically a little — it's not a tube, but it's more like, looks almost like a little bottle. And you pull the top off it's got like a little black pad that's got like a little bit of adhesive to it and you just put it all over the hands. And it's got left hand, right hand, back and front. And so you, the one that says left back you just do that indicating). You put the top back into the bottle, put it down. Then it says left front or left palm (indicating) and you just do the same thing to the palm. Then you do the same to the right hand.

After you finish with the dry test you do a wet test. A wet test you get swabs. You get a control where you have a, I believe it's five percent nitric acid. It doesn't do any harm to the

body. You put a couple of drops on there, and you put it in a — you get two, collect two swabs from an area where you don't, you wouldn't suspect there to be any kind of gunshot residue like on their leg if they're wearing long pants 'cause normally you're not going to get gunshot even if they're shooting all day, chances are it's gonna stay on the pants but not on the leg. So we collect that sample. Then after that you get two swabs, you wet them with the same nitric acid and swab the back, swap the front, and/or again on the right hand. Finally we'll do a cartridge case if we have a cartridge case if it's not unused. When we're done with that we put all the tubes, all the bottles, back into the package. It's a prepackaged item that we get from a forensic supply company. Once we're finished with that there's a little bit of paperwork that we fill out which helps the trace department. Then we seal up the envelope, put our initials on it. It's an item of evidence and we secure it inside our vehicle like we would any item of evidence.

Q Once you collect this what are you trying to find out?

A That, we're trying to see if that person fired a weapon recently, fired a handgun recently. Whenever

you have a gun discharge a bullet it's gonna have powders and stuff that float around in the air and they should get on the person's clothing, on their hands, face, whatever. And so we do it to see if that person did, in fact, fire a weapon recently.

Q Okay. So you fire these particles come out the barrel; is that correct?

A Yes, sir.

Q Or any other crevice, crack, they can get out of?

A Yes, sir.

Q Now you collect it, you don't test it, do you?

A No, sir, that's for the trace department.

Q And when you take it back to SLED what do you do with it?

A Put it in a Manila envelope, seal it up, initial and date it. When I log it into evidence I put it in — I take it downstairs to the log-in individuals that work in log-in, and then they submit it to that department that I'm requesting that test to be done for.

Q Okay. And that's the end of what you do with it?

A Yes, sir.

Q Okay. Just out of abundance of caution, we covered three scenes you went to and processed, what you did and what you collected. Is there anything

else that you did that I failed to ask you about in regards to this investigation?

A Yeah. After we left the scene with the Jeep Grand Cherokee we went to the Marion Police Department because they had collected evidence. They collected clothing, clothing belonging to I believe Mr. Woodbury maybe, and that was collected by an officer. And then Lieutenant Smith had collected those swabs, and we took custody of those to save them of having to come up to Columbia. And we filled out a chain, and we collected those items and took them with our evidence so they wouldn't have to. Everything is kind of kept together.

Q Okay, all right. And that was it?

A That was it.

Q Okay. I appreciate that. Thank you so much, Agent Hardee. If you would please answer any questions that Mr. Wilson may have.

A Yes, sir.

THE COURT: Cross-examination.

MR. WILSON: Thank you very much, Your Honor.

CROSS-EXAMINATION

BY MR. WILSON:

Q Agent, let me, if I could, start out by showing

you some photographs which have been marked for identification. And I'm referring to Defendant's Exhibit numbers 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 3. I just ask you if you can look at those for me please, sir.

A Yes, sir.

Q All right. And can you identify each of those other than exhibit 3?

A Yes, sir, I can, as photographs that we took at the scene.

MR. CLEMENTS: Your Honor, I think number three is in evidence. Number 13, the State does not object to. Number 12, we don't have any really objection to that. Number 11, we don't object to, and 10 we don't object to. Number 9, we don't object to. Number 8 we don't object to. Number 6 and we have a matter of law we need to discuss and, also Your Honor, number 5 and number 4 we object to that on the basis of relevance. And that's it on that.

THE COURT: Can I see the photos please.

MR. WILSON: Yes.

THE COURT: All right, Defendant's 8, 9, 10, 11, 12 and 13 are admitted without objection.

(WHEREUPON, Defendant Exhibits Nos. 8, 9,

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10, 11, 12, 13 were admitted into evidence.)

THE COURT: Ladies and gentlemen, I'm gonna have to ask you to step to jury room just a minute while I take up a matter of law. Do not discuss the case. I'll get you back out here as quickly as possible.

(WHEREUPON, the jury was removed from the courtroom at 3:24 p.m., and the following proceedings commenced in open court.)

THE COURT: Happy to hear from you, Mr. Clements, with regards to your objection.

MR. CLEMENTS: Your Honor, in regards to the two photographs — I'm not sure which the numbers are again — with the Coca Cola bottle and alcohol bottle.

THE COURT: That is 4 and 5.

MR. CLEMENTS: Defendant's Exhibits 4 and 5, Your Honor, I don't see where there's any relevance. There's no grounds anybody was drunk or intoxicated. There has been comment people said he had a drink; but I think it, it's not really relevant. And if it is relevant I think it should be excluded on the grounds of prejudice, confusion, or waste of time pursuant to Rule 403.

THE COURT: Anything in response from

defense counsel?

MR. WILSON: Yes, sir, briefly, Your Honor. In regards to the liquor bottle the autopsy report will show that the defendant had consumed — I'm sorry, that the victim had consumed alcohol at some point in time prior to because it was still in his system. And in addition to that, it's already been testified to by various State witnesses throughout this process who said they saw the alcohol bottle in the car.

THE COURT: All right. Based upon what I've heard here I am going to allow State's — excuse me, Defendant's Exhibits 4 and 5. Testimony is in the record that there was a Coca Cola bottle as well as another bottle in the car at the hospital. Mr., I think Officer Smith testified he observed by looking into the window. It's already in the evidence in the record. I'm gonna allow that to go in.

(WHEREUPON, Defendant Exhibits Nos. 4 and 5 were admitted into evidence.)

MR. CLEMENTS: Yes, sir.

THE COURT: Now with regards to Defendant's Exhibit 6 and 7 I'll be happy to hear

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from the State at this time with regards to any argument on that issue.

MR. CLEMENTS: Your Honor, on exhibit 6 and 7 I don't have objection to the pictures that have previously gone in because they don't show — I think what the argument is going to be the purpose for submitting these pictures is to have some kind of argument that because the serial number was filed off of this gun it was in the trunk of the car, that that gave somehow the right to Mr. Woodbury to kill Ian Gause, which I think is kind of ludicrous. I think it's improper character evidence, violates Rule 404. The probative value is grossly outweighed by the prejudicial if anything. And I don't think also, that with a serial number was on the gun in the trunk of a car or not, no one was shot, it doesn't have any relevance.

THE COURT: Can I see these State's exhibits that are here right now please. There were some State's exhibits that already have photographs of this weapon that's depicted in Defendant's Exhibit 6 and 7 into evidence. I want to see those photographs please.

MR. CLEMENTS: Yes, Your Honor, which it makes this cumulative except for the — it's in this

group right here.

THE COURT: These are two with the ——

MR. CLEMENTS: Yes, sir. And I just would argue the ones with the serial number changed would be cumulative.

THE COURT: All right. Anything further from the State at this time with regards to argument on that issue?

MR. CLEMENTS: No, Your Honor.

THE COURT: Mr. Wilson, I'll be happy to hear from you, sir.

MR. WILSON: Your Honor, the issue is not the scratching of the serial number. If you look at those pictures what you'll see is that they're actually blowups of the gun, which shows a closer version of the guns than shown in the other photographs. The reason for that is that what I detected, or at least appear to have detected, there's some kind of red substance on the gun. And the guns were actually tested for blood and swabs sent to SLED to be examined, and I want to show the jury that there is some red substance on there. It might be rust; I don't know what it is. But whatever it is it appears to be on that gun and it was tested, and I think that I have a right to show

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the jury what was being tested.

MR. CLEMENTS: Well, Your Honor, if he's got that right he's also got the right to call this witness to tell what that is rather than argue it's blood when he doesn't know; it might be rust. That, again, is prejudicial, it doesn't — it's not probative 'cause he doesn't know what it is. And he can call whoever examined that at SLED if he wants to, and I won't object to it and he can show if it was blood on the weapon.

THE COURT: Mr. Wilson, anything else?

MR. WILSON: Just that it's not my burden, Your Honor; it's his burden, not mine.

THE COURT: Well, there was a question asked earlier of a witness, and I'm not going to say off the top of my head. I want to say it was Bacchuss, the first witness.

MR. WILSON: I think it was.

THE COURT: And the question was whether or not it was illegal to have a firearm with a scratched out serial number.

MR. WILSON: It was. That was the question asked, yes, sir.

THE COURT: And his response to that question was that it was illegal to have a firearm

with scratched out serial number. The next question or — there was no question subsequently asked whether or not the weapon that was found in the back of his car had a scratched out serial number. I don't recall that question being asked. Now I'm not — for purposes of introduction of this exhibit 6 and 7, for purposes of introducing it through this witness I'm gonna sustain the State's objection at this time based upon your prior question about the illegality of having a firearm with a serial number scratched out. State's Exhibit Number 11 and number 12 are already into evidence which clearly shows photographs of the very weapon that you are making an effort to have introduced through exhibit 6 and 7, albeit, they're opposite side of that weapon. I understand your exhibits are opposite side of the weapons that you're trying to introduce here.

I am going to sustain the State's objection. At this time I'm not gonna say that you can't get them in through another way based upon your prior question, based upon this Court's review of Rule 404, of crimes, wrongs, or acts. I'm not gonna allow it in at this time based upon that rule, all right, so I will sustain the State's objection. Again, I'm not saying they can't be admissible

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through some other avenue, but at this time that objection is sustained.

MR. WILSON: Your Honor, let me ask you this so I'm be clear. I intend to ask this witness a number of questions about swabbing these weapons for blood, for examining them for fingerprints, and I intend to go into that quite a bit. Am I forbidden based on your ruling from ——

THE COURT: No, and I in— you can ask him whether or not he knows the answer to those questions that you're going that road that you're appeared to be doing down right now. And I'm looking at State's Exhibit Number 11 and there appears to be on State's Exhibit Number 11 some red in there. Whether it's rust or whether it's blood, I don't know, but you can certainly ask this witness those very questions and ——

MR. WILSON: All right, sir.

THE COURT: Is that clear?

MR. WILSON: Yes, sir.

THE COURT: Anything else from the State?

MR. CLEMENTS: Your Honor, can we take a bathroom break.

THE COURT: Other than a bathroom break, anything else?

MR. CLEMENTS: No, sir.
MR. WILSON: Nothing further.
THE COURT: We'll stand down for a few minutes.
You can step down, but you're not allowed to discuss your testimony.
THE WITNESS: Yes, sir.
(WHEREUPON, a recess was taken from the proceedings.)
THE COURT: Anything from the State before I bring the jury back in?
MR. CLEMENTS: No, Your Honor, thank you.
THE COURT: Defense counsel?
MR. WILSON: No.
THE COURT: Bring me the jury, Mr. Bailiff, please.
(WHEREUPON, the jury was returned to the courtroom at approximately 3:43 p.m., and the following proceedings commenced in open court.)
THE COURT: Mr. Wilson.
MR. WILSON: Thank you very much.
THE COURT: You may continue, sir.
BY MR. WILSON:
Q Agent, let me start by showing you what's been

marked as State's Exhibit Number 11.
A All right.
Q Ask you if you would take a look at that for me.
A Yes, sir.
Q Now those are the two weapons that you retrieved from the trunk of the car that you found at the hospital?
A Yes, sir.
Q Okay.
A Yeah.
Q And let me ask you, did you perform any other tests on those particular weapons once you found them?
A Other than they were photographed we observed what appeared to be suspect blood on one of the guns; and if I'm not mistaken, I believe we collected two swabs at that time.
Q And which gun was it that you swabbed for the suspected blood, which of the two weapons?
A It would be the revolver.
Q The revolver, okay. Did you send those swabs to SLED for them to analyze and test to determine: One, if in fact it was blood, and if so, whose blood it was?
A Yes, sir.

Q All right. And do you have the results of that test?
A No, sir, I don't.
Q Okay. So at this point you don't know whose blood it was or even if it was blood?
A No, absolutely right.
Q Now did you test the second gun which would have been the 380? Did you also test that gun or swab it?
A I can't recall right now. I don't have any of my paperwork with me to...
Q Well, let me show you this SLED forensic — take a look at that for me if you would please, sir, and see if that will help you.

MR. WILSON: I'm sorry, Your Honor, let me mark this for identification purposes.

(WHEREUPON, Defendant Exhibit No. 15 was marked for identification only.)

BY MR. WILSON:
Q All right. Let me show you what's marked for identification purposes Defendant's Exhibit Number 15 and just ask you if you can identify that first.
A Yes, sir, this would have been —
Q Don't tell me anything about it.
A I want to make sure my — it's got my signature

there so this is the one.
Q All right.
A Know who it is, what it is.
MR. WILSON: Your Honor, I'm not really offering this. I'm simply wanting to — I'm just using it to refresh his memory.
THE COURT: You can look at it.
THE WITNESS: Yes, sir, thank you. Okay.
BY MR. WILSON:
Q All right. And so my question again was in regards to the 380 weapon. Did you also, or did someone give you swabs for that to take to SLED?
A Actually, as it says here, we — two swabs were collected from the grips, trigger, and slide ribbing of the 380 semi-auto, that if there had been suspected blood on it I would have indicated suspected blood on there so there obviously wasn't suspected blood on that gun.
Q Now in regards to State's Exhibit Number 11 which has two weapons, if you would — and I apologize Your Honor, could he come down?
THE COURT: Yes, sir.
BY MR. WILSON:
Q What I want you to do for me first is just point out to the jury which one is the revolver that had

the suspected blood on it and which one is the 380?
A Okay. This right here is the revolver that had suspected blood. This right here was the 380 semiautomatic that he just collected for DNA, touch DNA.
Q Agent, would you come down this end so everybody at the end too?
A I'll repeat everything. This right here was the revolver with suspect blood and this is the 380 automatic, semiautomatic I believe that we collected swabs just for touch DNA.
Q Thank you, sir. Now let me ask you, in regards to State's Exhibit Number 11 which are these two weapons did you make a determination as to whether or not these weapons were capable of being fired?
A That -- not by myself. They would have been sent to another department that specializes in firearm examination.
Q Okay. Did you do any kind of testing which would have been submitted to SLED for them to make that determination?
A No, sir, I would have just submitted the weapons themselves to the firearms department, and then they would have done whatever they do to see if the weapons were serviceable, fireable.

Q Let me ask you if there is, in fact, a test where you can swab the interior of the barrel of the gun to see if it were recently fired?
A To my knowledge, no. I mean, you can swab to see if there's gun powder residue in it; but it wouldn't indicate if it was recently fired unless the gun was reported to be cleaned prior to such a date. But even then I don't know how sensitive that examination would be if they could go back even further; but I mean, to age it, I don't think so. That's not my area of expertise though.
Q Okay, all right. Now where are these guns now?
A I don't know. They could either be in Marion or they can still be at SLED. Once I submit it to that department I'm done with it.
Q Okay.
A It goes from that department when they're finished with their examination. Then they'll send it downstairs to log-in. And then when Marion PD comes to pick up the evidence it may have been with that, or it could still be in log-in. I'm not sure where it is.
Q Okay, all right. So when is the last time that you would have had possession of either of these weapons?

A Let's see, okay, the -- both handguns had two examination requests placed on. One was for firearms and one was for latent prints. Latent prints would have been conducted first, and then firearms would have been done so we would have look back at paperwork to give me exact date as to when they were examined for latent print evidence.
Q Okay, so are you saying to me that they were, in fact, submitted for latent prints?
A Yes, sir.
Q So they were submitted to someone at SLED for them to make a determination as to whether or not there were for fingerprints on the gun and whether or not they could lift those print and match them to something?
A Correct.
Q Or somebody?
A Yes, sir.
Q And do you know what the results of any of those tests were?
A No, sir. That's in the latent print section of crime scene which I wasn't a latent print examiner.
Q Now you said of the two guns the revolver had five shells in it, or is it six?
A The revolver ---

Q Or do we know?
A Let's see. A revolver -- I kind of spoke all over myself. The revolver had five 38-Special caliber cartridge removed from the cylinder so that was five shot.
Q Okay. Is there a photograph when you took those five, did you take a photograph of taking those five cartridges out of the gun and separating them and taking a picture of them?
A I can't recall. If you've got one ---
Q I'm just asking.
A I can't recall from the top of my head, no.
Q All right. Do you know whether or not, do you know when bullets had been placed in that gun last ---
A No, sir.
Q ---before you took the pictures?
A No, sir.
Q Could it have been recently as 15, 20 minutes before you took the pictures?
A Sure -- that would be ---
Q An hour?
A ---who has access to the trunk of the car.
Q Yes.
A But that is following whatever happened before I

got them, it's possible.
Q Okay. Now secondly, with a 380 there was a magazine which is Defendant's Exhibit Number 11. Take a look at that for me please.
A Yes, sir.
Q And how many bullets are there?
A Six.
Q Six. And how many bullets does that magazine hold?
A Actually I can't recall.
Q Okay, all right. Do you know whether it's more than six or less than six?
A Again, I can't recall.
Q Okay.
A I don't know what the -- I believe this was a KBI. I don't know what their magazine capacity is.
Q Okay. Well, who emptied the bullets from the magazine?
A That would have been me and there were six.
Q Then was it full when you emptied it?
A I didn't have an extra bullet to check to see if it was full so.
Q Okay.
A I wouldn't be able to tell.
Q And where is that gun now you say it's still

either at SLED or ——
A With Marion PD.
Q ——or Marion Police Department have it. If you had the gun and you had the shells -- I'm sorry, if you had the cylinder and the magazine ——
A Yes, sir.
Q ——and you had the shells, you could tell us whether or not six was a full load or whether it was less than a full load?
A Yeah, if I had the gun in my possession I could.
Q But you don't have it?
A No, sir.
Q Now let me ask you in regards to — there was some talk about some blood spots being found in the yard at what, Whichlacoochee [sic].
A Yeah, I'm having the same trouble you are.
Q Let me ask you, did you take samples of whatever that substance was at Whichlacoochee?
A No, sir. We were advised that Lieutenant Smith had already collected samples from that location and so it would have been redundant.
Q Did you receive samples from the lieutenant to take to SLED to have them analyzed?
A Yes, sir.
Q All right. And do you have results from those

tests?
A No, sir, they would have been submitted to another department. I wouldn't have seen that report.
Q Okay. Now I also understand that you looked for some shell casings?
A Yes, sir.
Q Okay. And you didn't find any and it was -- this was you and Mr. Worley?
A Worley.
Q Worley?
A Yes, sir.
Q The two of you were searching ---
A Together.
Q ---for the shell casings?
A Yes, sir.
Q And did you look up under the carport area of the house where the cement is in front of the house?
A Yeah. We went up under there and looked around and we didn't see any.
Q Okay. Now there was a van parked in the yard?
A Yes, sir.
Q Now you got there at what time in the morning or -- yeah, which would have been the morning of the 30th when you arrived, correct?

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A Yes, sir, and I can't recall. It was in the morning time. I mean, it was still dark so.
Q Okay.
A But I can't recall exact approximate time.
Q And it had already rained?
A Yes, sir.
Q And the vehicle was under their carport. Could you tell whether or not the vehicle had been under the carport before it rained or after it rained, did you look to see if it was dry up under?
A No, sir.
Q All right, okay. Now let me ask you, you took pictures of the silver Ford Focus; is that correct?
A Yes, sir.
Q And why was that?
A It was at the hospital that the victim or the victims drove to, and so it became probative to that investigation.
Q You testified that there were two holes which appeared to be bullet holes in the vehicle; is that correct?
A Yes, sir, I think I said several. I'm not sure of the number.
Q Several?
A Yes, sir.

Q All right. And you also said that someone told you that it wasn't related?
A Yes, sir.
Q Who told you that?
A Again, I mean, I can't be sure but I believe it was the victim's sister who actually owned the vehicle. She was, I believe, military and stationed in Texas and we talked to her. And I actually talked to Mr. Rishawn Gause also, and I believe if I'm not mistaken it was her that told me that it was previous.
Q All right. Can I get that back from you. Let me ask you in regards to State's Exhibit 23.
A Yes, sir.
Q This item, did you perform any swab testing on that item?
A Yes, sir.
Q All right. And what was the conclusion or results of any testing that you did?
A We processed for latent prints and we processed it for suspected blood which meant we collected two swabs and then sent to DNA for analysis.
Q Sent to DNA for analysis. And did you get a result back from those tests?
A No, sir, I didn't.

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Q All right. Have you seen any kind of results from those tests from the time you submitted them till today testifying here in court?
A No, sir.
Q Did you get any result back from the fingerprint department of SLED as to whether or not there were any fingerprints on this item?
A No, sir.
Q Okay, all right. Now you're not telling this Court and this jury that this weapon was used in this case, are you?
A No.
Q All right. What you're simply saying is that it was found in the car and you photographed it and you brought it here and you tested it?
A Yes, sir, I didn't render any opinion.
Q Right. But in fact, in fact, I was asking you about the blade. You actually swabbed the blades of this item?
A Yes, sir.
Q 23, did you not?
A Yes, sir.
Q And you sent that to be tested?
A Right.
Q All right. Now did you suspect that there might

be blood on there?
A Yes, sir, I believe there's visibly suspected blood. I use suspected because I'm not sure if it is but that's what the DNA department is for.
Q And based on your visual observation you wouldn't know whether it was human blood or animal blood or even if it was rust?
A No, sir.
Q Just that it appeared to be a red liquid dark color?
A Yeah.
Q All right, just one second. Let me ask you in regards to the guns. Did you make a determination as to who owned those guns?
A The -- I didn't make a determination but when I spoke with Mr. Rishawn Gause, he did say that the semiautomatic was his.
Q Okay, all right. Did he say who the other one belonged to?
A No, sir.
Q No other questions. Thank you, sir.
THE COURT: Any redirect?

REDIRECT EXAMINATION

BY MR. CLEMENTS:
Q At this time in 2013 you were a crime scene

agent; is that right?
A Yes, sir.
Q And Mr. Wilson asked you about all these test results?
A Yes, sir.
Q What is the normal expectation for a crime scene agent who gathers evidence ever get test results back?
A We don't. The results always go to the investigator in charge of this investigation. They get mailed or emailed to them so I don't see results.
Q Thank you. No further questions.
THE COURT: Any recross?
MR. WILSON: Nothing further, Your Honor.
THE COURT: Sir, you may step down. Thank you.
THE WITNESS: Yes, sir.
THE COURT: Call your next witness please.
MR. CLEMENTS: Your Honor, we'd call Mr. Charles Wilson.
THE CLERK OF COURT: Mr. Wilson, if you'd place your left hand on the Bible, raise your right hand.
WHEREUPON,

CHARLES WILSON,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: Have a seat in the witness chair.

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q Good afternoon.

A All right.

Q Can you please state your name for the jury and tell us where you live?

A My name is Charles Wilson. I stay on [redacted] South Withlacoochee.

Q Okay. I'm gonna back up right here. I'm a little hard of hearing; but you speak so soft, I know I can hear you if these jurors can hear you okay. It's very important they hear what you say so if you don't mind, try to speak up. Tell us where you live again.

A I stay on [redacted] South Withlacoochee Avenue.

Q And did you live there on September 29th, 2012?

A Yes.

Q Who lives there with you?

A My mother and that will be it.

Q Okay. And is it just the two of y'all there?

A Stays there like every day, yes.
Q Okay. I'm gonna show you State's Exhibit Number 17. What is that?
A That will be my front yard.
Q That's your front yard?
A Yes.
Q Is that your car shed there?
A Yes, sir.
Q Okay. Charles, how old are you?
A 29.
Q How long have you lived in Marion, lived at South Withlacoochee?
A South Withlacoochee I'd say over five years.
Q Okay. How long have you lived in Marion?
A All my life.
Q All your life. Did you know Ian Gause?
A Yes, sir.
Q You know Rishawn Gause?
A Yes, sir.
Q Do you know Ky Graham?
A Yes, sir.
Q Do you know Ronnie Boatwright?
A Yes.
Q Do you know Richard Woodbury?
A I knew him not that long but I knew him.

Q Okay. How about Lamont Davis?
A No, sir.
Q Okay, all right. How long did you know Rishawn and Ian Gause? How long had you known them?
A I went to school with them.
Q Okay. How about Ky Graham, how long had you known him?
A Let's see, I knew Ky, had to be some years. He used to stay across the street from my aunt, my aunt house.
Q Okay. He'd been -- you've known him for several years?
A Yes, sir.
Q Okay. You recall what you were doing late evening in September 29th, 2012?
A I know me and Rishawn were at my house, and we was on the laptop downloading music.
Q Downloading music?
A Yes, sir.
Q Were y'all inside the house or under the carport, car shed, where were you exactly?
A Underneath the car shed. Under the car shed.
Q Who else was there kind of hanging around?
A Ron Boatwright, Ian Gause, Rishawn, that's all I can recall right now. That's all I can recall right

now.
Q Do you recall Ky Graham coming up to your house?
A Yes, sir.
Q Who did he come up there with?
A Initially when he got out the vehicle it was just him. He came up on the car shed where we were.
Q All right. So he got out of the car by himself and came up under the shed?
A Yes, sir.
Q Do you know what kind of car he got out of?
A It was a black Jeep Cherokee.
Q I'm gonna show you State's Exhibit Number 1 and tell this jury if you recognize this at all?
A Yes, sir.
Q What is that?
A Black Jeep Cherokee. I recognize, Ky got out of that.
Q Ky got out of that?
A Yes, sir.
Q He get out the passenger side or the driver's side, or do you know?
A I would assume the driver -- not the driver, the passenger side.
Q Okay, he wasn't driving?
A I assume he wasn't.

Q Okay. He came up, and did y'all have any conversation or anything?
A Yes, sir.
Q All right. Pleasant?
A Yes, sir. Yes, sir.
Q Okay, all right. Did anybody else come up next?
A Richard Woodbury.
Q He walked up?
A Yes, sir.
Q He speak to you, speak to everybody?
A Yes, sir, he spoke to everyone, except Ian Gause.
Q And do you have any reason to know why he didn't speak to Ian?
A No, sir.
Q Okay. Well, what happened as a result of that?
A I recall Ian Gause saying, you don't see me, or something like that.
Q Okay. Did they begin to fuss or argue?
A He said that and it was kind of like he just walked off.
Q Who walked off, Richard or Ian?
A Richard.
Q Okay.
A Yes, sir.
Q Walked off in what direction?

A Back towards the jeep.
Q And where was the jeep parked at, in the driveway, along the roadside, where?
A The jeep was parked right behind the van, my mother's van you see in the picture.
Q Okay, all right. And he walked back towards the jeep?
A Yes, sir.
Q Okay. What do you recall happening next?
A He walks back towards the jeep. I thought everything was over. That's when he — he said something else. He said something to Ian.
Q He said something to Ian. You don't know what it was?
A No, sir.
Q What did Ian do as a result of that?
A Ian standing all the way under the car shed. He walked towards the jeep to where he's outside the jeep at.
Q So he was all the way under the car shed——
A Yes, sir.
Q ——Ian walks out and walks towards the jeep?
A Yes, sir.
Q Okay. Then what happened?
A There was a lot of trash talking I guess, you can

say like that.
Q A lot of trash talking, smack talking?
A Yes, sir.
Q Both of them?
A Yes, sir.
Q Okay, all right. And then what did you notice happen next?
A After that -- let's see.
Q Let me ask you this question. When they start talking a lot of smack to each other what did the rest of y'all do? Did y'all try to do anything?
A At that point where they actually was like meet up like, almost meet up between them, so my back is like turned to Ian Gause and I'm telling Richard to go ahead and leave, you know.
Q Told Richard to leave?
A Yes, sir.
Q Okay. How about the rest of the fellas, were they trying to break it up too?
A I was kind of concerned more about what was going on right there so I ain't really see where everybody was at.
Q So you just got in between them?
A Yes, sir.
Q Okay, all right. After you told Richard to leave

what happened?
A They still back and forth talking trash to each other.
Q All right.
A And let's see, at one point Richard said something to Ian Gause which I try to like put my hands out like this behind me so (indicating). Ian try to actually break passed me.
Q So Ian tried to break passed you?
A Yes, sir.
Q Towards Richard?
A Yes, sir.
Q So would it be fair or not to say it was real heated?
A Yes, sir.
Q Okay. Do you have any idea what it was about?
A No, sir.
Q Okay. And after Ian tried to break passed you when you had your arms out, then what happened next?
A I kind of like turn around and like almost start to wrestle him.
Q Okay.
A That's when I noticed he had a gun out.
Q All right. Where did he have the gun at?
A He had it by his side. He never had it like up

or nothing like that. But I got my head ducked down like, I'm about to hug him like. That's when I look down I see Ian had, he had the gun out.

Q All right. Did he ever shoot that gun?

A No, sir.

Q Did he ever point that gun at anybody?

A No, sir.

Q All right. Didn't do anything, just had it down by his side?

A Yes, sir.

Q All right. What else happened?

A At that point when I notice he had his gun I kind of like moved out the way 'cause I ain't want like tackle him or something go off and I get shot.

Q So you walked, tried to walk, walk him away or you walk away?

A I walk myself from the situation.

Q Did you ever hear a gunshot?

A Yes, sir.

Q How many?

A One.

Q Where did that come from, if you know?

A Like if you standing close to that fence so it's on this side of me to my left side.

Q So you're standing close to the fence?

A Yes, sir.
Q Kind of facing the road?
A Yes, sir.
Q And it was to your left side?
A Yes, sir.
Q All right. Where was Ian at this point in time?
A Well, the gun shot -- he still behind me.
Q He's still behind you?
A Yeah.
Q So it wasn't Ian that fired the shot?
A No, sir, no.
Q Do you know who fired the shot?
A I didn't see who fired the shot, but I heard -- I don't know.
Q You heard it was who?
A It was Rishawn.
Q Okay. Did he fire it in the air or fire where?
A I'm assuming the air; I didn't see it.
Q Okay, all right. And what did that do? When he did that what did everybody do then?
A Everybody like froze, like, oh.
Q Kind of stepped back?
A Yeah.
Q And froze for a minute?
A Yeah, yeah.

Q All right. Well, after that did everybody stay frozen?
A No. Richard Woodbury like, I thought he was leaving, he was going to leave after that, but he kind of like came back talking some more junk ---
Q So he went to his truck?
A He was like by the side of the truck.
Q He was by the side of his truck?
A By the side of his truck.
Q And he came back talking more trash?
A Yeah.
Q Okay. And what did Ian do?
A Let's see. You talking about ---
Q He talking trash too?
A Yeah, he talking trash too something about like what part you at now.
Q Say what now?
A Like what part you at, like -- after I try to grab him I seen the gun, I'm out the situation, kind of went back a little bit.
Q Did Ian ever pull that gun up ---
A No, sir.
Q ---and point it?
A No, sir.
Q Okay. So what happened next?

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A After I removed myself from the situation they — and after that they like in the road really. They in the road by a light pole and they like face to face talking to each other.
Q So like nose to nose?
A Yeah, you could say that, yes, sir.
Q Bowed up sort of?
A Yes, sir, they still just talking to each other.
Q Okay, all right. Did you ever see anyone throw any punches, push anybody, ever see anybody actually start fighting other than just talking?
A In the road, no, sir.
Q Okay, all right. Well then did they move away from the road, come back towards the yard?
A Yes, sir. At that time I'm standing to the side in the road, somebody took off running.
Q Okay. Who was that?
A I couldn't really tell you. Both of them really, yes, sir.
Q All right. Then what happened next?
A After that they end up under the car shed like in front of the van.
Q So they took off running, what direction were they running in?
A They running toward back towards the house that's

under the car shed.
Q Back towards the house?
A Yes, sir.
Q And they got under the car shed or at the car shed?
A Under the car shed.
Q What were they doing?
A I couldn't tell you. I didn't see. All I can tell you that I heard like chairs and stuff moving around. I saw concrete.
Q So you heard noises. Would it be fair to say sounding like scuffle noises what kind of noises?
A Yes, sir.
Q Okay. Were they still talking?
A No, sir.
Q They were -- were they physically engaged with each other at that time?
A I assume that, yes, sir.
Q But you were ---
A I didn't see.
Q Had the van between y'all?
A I'm still behind the van. I can't really see what's going on in front of me.
Q So then what happens?
A After that, after the tussling and stuff was over

somebody shot through the backyard, and that's when I see Ian coming back from underneath the car shed.
Q Saw somebody ran through the backyard?
A Yes, sir.
Q But it wasn't Ian 'cause he came out from under the shed?
A Yes, sir.
Q What did he do?
A He was telling his brother he need to go to the hospital.
Q All right. And what happened then?
A I remember Rishawn said something like, you don't need to go to the hospital, you alright, or something. I don't know so...
Q Did they get in the car?
A Eventually they did.
Q Okay. What did they do before they got in the car?
A Ian come back underneath the car shed; and he's like, you need to go to the hospital. And he said something about, I should have shot him, or something like that.
Q Okay, all right. Did he -- did you see any blood on him or see any injuries or hear anything about any injuries?

A At the point when he said he need to go to the hospital I seen Rishawn like stick his elbow out like, I got cut or something, it ain't no big deal.
Q Rishawn said he got cut?
A Yes, sir.
Q But did you ever see any injuries on Ian?
A No, sir.
Q Okay, all right. They got in the car and left?
A Yes, sir.
Q Okay. And then did Richard come back there? Was Ky till there?
A Yeah, was Ky still there 'cause I remember apologizing to him. I don't know what's going or nothing like that, you know.
Q And Richard came back?
A Oh, yes, he did.
Q What happened then, what did he say?
A He came back and say he left something or something like that.
Q He said he left something?
A Yea.
Q What did he pick up?
A He picked up like a bamboo stick thing something.
Q Bamboo stick? I'm gonna show you State's Exhibit 23. Was it this?

A Yes.
Q This was it?
A Yes, sir. It didn't look like that though. It was broken apart.
Q It was broken apart like this?
A It was one of them.
Q It was one of them. So he dropped one of them?
A Yes, sir.
Q Did you see if he had the other one or not?
A No, sir.
Q You don't know but he came back and picked this up?
A Yes, sir.
Q All right. And after he picked it up what did he do then?
A He left.
Q He left. Who left with him?
A Ky, Ky Graham.
Q Did Ky leave with him?
A Yes, sir.
Q All right. Did you ever see what happened to Lamont?
A Lamont, during the part where I'm holding him and I'm standing behind with my arms like this Lamont actually, he actually got in the driver's seat and

told Richard let's go, get in, let's go, let's go. But I believe, I'm gonna say, when he heard a gunshot I didn't see him no more.

Q He was gone?

A Yeah, he was gone.

Q So he was trying to get Richard to go too, right?

A Yeah. Yes, sir.

Q You told Richard to go?

A Yes, sir.

Q How about Ky?

A I really don't know about Ky. I really don't.

Q Well what opportunity, if any, did Richard have to go? Did he have opportunity to leave?

A Oh, yes, sir.

Q Yes, sir?

A Yes, sir.

Q Okay. But he didn't do it?

A No, sir.

Q Now do you recall Anthony Bacchuss coming up to the house?

A Bacchuss, I don't know who that is.

Q The police officer.

A Oh, Bacchuss.

Q Yeah.

A After I came back to the house myself I seen him

in the car and I start talking to him for a few seconds.
Q Okay. Did you see him talk to Richard?
A No, sir.
Q Do you recall him asking you what happened?
A Mr. Bacchuss?
Q Yeah.
A Yes, sir.
Q All right. Was this before or after you went to Fusion?
A This after.
Q After?
A Yes, sir.
Q And did you tell him what happened, what you saw?
A Yes, sir.
Q Okay, all right. After Richard and Ky left you at your house was Ronnie still there?
A Yes, sir.
Q Everybody else had gone?
A Yes, sir, we like left at the same time really.
Q And went to Fusion?
A We went to another little club first, then me and Ronnie went to Fusion.
Q Okay, all right. When law enforcement talked to you, you remember talking to Lieutenant Flowers,

either Lieutenant Smith?
A Yes, sir.
Q Okay. Did they -- did anyone come get you out of Fusion to come talk to them?
A Actually I was in the line to go inside but somebody had pull me out, and then I had talked to them, either Flowers, I think it was him, Flowers.
Q Okay. When did you find out what happened to Ian?
A Right -- I pull out the line and talked to lieutenant. He asked me what happened. I told him what I knew and I asked about Ian. Then he said he's barely hanging on to his life then.
Q Okay. Mr. Wilson, how many opportunities did Richard have to leave before the fight ensued?
A I would say about three.
Q Three times to leave?
A Yes, sir.
Q Okay. From what you saw, you might can't tell from what you saw or could tell what you saw, but from what you saw did it look like anybody had to hurt somebody seriously?
MR. WILSON: Your Honor, I'm gonna object to that question.
THE COURT: I'll sustain the objection.

BY MR. CLEMENTS:

Q Mr. Wilson, do you have any friends here you're trying to help today?

A No, sir.

Q You have any enemies you're trying to punish?

A No, sir.

Q You telling the truth?

A Yes, sir.

Q Now you've been — have you gotten in trouble before with the law?

A Yes, sir, when I was younger, yes, sir.

Q And you got a crack distribution conviction; is that correct?

A Yes, sir.

Q And you got open container of beer or wine?

A Yes, sir.

Q That's it. That's all the trouble you've been in with the law?

A Yes, sir.

Q Okay. Please answer any questions Mr. Ralph Wilson has.

CROSS-EXAMINATION

BY MR. WILSON:

Q When was your distribution of crack?

A I want to say 2003 or -4.

Q Okay. Now that ---

MR. CLEMENTS: Your Honor, I would object if he is going to go into -- I don't think he can go into the details of the conviction.

THE COURT: Hold on. I'm gonna let him ask and he's already asked and he's gonna answer that question that he asked. He's not going into details of it. I will allow that subject to your objection.

MR. WILSON: I've already finished with that, Your Honor. I've already finished with that.

THE COURT: Okay, thank you. You may continue.

MR. WILSON: Thank you, Your Honor.

BY MR. WILSON:

Q Let me ask you know about this night that we're talking about. And so let's talk about what was going on at the house that night, okay. Now you had how many fellas up there? How many guys were under the shed that night when you say Richard showed up along with two other fellas? How many people were there?

A Let's see, I know that I was there. Rishawn was there, Ian was there, Ron Boatwright was there, and that's really all I can recall. Oh, my cousin Tywan

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SW - C. WILSON - CROSS

Grisham was there.
Q So that's five of y'all and then three more shows up?
A Yes, sir.
Q So now there are eight, right?
A Yes, sir.
Q And when you knew when they showed up, that is, when Mr. Woodbury showed up with Lamont Davis and Ky Graham, you knew Ky Graham, right?
A Yes, sir.
Q And y'all were friends?
A Yes, sir.
Q But now you were better friends with Rishawn Gause and Ian Gause, right?
A I mean, about the same type of friends.
Q Well, you didn't know Mr. Woodbury hardly, did you?
A No, sir.
Q And you didn't know Mr. Lamont Davis at all?
A No, sir.
Q All right. So you weren't friends with them?
A No, sir.
Q Right?
A Yes, sir.
Q Okay.

A That's right.
Q And so your buddies were at your house and then Woodbury and two other fellas show up. Now let me first, let me ask you about the van. There was this van that was parked in the yard, correct?
A The van parked in the yard?
Q Yes, sir.
A That's my mother's van.
Q Let me show you what's marked as Defendant's Exhibit Number 1. Let's show you what's marked as Defendant Exhibit Number 1.

MR. WILSON: Your Honor, can I stand this way, is that all right?

THE COURT: Yes, sir.

BY MR. WILSON:
Q This van, where was this van parked that night when all this fighting or commotion or whatever it was that was going on, where was this van?
A The van was under the car shed.
Q Well, if the van is under the car shed, where are you, where are you and the other five guys?
A We were in front of the van.
Q Where?
A In front of the van.
Q So you're saying that the van was parked just

like it is in this picture and y'all were in the front of the van up there; is that what you're saying?

A No, I can't see the van parked just like it is in that picture.

Q Well, that's my question, is do you know where it was parked?

A Not exactly, but I'm quite sure it was pulled halfway under or we had space to be in front of the ---

Q So the van wouldn't have been here. It would have been further back. Would you agree with that?

A Yeah.

Q Okay, all right. Now so if the van was pulled further back and the five of y'all are sitting up under there, you say, making music?

A Yes, sir.

Q And y'all making anything else other than music?

A CDs. About to put on CDs, yes, sir.

Q And why was it that Mr. Ky Graham, why was he coming to your house?

A I guess come see what the plans were for the night.

Q Okay. Now so when he comes and Richard gets out of the vehicle, is that what your testimony is, and

comes up to where the five of you are, right?
A You say who comes?
Q Richard, Mr. Woodbury?
A When he comes, he gets out the vehicle, he comes up to where we are.
Q He comes up to where you are and he gets you, right?
A Yes, sir.
Q What does he say? What was his words to you under the thing? What did he say?
A I can't recall exact words.
Q I mean, did he say what's up or?
A To something to that effect, yeah.
Q Okay. Well did he single each individual out who was up under the porch and point to them and say, what's up with you Charles Wilson, what's up with you Mr. Boatwright, what's up with you, or did he just say what's up guys, what's going on?
A I mean, me singled every two, three, like close by them, handshake. You know what I mean.
Q Okay, so he came out, he made general greeting, then he shook hands with people?
A Yes, sir.
Q And then Mr. Ian Gause wanted to know why he didn't shake his hand?

A Yes, sir.
Q And at that point had Mr. Woodbury done anything to Mr. Gause?
A Yes, I seen ---
Q He just came up and was speaking, right?
A Yes, sir.
Q Ain't no question about that, is there?
A Yes, sir.
Q And at that point you didn't see no knife, did you?
A No, sir.
Q Right. Now in fact, the truth of the matter is the first person you saw with a weapon, a gun, was your friend Ian Gause; isn't that right?
A The first person I seen with a weapon that night?
Q Yes.
A Yes, sir.
Q Yeah. Yeah. And he had it in his hand; didn't he?
A Yes, sir.
Q Down by his side?
A Yes, sir.
Q And he had just been arguing at Richard, right?
A Yes, ma'am -- I mean, argue first, yes.
Q And you say that, well, you know, I told Richard

he could have left. Well, did you try to stop Mr. Gause, Mr. Ian Gause, from shooting him in the back if he left?

A I mean, I'm not knowing that he had a gun, my back turn to him and I'm between the two, I mean, yeah, I could have got shot in the back.

Q No, I'm asking you. Mr. Woodbury could have got shot in the back if he had left; couldn't he?

A No, I don't think so, I mean.

Q You don't think so?

A No, sir.

Q So you just think he had the gun out for fun? Is that what you think?

A He didn't use it.

Q Well, is that a normal thing when they come around your house they pull out guns and just kind of hang around with them? I mean, is that how it goes?

A No, that's not normal.

Q Not normal. And it wasn't normal when he pulled this gun out, was it, right?

A When somebody is arguing and it gets heated like that, that's not normal.

Q Let's talk about this, how -- when you were under the shed originally the lights were on. When y'all

were first out there, as you say, making music there was a light up in the little shed; wasn't it?
A Yes, but it's kind of daytime, night time.
Q But the light got off at some point. Who turned off the light?
A I have no idea.
Q But the light mysteriously goes out before the fighting starts or right during the time the fighting starts; does it not?
A I couldn't tell you exactly when the light go off.
Q Well, it's your house, these are your friends, you're in control of this premises, right?
A Yes, sir.
Q And these guys are starting to fight. Did Richard go in your house and turn off the lights?
A No, sir, we all outside so who turn off the lights?
Q Well, that's my question, do you know who turned them off?
A No, sir.
Q Okay. Now do you know what kind of gun it was that Mr. Ian Gause had that night?
A No, sir.
Q Do you know the difference between a revolver and

a semiautomatic?
A Yes, sir.
Q Okay. And do you know whether or not he had a revolver and/or semiautomatic?
A I haven't seen then till time I regulate the fight stop them from getting past.
Q And at the time you tried to stop him from fighting and then you said when you tried to stop them he had the gun, he just pushed past you; didn't he?
A I couldn't let him go past me, noticed he had the gun.
Q Yeah, 'cause why?
A If I have wrestled him to the ground I could have got shot.
Q You could have got shot and you could be dead, right?
A Yes, sir.
Q And so you are afraid enough of him and his having that gun that you weren't willing to jump on him and try to stop him from hurting Richard, were you?
A No, sir.
Q No, no. And the reason you weren't was because you knew that he might shoot you or you might get

shot in the process, right?
A I'm not saying he would shoot me but knowing anything happen once you hit the ground, the gun hit the ground, you know what I mean.
Q Anything can happen when you have a gun in your hand and alcohol in your system, right?
A I mean, I don't know about that.
Q Okay. Were you drinking that night?
A Yes, sir.
Q Okay. And was there other people up there drinking that night?
A I believe so.
Q Okay. Now you said at one point that Richard and Mr. Gause ended up all the way out into the road.
A Yes, sir.
Q All right. Now is this before or after Mr. Gause pushed past you with the gun?
A End up in the road. That's when I removed myself. I seen the gun, removed myself in the situation so they in the road face to face d.
Q Okay. And at that point they're in the road face to face. Now the road is actually leaving your house, right?
A I mean, leaving the driveway, yes.
Q Leaving the driveway. So there's no question

that Mr. Woodbury is headed out to the road. And Mr. Gause doesn't stay in the yard with you, he goes out into the road with Mr. Woodbury; doesn't he?
A I guess so; I don't know.
Q Well, you just said he was out there.
A Yes, sir.
Q And he had that gun. So he couldn't leave because he was following him already with his gun; wasn't he?
A I mean, he could have left though.
Q He could have left? How?
A Before they end up in the road.
Q 'Cause he ended up in the road leaving your house. That's how you leave your house, get on that road and get out of there.
A I mean, it seem like he was standing -- as long as I would stay between them it's like he was going to stay there.
Q Yeah, well, and you were standing between them, what was to prevent Mr. Gause from just raising his hand and shooting him as he turned and walked. What was to stop him? You said you weren't going to stop him, right?
A I mean, I didn't see him have a gun out with my back turned to them. I'm between them so.

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Q Let's talk about this. Let's talk about where was Rishawn Gause? When all this is going on where is the brother? Where is Rishawn Gause during this incident, where is he at?
A I mean, he's there, but I don't know exactly where he's at 'cause at the time I'm trying to calm the situation down 'cause my mother is in the house asleep, you know what I mean.
Q Well, was he trying to calm it down? Now this is his brother who's in this altercation in your yard and you're saying that he's there. Where is he? Is he trying to hold back Richard or hold back Ian?
A I mean, I don't know.
Q No. Well, in fact, what you told the Solicitor earlier was that as some point he went and got a gun and was shooting, right?
A I didn't say he got a gun and shooting. I ain't said that.
Q Right. So now both brothers got a gun, both brothers got a gun, and at that point nobody had been stabbed. But that wasn't enough, was it, for Ian Gause and Rishawn Gause because they both now had guns; and at this point you hadn't seen any weapon at all with Mr. Woodbury, had you, at that point?

A At which point?
Q At the point where Mr. Gause and Mr. Woodbury were in the road?
A Mr. Gause and Mr. Woodbury in the road?
Q Yes, sir.
A I haven't seen Mr. Woodbury with any weapon.
Q Right.
A No, sir.
Q All right. That's right. Now let's talk about when Mr. Rishawn Gause fires the shot. And you say that there was just one shot?
A I only heard one shot.
Q Well, now you were out there the whole time and you only heard the one shot?
A I only heard one shot.
Q Okay, all right. And where did Mr. Rishawn Gause get his gun from?
A I didn't see who shot the shot so I don't know if it was him that shot the shot. I mean, just assuming really.
Q Okay, so you don't know who fired the shot?
A I know it wasn't him 'cause he behind me.
Q You know it wasn't who?
A Ian Gause 'cause he's behind me.
Q You knew it wasn't Ian Gause?

A Yeah, because he was probably ran when it shot.
Q So you don't know who fired the shots?
A Not exactly. See ——
Q It wasn't Mr. Woodbury, was it?
A No, sir, he was in front of me, he probably shot.
Q You know it wasn't Mr. Woodbury; you know it wasn't Ian Gause. Now so let's go back to the lights again. The lights go out but we don't know how they went out, right?
A That's correct.
Q And actually, that's when whatever happened happened, right? When the lights went out, somebody turned off the lights, the lights go out ——
A I couldn't tell you the lights was on when they actually run under the car shed or they were off. I couldn't tell you with what was going on, I mean.
Q Okay. Now let's talk a minute about the location of these vehicles. There was the van that we described, that gray van which was up under the carport, right? But it wasn't all the way up under the carport, was it?
A I couldn't, I can't recall that. It was ——
Q Well, you had to have enough — I'm sorry, you had to have enough room under the carport for you and your five friends to be hanging out, right, or

four friends, right?
A Yeah, if you stand up, yes, sir.
Q And were y'all sitting or were y'all just all standing up or how, what were y'all doing?
A Sitting on the side kind of got space to sit on the side close to the house; but like in front, you probably more most likely standing up.
Q Probably most likely standing up. Now was anybody parked behind the gray van?
A The gray van?
Q Yes, sir.
A The black Cherokee was behind.
Q When Mr. Woodbury came up they parked behind the gray van, right?
A Yes, sir.
Q The black Cherokee would have parked behind the gray van?
A Yes, sir.
Q Okay. Now would the end, was anybody parked behind Mr. Woodbury's car?
A No, there was no car behind him.
Q There was no car back there.
A No, sir.
Q Now how far from the edge of the road 'cause he's got a short driveway. What is your driveway, 30

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feet?
A I never thought about that.
Q Well, how many cars can you park in the driveway before you get to the highway?
A As far as that driveway I only park two; but you can like catty corner three way, you know.
Q Okay. Maybe able to squeeze three in there. And so we know that the van was parked there. We know that based on your testimony that the black jeep was parked there. Was there any vehicle behind the black jeep?
A No.
Q All right. What kind of car did Mr. Ian Gause and Rishawn Gause arrive in?
A They were in a Ford Focus.
Q Ford Focus. Where was the Ford Focus parked in relationship to the driveway?
A They on the grass beside like on the grass right off the main driveway.
Q Okay, so they were on the grass. And let me show you again, this is Defendant's Exhibit Number 1. Can you show me where they would have been parked in relationship to the van and the car that you said, the black jeep?
A Well, it was go a little bit further.

Q Okay, so it'd be on the other side?
A Yeah, you can't really see the grass right there.
Q So they would have been parked on this side of the house over here on the grass?
A Yeah, that's how the picture is.
Q Okay, thank you, sir. Now as I understand it, you left after -- well, let me back up just a minute. At some point in time when all this was over and you said that Mr. Rishawn Gause and Mr. Ian Gause, Mr. Ian Gause said he wanted Rishawn to take him to the hospital?
A Yes, sir.
Q Is that right?
A That's correct.
Q Now where was Mr. Woodbury when that conversation took place?
A I didn't see him so I'm thinking he probably was the one took off to the back house, the back yard.
Q You think he was the one that ran. In fact, ran and you say left after the weapon that he was supposed to be trying to use, right?
A Yes, he came back and got them.
Q Because knives don't work too well against guns, do they?
A Evidently, sir, I don't know.

Q He left. Then you say that Mr. Rishawn Gause and Mr. Ian Gause then got in their vehicle and they left, right?
A Yeah, Ian was shot.
Q I'm sorry?
A I said Ian Gause and Rishawn left to go to the hospital.
Q Now at that point you don't know how badly Mr. Ian Gause is hurt, do you?
A No, sir.
Q All right. And as far as you know Richard doesn't know either, does he, as far as you knew?
A As far as I know.
MR. CLEMENTS: Your Honor, I object to speculation. How could he know what Richard knew.
THE COURT: I'll sustain the objection.
MR. WILSON: All right.
THE COURT: Rephrase your question.
MR. WILSON: Yes, sir.
BY MR. WILSON:
Q Let me ask you this, did you see Richard later on at the club Fusion, or whatever the name of the place was?
A Yes, sir.
Q So when you left the house what time did you go

to club Fusion?
A I couldn't give you the time because we went somewhere else before we went to club Fusion.
Q And if you had known that your friend was hurt critically you wouldn't have gone out to the club, would you?
A I mean, no, sir.
Q No, sir. And you didn't know that. You didn't -- honestly, you didn't know how he was, right?
A I didn't know he was, how bad his injuries were.
Q Okay. And now so you went out to the club and when you got out there you saw Mr. Woodbury. Was he there before you got there, or did he come after you got there?
A I honestly couldn't tell you. I mean, when I got there I ain't really seen, I ain't seen him when I was there.
Q You didn't see him anymore that night?
A No, I seen him in the club, but I don't know what point where he got there or what --
Q You just don't know when he got there?
A Yea, I don't know if he was there or I was there first or he was there first, I don't know.
Q Did y'all have any conversation at the club?

A Let's see, he said something to me but I wasn't really trying to hear it 'cause I was concerned about my friend. By that time I had done got pull out the `line before I got in the club so I was thinking about wondering how he was doing 'cause he said -- the lieutenant who I talked to, said he was in critical, you know what I'm saying, he say he was critical.

Q So at that point when you got to the club an officer stopped you or had you come out of the club, and then he told you that he was in serious condition?

A No, I wasn't in the club. I was in the line to go in the club.

Q Okay.

A I was pulled out of the line.

Q So they pulled you out of the line and then you went and talked with the officer, and that's when you learned?

A Yes, sir.

Q What time of night is this now?

A What time of the night is this?

Q Yes, sir.

A I don't know what time.

Q Was it after midnight, do you know?

A I mean, I don't know.
Q You don't really know? Okay, it's okay. Now let's go back to you say that Mr. Woodbury had -- you think it was him -- ran around the back of the house and ran so fast that he left the knife. He comes back, right? After Mr. Ian Gause and Mr. Rishawn Gause leaves he comes back, right?
A Yeah, he comes back. They're gone when he comes back.
Q And you're still there. Who else is there when he comes back?
A Mr. Ronnie Boatwright.
Q All right. There's the two of you?
A Yes, sir.
Q All right. And did y'all have conversation at that point?
A Conversation with who? Did I have a conversation with Woodbury?
Q Yes.
A Yeah, he said something about he left something, he dropped something.
Q Okay, all right. And that was it? And he picked up what he left and left?
A That's all I can recall like saying. There's some other words but I can't recall what everything

he was saying.
Q His car was still there, right, when he came back?
A I believe, yes, sir. Yes, sir, I believe so. Yes, sir.
Q Because when he left, he left in the jeep, right?
A I believe so.
Q All right. And now let me ask you in regards to -- well, let me back up. When did the -- you say that the police came and talked to you that night. Did you ever give a statement to the police?
A Like written?
Q Like a video tape statement or like a written statement saying what you saw, heard, done that night?
A Let's see, I can't.
Q Before today I'm talking about?
A I'm trying to think. I don't remember. I don't think I remember writing a statement but I can't remember. Let's see, video -- I can't remember. I can't recall, man.
Q As far as you know you don't recall giving one before now?
A I mean, I don't recall giving one or not.
Q Okay, all right.

MR. WILSON: No other questions, Your Honor. Thank you.

THE COURT: Any redirect?

MR. CLEMENTS: Just briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q I want to be sure I understand this. Defendant's Exhibit 1 here, what's back there towards there in front of where that van is parked?

A The fence part, it's a chair like this. It's like two right here in front of that van and behind that chair is a table.

Q Okay. So you got chairs and a table back there in front of that van?

A Yes, sir.

Q All right. 'Cause Mr. Wilson kept asking you about the van being pulled, not being pulled all the way in. Is it true or is it not true that that van being pulled all the way in you still got room in front of it?

A Yes, sir.

Q That's true?

A Yes, sir, it is.

Q Okay. So the van could have been pulled all the way in?

A Could have.
Q Okay. And y'all would have still had room for all five of you with the chairs and the table and stuff?
A Yes, sir.
Q Okay, I just want to clarify that. Was there any trouble or was there any disagreement that night before Richard Woodbury showed up?
A No, sir.
Q None?
A Before Richard got there it wasn't no -- everything was going smoothe.
Q Everything was going smooth, all right, thank you.

MR. WILSON: Nothing further, Your Honor.

THE COURT: Sir, you may step down, thank you.

Can the lawyers approach a minute please.

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

THE COURT: Ladies and gentlemen, what we're going to do at this time, it is about ten till five, okay. Rather than call the next witness and possibly be here longer than I told you I usually like to go that is beyond 6:00, I'm going to break

for the balance of the day. We have the lawyers here have done a lot of work today. We've gone through a lot of witnesses. Will remind you over night break do not discuss this case. Do not discuss this case. Do not do any independent investigation on your own. You're to decide this case based solely, based solely upon the evidence that's introduced during the course of this trial and testimony from this witness stand and nowhere else. Anything else from the State before I release the jury for the balance of the day?

MR. CLEMENTS: Thank you, Your Honor, no, sir.

MR. WILSON: No, sir, Your Honor.

THE COURT: All right. Ladies and gentlemen, I'm gonna ask you be here 9:30 in the morning, Mr. Clements?

MR. CLEMENTS: Yes, sir.

MR. WILSON: Thank you very much. Yes, sir.

THE COURT: I'm gonna ask you be here 9:30 in the morning and we will resume the trial of this case as close to that time as we can, okay. You all are excused everybody. Else remain seated while this jury exits the courtroom.

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(WHEREUPON, the jury was removed from the courtroom at 4:50 p.m., and the following proceedings commenced in open court.)

THE COURT: Anything from the State before we break for the balance of today?

MR. CLEMENTS: No, Your Honor.

THE COURT: Defense counsel?

MR. WILSON: Nothing, Your Honor.

THE COURT: I would ask court personnel and lawyers be back here no later than 9:15 in the morning so any matters we need to take up before the jury comes out we can do so. I've told you I don't like to make them sit back and wait any longer than they have to. If you all will be back here 9:15. I will see you then.

(Court adjourned at 4:50 p.m. and resumed on February 20, 2004 at 9:30 a.m.)

THE COURT: Mr. Clements, Mr. Wilson, can y'all approach a minute please.

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

THE COURT: I've been informed that one of the jurors has not made it yet. I was just informed of that. Let me know that next time before I make it in here. So what I'm gonna do is I'm gonna stand

down. I'm gonna ask law enforcement to locate, find where he is. Let me know when y'all find out something.

(WHEREUPON, a recess was taken from the proceedings.)

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

MR. CLEMENTS: No, Your Honor.

THE COURT: Defense counsel?

MR. WILSON: No, sir.

THE COURT: All right, if you'd bring me the jury please. It's my understanding we got all the jurors.

(WHEREUPON, the jury was returned to the courtroom at approximately 9:53 a.m., and the following proceedings commenced in open court.)

THE COURT: Madam forelady, I hope y'all had a good evening last night and we're ready to proceed with the trial of this case.

At this time I'll recognize, Mr. Clements, call your next witness please, sir.

MR. CLEMENTS: Thank you, Your Honor. If it please the Court, we call Doctor Nicholas Batalis.

THE CLERK OF COURT: Doctor, if you'd place your left hand on the Bible, raise your right hand.

WHEREUPON,

NICHOLAS BATALIS,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: Thank you, sir. You may sit in the jury box [sic].

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q Doctor, could you please state your name and spell it for the record?

A My name is Nicholas Batalis, B-A-T-A-L-I-S.

Q And where do you work doctor?

A I work at the Medical University of South Carolina in Charleston, South Carolina.

Q And how long have you worked there?

A I've been employed there for just under six years.

Q And in what capacity?

A I'm employed there as a forensic pathologist.

Q Can you please tell the jury what a forensic pathologist is and how that is different from other doctors?

A Sure. Forensic pathology is field of medicine that specializes in really the legal aspects of medicine. Specifically, the main duties of our job is performing autopsies after someone has died which is an examination to determine in what manner they died.

Q Could you please tell this jury about your educational background.

A Sure. After finishing high school I went on to four years of college up at Butler University in Indiana. Following that to four years of medical school also in Indiana. After finishing medical school then came down to Charleston MUSC for four years of training in general pathology after which I became board certified. General pathology involves examining tissue to determine if there's cancer or not cancer. Helping your doctor interpret if you get any blood test drawn, the pathology would be the one that would help them interpret those values. So after completing that four year general training I then went on to one year specialty fellowship in Dallas, Texas, where it was just one year specializing in forensic pathology. After finishing that I became board certified again and then came to work at MUSC.

Q Are you a member of any professional organizations or honorary organizations?
A Yes, I'm a member of several national pathology and forensic pathology organizations as well as a couple local ones.
Q Have you ever been published?
A Yes, several times.
THE COURT: Hold on a minute, Mr. Clements. You may continue.
BY MR. CLEMENTS:
Q Approximately how many autopsies have you performed?
A Approximately 1500 autopsies over the last several years.
Q And have you ever been qualified to serve as an expert in the field of forensic pathology in either state or federal court?
MR. WILSON: Your Honor, I would stipulate that Doctor Batalis is imminently qualified to testify as an expert in the field of forensic pathology.
THE COURT: Anything further you want to ask him, though, Mr. Clements?
MR. CLEMENTS: Just to answer the question I just posed.

THE WITNESS: Yes, I've been qualified in the state of Texas, North Carolina, and South Carolina.

MR. CLEMENTS: Your Honor, I would submit him as an expert in the field of forensic pathology.

THE COURT: All right, let me give this instruction to you all, ladies and gentlemen. Normally, ladies and gentlemen, a person cannot give opinion testimony. Normally when a person testifies they must testify as to what they either saw, heard, or sense by smell or something of that nature. However, there is an exception when someone is qualified because of education or experience. They are permitted to give their opinion in certain areas if the Court qualifies them that way. This witness will be qualified as a forensic pathologist to give opinion testimony in that area. That does not mean that you must accept the opinion because it is evidence for you to use in any way that you see fit or give it the credibility that you believe is appropriate.

All right, Mr. Clements.

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

BY MR. CLEMENTS:

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Q Did you have the opportunity to perform an autopsy on Mr. Ian Gause?
A Yes, I did on September 30th, 2012.
Q And did you perform an autopsy on him?
A Yes, I did.
Q At that time did you -- were you able to determine to a reasonable degree of medical certainty in your field of expertise what the manner of death was?
A Yes, I was.
Q What was that manner of death?
A The manner of death was homicide.
Q And to a reasonable degree of medical certainty in your field of forensic pathology were you able to determine what the cause of death was?
A Yes, I was. The cause of death was a stab wound of the trunk.
Q Can you tell us in your field what does the term homicide, what does that mean, what's the definition?
A Sure. When we talk about the manner of death it's how the death came about. So a, for example, a stab wound, it -- we have one manner of death, it would be natural. It wouldn't qualify for that. We have accidental manner so typically a car accident,

may be a drug overdose, something unanticipated. Suicide is when one would choose to take their own life. We reserve homicide as the manner of death when a death comes back as a result of the hands of another person. That's why it was chosen in this case.

Q And you determined this to be homicide ——

A Yes.

Q ——by the stabbing?

A Yes.

Q Okay. Can you please explain for the jury the nature of Mr. Gause's wounds and where they were.

A Sure. He had — the decedent had two more significant wounds and two fairly minor wounds. The first wound he had was an injury on the upper right side of the chest which I qualified as an incised wound. So when a wound is made with a sharp object, whether a knife, a blade of glass, we either qualify it as an incised wound. If the wound is longer than it goes deep, so if it's two inches wide and a half inch deep it would be an incised wound. So the wound on the upper right of the chest was incised wound. It was about a inch long, and it went about a half inch into the muscle, did not penetrate into any of the organs to really cause any significant

bleeding.

The major injury that he had was a stab wound so a sharp force injury that went deeper than it was wide. So he had a stab wound left side of the chest centered right on the left nipple. So this wound, the stab wound was about an inch long centered directly on the nipple. The knife then after perforating through the nipple went through the muscle of the chest, went through one of the ribs, s went through the sack that wraps around the heart an then into one of the big blood vessels that drains the blood back to the body. As a result of that there was abundant, lots and lots of bleeding that spilled into the chest cavity which resulted in his death.

Q So would it be fair to say that he bled to death as a result of the stab wounds?

A Yes.

Q About how long, do you have an opinion to a reasonable degree of medical certainty in your field as to about how long it would take for someone to have a wound like that and to then expire?

A It's gonna vary to some extent. This wound didn't -- it depends whether you hit a blood vessel that is an artery which is one that's squirting out,

or a vein which is one that's draining blood so it's a little bit slower though. This one did hit the big vein drawing back so this isn't a wound that you would suspect to die within, you know, seconds or a minute or to, but anywhere between several minutes and a couple of hours for enough time for that blood to build up.

Q Okay, all right. I'm gonna show you what's been marked as State's Number 23. I'm gonna ask if you have an opinion to a reasonable degree of certainty in your field that the wounds that you observed in Mr. Gause, would they be consistent with being caused by a weapon such as this?

A They could be.

Q Okay. Now you described the wound to the chest on the right side and wound to the, around the left nipple that was the most significant wound; is that correct?

A Yes.

Q And you said there were two other ones?

A Yes, there were. The other wounds were fairly minor. There was a very small so one eighth of an inch so less than a quarter of an inch, very small superficial incised wound. So just a very superficial cut that was on the right wrist on the

front surface of the right wrist. And then there was a scrape on the left thumb about a half inch, a relatively small scrape on the back of the left thumb. Those were the only injuries that we saw.

Q Is there a term that would characterize those types of wounds such as — or could those be characterized as defensive wounds?

A They could be. The term defensive wounds can be used to injuries on the hands, arms, or even sometimes the legs if it was used in a position of block.

Q Okay. And would that be consistent with these wounds?

A These could be.

Q Okay. Now did you also do a toxicology on Mr. Gause?

A We did. As part of the autopsy process we collect blood and body fluids from the decedent and we send them to a national laboratory where toxicology testing is performed. And we did do that in this case.

Q And what were the results of that, Mr. Batalis?

A The results was, we tested his blood, positive for a relatively small amount of delta 9THC, or marijuana. He was also positive for alcohol with a

blood alcohol concentration of 0.04, which is about half of the legal limit. He also ---

Q So he would have been all right to drive with this type of blood alcohol level?

A Yes, sir.

Q Okay.

A Additionally he had three medications on board, morphine, codeine, and rocuronium. The last I'm fairly confident was part of being resuscitated and treated often, a drug that's used when they go to intubate somebody, give them a tube to help their breathing. The morphine and codeine may have been administered during the resuscitation, or it could have been used by the decedent beforehand.

Q Okay. So but he had like .04 blood alcohol level for alcohol?

A Yes.

Q And very minor THC which would be marijuana?

A Yes.

Q Okay. Nothing else of any significance there in that toxicology report?

A No.

Q Okay.

MR. CLEMENTS: Beg the Court's indulgence one moment.

THE COURT: Yes, sir.

MR. CLEMENTS: Doctor Batalis, we appreciate you coming this morning. Please answer any questions Mr. Wilson has.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. WILSON:

Q Doctor, let me ask you this, in conducting the pathological exam did you make a determination as to how tall and how large a man Mr. Gause was?

A Yes, we weigh and measure all of the decedents as part of the autopsy.

Q Okay. And what was his weight?

A His weight was 186-pounds.

Q Okay. And what was his height?

A His height was 79 inches which would be 6-foot 7-inches.

Q Okay. So he was a pretty big fella?

A Yes.

Q All right. And now let me ask you, you were talking about the alcohol and the marijuana. Now based on your understanding he would not have been intoxicated with what you see from your exam?

A Yes. At a .04 everybody will handle alcohol differently but should not be overly intoxicated in

that.
Q He could still legally drive if he was, as the Solicitor suggested, he could drive if he wasn't drunk enough that he couldn't drive a vehicle ——
A Right.
Q ——in the state of South Carolina. And you said that the amount of marijuana that he had in his system was relatively small as well, right?
A Correct.
Q All right. Now is there any way for us to quantify that like we do with the alcohol and ——
A We can't quantify it with the marijuana. There is a parent drug and then the breakdown product of the drug that. We do see the parent drug like we did in this case you feel pretty confident it was used within minutes to hours before he died so that's really the only thing we can do to quantitate it because we know he used it and approximate to his death. It wasn't a day before or two days before.
Q So he would have used the marijuana within minutes to hours before he died?
A Yes.
Q Okay. Now let me ask you, there was some other scars on the body, did you find some other scarring on the body?

A We did.
Q All right. And was that scarring from this incident or could you tell?
A No. When we talk about a scar it indicates that it's happened in the past. Usually takes, you know, at least several weeks to form a good scar. Once it gets beyond a few weeks I can't tell if it was two months ago or 20 years ago, but these scars did not happen from this incident.
Q Okay. Tell us about those scars.

MR. CLEMENTS: Your Honor, I object to that on the basis of relevance. I don't see anything it has to do with the cause of death or any injuries sustained in this incident.

THE COURT: All right.

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

THE COURT: Objection is sustained. You may continue, Mr. Wilson.

BY MR. WILSON:
Q Let me ask you, you said that -- let me go back and ask you this. Let's talk about the wound that you say was the most serious of those wounds. And now in your report you said that this wound was made, I think you said, the approximate depth is

five-and-a-half inches. Pathway is from front to back upward and to the left; is that correct?
A It was correct. The last went it was front to back, upward, and from left to right.
Q Okay.
A So traveling towards the decedent's midline.
Q Let me ask you if, if you would just take that for me.

MR. WILSON: And Your Honor, I'm referring now to portions of State's Exhibit Number 23 which is the knife.

BY MR. WILSON:
Q What position would that knife have had to have been in to make that wound on a person the size of Mr. Rishawn Gause -- I'm sorry, Mr. Ian Gause who was 7'2".

THE COURT: What is that?

MR. WILSON: 6'7".

THE COURT: Thank you. I'm sorry.

MR. WILSON: I apologize.

THE WITNESS: Yeah, he was 6'7". And to be honest, the relationship of the knife to the body would be the same whether it was 4-feet or 8-feet so it's coming from (indicating) front to back. It's moving upward and then moving toward the midline so

essentially it would be coming (indicating) at an angle about like that.

BY MR. WILSON:

Q Okay. So let me ask you this, if — and you can sit back down if you would. If a person was laying down on his back with that knife and if Mr. Ian Gause was over that person, would that be consistent with that kind of wound if he was leaning over him or falling over him?

A If the decedent was falling over?

Q Yes. Standing over him leaning over him as he is on the ground with this knife up towards him.

A That's one way it could occur, again, the relationship that I spoke of it doesn't mean they're standing vertical. It could be up in the air, it could be on the ground, but the knife had to be coming from that angle.

Q Okay, all right. Now you're not — you're saying that the cause of death is homicide; and by that, that simply means that in your interpretation he didn't take his own life essentially?

A You're referring to the manner of death as homicide.

Q Yes.

A Yes. I'm saying that the death was due to

actions of another individual.
Q Okay, all right. Bear with me just one second.
THE COURT: Yes, sir.
BY MR. WILSON:
Q Just let me ask you one other thing. You indicated in your report that there was Morphine and some other drug found. What was the other one?
A Morphine, codeine, and a drug called rocuronium.
Q And you attribute that to fact that he was being treated at the emergency room and that those drugs may have been used there, is that?
A The rocuronium almost certainly. There's really no other setting that we see that outside of people being treated. The morphine and the codeine are drugs that could have been used in treatment or could have been used before he was at the hospital.
Q And we don't know that?
A Yeah, I don't have hospital records to see whether he was administered those particular drugs.
Q But there's no question that he had morphine in his system and that he had -- what else, what was the other?
A Codeine.
Q Codeine. And those were in his system. Was there any significant amount of those in his system?

A You know, significant as far as -- I'm not sure what you mean by significant.
Q Significant in the sense that they would affect his ability to navigate himself?
A I don't believe so. The morphine was not a small amount. I don't believe that it contributed to his death in any way. I can't say how it would have -- if he'd had it beforehand I can't say how it would have affected his actions.
Q Okay. Let me ask you, once that major stab wound was inflicted would the -- would Mr. Gause have still been able to be aggressive and fight and continue to fight?
A It's possible for a short period of time. Again, this did not strike a major artery that he would have bled out within seconds so it's possible that he could continue to strive to be ---
Q Would he have become weakened after that blow, substantially weakened with blow like that?
A Within a few minutes I would think so.
Q So within a few minutes in your opinion he would have?
A Yes.
Q Okay, all right. Now the Solicitor asked you about defensive wounds. Well, there are aggressive

wounds also sometimes; aren't they? When he asked you earlier about whether or not some wounds might be considered to be — I think he was referring to the wound on his wrist and the one on his thumb — and you said, well, those wounds were defensive wounds. But you don't know if they're defensive wounds or aggressive wounds, do you?

A Correct. You know, defensive wounds is a term that will be used sometimes. Typically aggressive wounds isn't what's used; but yeah, these could have been — I don't know exactly how they were obtained. It could have been from blocking. You know, certainly, the one being the cut there had to be, again, the sharp object, the wound on the thumb was a scrape so again, that could have been from blocking, it could have been from striking. I have no idea how that one occurred. Again, we do know the one on the wrist was from a knife.

Q Thank you so much, Doctor. Thank you.

THE COURT: Hold on, let me talk to the lawyers at side bar just a minute.

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

THE COURT: Ladies and gentlemen of the jury, I need to ask you to step out for just a

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minute. I got an issue of law I need to take up with the lawyers. Do not discuss the case. I'll get you back out here as quickly as possible.

(WHEREUPON, the jury was removed from the courtroom at 10:18 a.m., and the following proceedings commenced in open court.)

THE COURT: All right. Previously -- let me put this on the record. Previously Mr. Wilson had asked the witness on the stand, Doctor Batalis, about the scars of defendant. At side bar I told Mr. Wilson that I was not gonna allow him to ask those questions. After looking at Rule 404(a)(2) at this point my ruling remains the same, but I told Mr. Wilson that I would allow him to put on the record his argument as to why he should be allowed to ask Doctor Batalis about these scars. Therefore, I'll hear from you, Mr. Wilson, at this time.

MR. WILSON: Judge, my -- first of all, I thought that because this information was in the report and obviously it was relevant enough for the pathologist to put it into the report and the Solicitor asked him about some cuts that he got from the incident -- I, we don't even know that; we don't know that those came from the incident either. So I don't see the difference except that some of them

are older scars, some of them are newer scars or abrasions or cuts or whatever. And I wanted to explore it to find out if he could tell me how long those cuts had been there or if they, those abrasions -- and I did ask him, I think the Court did permit me to ask him whether or not, and I can't remember exactly how I phrased it at this point, but you did allow me to ask him something about it but not to go into the scarring and to actually figure out where the scars were and how many there were I think is where we kind of.

THE COURT: That's right. That's correct.

MR. WILSON: And I wanted to do that simply because I thought it was important since the Solicitor had already asked about all these other wounds and scars that I should be able to go into whatever else was there because as I understand his testimony he's not gonna be able to tell me when those scars got there. I don't think he's gonna be -- he'll say that they were more than 24, 46, 72 hours but he can't say old. The problem is that he got the body the next day I think it was after this incident occurred so I just wanted to go into it. I think that it is relevant to -- or may be relevant; I'm not even sure -- but I would like to certainly

explore it.

THE COURT: Well, proffer what you want to ask him and let me hear it first before I make a decision on it please, sir.

MR. WILSON: All right.

PROFFER EXAMINATION

BY MR. WILSON:

Q Doctor, in your report you indicated that there was several scars on the body of the victim, is that correct, Mr. Gause?

A Yes.

Q And would you tell us when you say scars, what are you speaking of?

A So scars are reaction of the skin to various forms of injury. They typically take a couple of weeks to fully develop.

Q Okay. And those scars that you're referring to, how many were there?

A There were five scars on the body. There were three scars in a cluster on the left side of the chest, one scar on the left hip, and then one scar on the right third knuckle.

Q Okay. And now let me specifically ask you about the scar on the right knuckle. Was that scar an older scar or could it have been, or could it have

occurred during the incident which would have happened day before?

A No, a scar would take several weeks to develop so we can definitively say none of the scars were related to the incident.

Q So all of the scars that you're talking about, the three would have been at least couple of weeks old?

A True, yes.

Q All right. That would pretty much be it.

THE COURT: Mr. Clements, you got any objection to that?

MR. CLEMENTS: Certainly.

THE COURT: What's your objection?

MR. CLEMENTS: As irrelevant, it's just confusion, waste of time, has no bearing whatsoever on this event. Don't know whether he got them in a car wreck, don't know whether he got them falling out a tree, don't know anything about it. And it's just what it would be fodder for Mr. Wilson to run down a road that he shouldn't be able to go down because it's not relevant and brings in, will infer improper character evidence.

THE COURT: Mr. Wilson, anything else?

MR. WILSON: No, sir.

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MR. CLEMENTS: And Rule 404(a)(2), evidence of perpetrator or the victim, character of victim of a crime offered by accused by the prosecution rebut the same. It doesn't fit that at all, Your Honor.

THE COURT: I do not believe that that's been elicited here, would fit within the parameters of character trait; however, I will allow Mr. Wilson to ask him about whether or not those scars are in any way based upon his examination of this victim whether or not he believes they're related to this offense and he's testified that they are not, that they are not.

MR. CLEMENTS: He already answered that question, Your Honor, in front of the jury as well.

THE COURT: Right. So my ruling remains the same as far as going into anything else, but I want him to be allowed to proffer what he wanted to bring out and give any further argument on that issue, okay. He's covered whether or not those scars were related to this incident; that's correct. Anything else before I bring the jury back in?

MR. CLEMENTS: Your Honor.

THE COURT: Mr. Wilson, anything else?

MR. WILSON: Nothing further.

THE COURT: All right, bring the jury please.

(WHEREUPON, the jury was returned to the courtroom at approximately 10:25 a.m., and the following proceedings commenced in open court.)

THE COURT: Thank you, ladies and gentlemen. Mr. Wilson, anymore questions of this witness?

MR. WILSON: No, sir.

THE COURT: Any recross?

MR. CLEMENTS: Yes, Your Honor.

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q Doctor Batalis, Mr. Wilson asked you about if this, if one of the wounds could have been made if the defendant was laying on the ground and the victim fell on him was over him.

A Yes, sir.

Q If you could, could you stand up for me please. That would put you a couple of inches taller than me, a few inches, and I'm 6'1" I believe. Would those wounds be consistent with someone -- I'm going to back away from you -- someone coming in and making that first incision wound to the left side

which it wasn't as deep ——
A To my right side.
Q To your right side, and then following through in a punching motion or stabbing motion and making the left side of the chest wound which went in five-and-a-half inches towards the midline and slightly upwards; is that correct?
A Correct.
Q So that would be consistent with somebody coming in here and here?
A That's one way in which the injuries could have occurred.
Q Thank you, sir. Doctor Batalis, thank you.
MR. CLEMENTS: That's all the questions we have, Your Honor. We ask he be released from his subpoena if Mr. Wilson has no further questions.
MR. WILSON: Nothing further, Your Honor.
THE COURT: Any further questions?
MR. WILSON: No, sir.
THE COURT: Sir, you may step down. You're free to go. You have no further responsibilities from your subpoena. Thank you for being here today.
THE WITNESS: Thank you, Your Honor.
THE COURT: Call your next witness please.

MR. CLEMENTS: Your Honor, we call Agent Jennifer Stoner.

WHEREUPON,

JENNIFER M. STONER,

having been duly sworn by the Clerk of Court, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q Good morning.

A Good morning.

Q Can you please state your name for the record and spell your last name.

A Jennifer M. Stoner, S-T-O-N-E-R.

Q Can you please tell this jury, Ms. Stoner, where you work?

A I'm employed by the South Carolina Law Enforcement Division in the trace evidence section of the forensics laboratory.

Q Okay. And how long have you been so employed?

A I have been employed by SLED for 16 years and I've been in forensic evidence for 15 years.

Q Can you please explain to this jury what the trace evidence part of the forensic lab at SLED does?

A Trace evidence has several different disciplines

in which we receive evidence. We receive evidence for gunshot residue analysis, paint analysis, fiber analysis, glass analysis, fire debris cases, explosives, and tape and adhesive, and general chemical unknown analyses.

Q And what exactly do you do?

A What do I do, or just in general in the lab?

Q General, what do you do?

A We receive evidence from law enforcement agencies and we analyze the evidence according to their requests. For a fire debris request we would look to see if there's accelerant present that possibly could have started a fire. For paint analysis normally what we receive is paint evidence from a hit and run victim. We look at their clothing to see if we can find paint chips to possible identify the suspect vehicle. Gunshot residue analysis, we analyze gunshot residue kits that are collected in a field to see if that person was potentially in the area of the weapon when it was discharged.

Q What type of training and what type of education does it take to do your job that you have at SLED; and in answering that question, could you please tell us what your educational training and background is.

A One of the requirements for trace evidence section is to have a degree in chemistry. I have a bachelor in science degree in chemistry that I obtained in 1997 from California University of Pennsylvania. It's a state school in Pennsylvania.
Q All right. And you have to have that kind of degree. What kind of training do you get other than just the college degree to do your job?
A The training program is three to four years in our department to cover each area of analysis that we perform. I underwent that training program under the supervisor of the department and other senior analysts. During that training period we also attend classes and courses outside of SLED that deal with the casework that we analyze and the instrumentation that we use to analyze the evidence.
Q Approximately how many other continuing education programs have you attended or degrees or certificates you've got particularly in the area of gunshot residue?
A I only have a BS degree in chemistry so I have no other degrees, but I've attended probably in excess of 25 other outside training courses or classes in all of the areas. I can't specifically say how many were on GSR. One in particular is done with a

standing electron microscope which is the instrument we utilize to analyze gunshot residue.

Q In all those trainings you attended you successfully completed those; is that correct?

A Yes.

Q Now have you ever been qualified to testify as an expert in the area of gunshot residue in state or federal court?

A I've been qualified in federal court, state court, and magistrate court in New Mexico?

Q Approximately how many times?

A 80.

Q 80?

A Uh-huh.

MR. CLEMENTS: Your Honor, I offer Agent Stoner as an expert in the field of gunshot residue analysis.

MR. WILSON: Without objection, Your Honor.

THE COURT: Does that include trace analysis and gunshot residue?

THE WITNESS: Yes, Your Honor.

THE COURT: Any objection?

MR. WILSON: No objections whatsoever.

THE COURT: Ladies and gentlemen, this

witness is being offered and has been qualified as an expert in trace analysis and gunshot residue analysis. As I gave you in previous instruction that prior instruction is the same. Just because they've been qualified as an expert does not mean that you must accept the opinion. It is evidence for you to use any way you see fit and give weight and credibility that you believe is appropriate.

Mr. Clements, you may continue.

MR. CLEMENTS: Thank you, Your Honor.

BY MR. CLEMENTS:

Q Ms. Stoner, did you have the opportunity to examine and analyze a gunshot residue kit that was collected from Ian Gause?

A I received in lab number L1212379, the GSR kit from Ian D. Gause which I did analyze.

Q You know, did you receive that from Agent Scott Hardee?

A We do not receive directly from the field agents, only in certain circumstances. Normally our evidence, we receive it from the evidence location at SLED which is called the log-in department. The agency submitted evidence to that department and then we pick it up from there.

Q So Agent Hardee would submit it there at the

log-in and then you take it from there and then analyze it?

A Yes, either me or another person in the department pick up the sealed evidence.

Q Can you explain to us exactly what gunshot residue is, what the metals comprise gunshot residue, how it gets on an individual so that we can understand what your test results bear on as far as information in this case?

A Yes, sir. When a gun is fired a cloud of gunshot residue is formed from the action of the gun being fired. Anyone in the vicinity to the discharge of that weapon will have gunshot residue deposited on them. Different types of guns will deposit different types of residue. A larger caliber gun will deposit more than a lower calib— smaller caliber gun. In this case I didn't have any information on a weapon so I don't know what type of gun it could have been.

Gunshot residue is made up of three components that we look for. We look for barium, antimony, and lead. We look for these in combination and alone in a particle. Can I show them a picture?

THE COURT: Certainly.

MR. CLEMENTS: And let me be sure Mr. Wilson has no objection.

(Picture was tendered to Mr. Wilson).

MR. WILSON: Your Honor, I just ---

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

MR. WILSON: I have no objections.

THE COURT: Without objection.

Sir, you may continue.

BY MR. CLEMENTS:

Q All right. Will it help you, Agent Stoner, to stand in front of the jury to show them this, explain this to them?

MR. CLEMENTS: Your Honor, permission for her to get down.

THE COURT: Yes, sir.

THE WITNESS: Now these victims in this case -- these are just examples of what we look for when we analyze GSR. This is a printout, and this is an older instrument. Our printouts look different now, but this just shows the particles that we look for. They're put on your hands; you can't seem them. They're microscopic. This one is actually iron and that's one of the things we look for in GSR. If there's iron present, it's not

gunshot residue because iron has other sources that eliminated the GSR. So this particle I'm just showing you that it's round. That's one of the things we look for, or if it's non-crystal. So it doesn't have to be round, just non-crystal and it can't have angles.

This is actually a lead particle. This came from one of our, probably one of our test firings we do for GSR because there is lead present in GSR, present in other things but we look for it in GSR. This shows, that's the particle I looked at, part of this case. This is an x-ray spectrum I took to tell me what it was made of. So that's what I do. I look for gunshot residue. I analyze the kit looking for any particles that are present. Then I take an x-ray spectrum of them so that I can tell what that particle is made of to determine if the components are, in fact, gunshot residue.

BY MR. CLEMENTS:

Q So lead, barium, and antimony, that doesn't commonly occur in combination anywhere else but in gunshot residue?

A Not together in a single particle, no, it does not.

Q All right. Now can you explain a little more to

the jury about how that gunshot residue, how it escapes from the gun and how it floats down on and gets on people's hands or the clothes or whatever?
A When the gun is fired, of course the bullet is gonna come out of the end of the gun. Any opening in that gun and breach any hole in that gun, the gunshot residue will exit from that because it's microscopic; it's in a cloud form. So if you fire a weapon you're gonna have gunshot residue coming out of the front of the weapon. It's gonna come around the trigger guard or depending if it's a revolver or an automatic, it will come out of the slide or the cylinder. So any of those areas it will come out of and it will deposit on things in the vicinity to that weapon. We've done testing where we've test fired weapons and you can find it on your clothing. If I fire a gun I will have it on my shirt. I can even have it on my pants so. And then, of course, the person that is shot should have more of that gunshot residue on them because they are directly in the line of the end of the gun.
Q Okay. But if someone is shooting a gun you normally expect to find it on their hands?
A On their hands or on their clothing, yes.
Q And that's why — do you do the gunshot residue

collection kit on hands?
A Yes. The kit that we provide to the agencies is a kit for a hand collection. They collect samples from the right palm, the back of the right hand, the left palm, and the back of the left hand.
Q Okay. So four different areas?
A Four different areas is the standard kit.
Q Was this done -- is that what you received on Ian Gause?
A On this one I received a standard collection kit, yes.
Q All right. And did you test that kit from all four locations that were collected from?
A I did.
Q And what were the results of your test?
A May I read the one result to? The results were the same for all four areas, and there was no prime or gunshot residue found. The absence of gunshot residue on the hands is consistent with an individual not having discharged a firearm. A negative result could also occur from circumstances such as washing the hands, wiping the hands, wearing gloves, sweating profusely, environmental factors including wind and rain, bloody hands, excessive debris on the sample, normal physical activity

within four to six hours passing between firing and sampling, or the firearm not producing gunshot residue on the hands when discharged.

Q So ——

A And that was the same result for each area.

Q So gunshot residue on all the areas of Ian Gause that were tested, front and back of the left hand, front and back of the right hand, there was no gunshot residue?

A On all four areas of the kit I tested there was none.

Q And that could be — gunshot residue is fragile; is it not?

A It is fragile.

Q So if you wash your hands you're gonna get rid of it?

A You are.

Q If you sweat profusely eventually it's gonna come off?

A Anything you do that comes in contact with your hands can remove it.

Q Okay. And normal passage of time over four to six hours, it's gonna come off; is that correct?

A If — yes. If I fire a weapon within four to six hours after that it will be gone.

Q Okay. And if you don't fire a weapon it's not going to be there?
A If you don't fire a weapon you should not have gunshot residue on your hand, or if you're not near a weapon that was fined.
Q So it's fair to say here, all you know is that there was no gunshot residue on Ian's hand, right?
A That is correct.
Q You don't know if he washed his hands or any of that?
A I don't have any knowledge of that. I have the collection kit. I have the particle lifts that I look at, and I analyze it but. And from what I found I did not find any, but I don't know any circumstances from the time of the incident until the collection.
Q Okay, all right. Thank you. That's all. Please answer any questions Mr. Wilson may have.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. WILSON:

Q Now you're not saying by any stretch of the imagination that Mr. Gause didn't fire a gun that night? That's not what you're saying, is it?
A What I'm saying is I have no evidence to say that

he did.
Q You have no evidence to say that he did. And let's talk about that for a minute. You're saying that the powder that comes back, and it's blowback. Can we refer to it as a blowback when it's gonna come on his hands because the gun, when it fires it's going outward, is that a fair statement, the powder?
A The bullet will go outward. The powder will exit the bullet and form a cloud.
Q Okay. And he's behind the cloud?
A Yes.
Q All right. And now did they send you his clothing so that you could test the clothing to see if there was gunshot residue on the clothing?
A I did not receive clothing.
Q Okay. And in fact, wouldn't it be probably easier to find it on the clothing than on the hands because the hands are usually touching other things and moving about. For instance, let me ask it this way, if he is on his way to the hospital and he has a wound and he has his hand over that wound and that wound is bloody, would that be a good way to get rid of the powder that would be on that hand?
A That could remove the powder from the hand and

from the clothing itself. It didn't ---

Q So it could remove it from both?

A Yes.

Q And what if he was in ---

MR. CLEMENTS: Your Honor, I would object right there. He's got to allow the witness to answer. I think he's kind of testifying. But if he's asking a question she ought to get an opportunity to answer and not be cut off.

THE COURT: Did you finish answering your question?

THE WITNESS: He made a comment that wasn't something I would testify to so I wanted to ---

THE COURT: Restate your question, Mr. Wilson.

MR. WILSON: Judge, I don't even remember what the question was.

THE COURT: Hold on a second.

THE WITNESS: It was about the clothing and the evidence ---

MR. WILSON: I know generally where I was going so if you permit me I can ---

THE COURT: You asked about ---

(Court reporter reads back last question.)

THE WITNESS: No, it was right before that when you asked about the clothing being better evidence or the hands and the clothing.

BY MR. WILSON:

Q Yes, ma'am.

A There is a caveat with clothing.

Q Okay.

A That with hands we can say that it occurred within six hours of the incident; but with clothing, if I find gunshot residue on someone's clothing I cannot link it to an incident because there's no time frame with it. You could have shot a gun the day before, worn the same shirt, and I can still detect it if the clothing's not been washed.

Q Let me ask you this, did they send you a gunshot residue kit on Rishawn Gause? The State send you that?

A No, sir. The only kit I received was on the, Ian Gause.

Q So they didn't ask you whether he fired a gun?

A No, sir.

Q All right. Now let me ask you if, also in regards to this powder when this cloud of powder that forms, you're saying that you could under some circumstances get it off clothing, you could under

some circumstances get it off hands. And then there are a number of things which actually affect that and we were talking about that actually before we got cut off. But one of the those things that would affect and I was specifically asking you about, if the hand is used to cover a bloody wound as you're going, say, to the hospital, would that in fact remove the powder from the hands?

A It could on the area that came in contact with the wound, yes, sir.

Q And I think your comment was not only could it remove from the hand, it could also remove it from the clothing?

A Yes.

Q Also, if an individual is at the hospital and their hospital is performing whatever functions they perform and especially a hand that was used to fire the gun is, comes in contact with the personnel at the hospital for various purposes, that could also remove the powder?

A What is correct.

Q All right. And even if the person had been, say, engaged in an altercation, a fight, or tussle of some type after they had fired the weapon, then that could also remove it?

A Yes, sir.
Q So under any of those scenarios you could get a test and it not show anything and it would not mean that the person had not fired a weapon?
A That is correct.
Q All right. I have no other questions. Thank you.

THE COURT: Any redirect?

MR. CLEMENTS: No, Your Honor, we ask Agent Stoner be released from her subpoena.

MR. WILSON: Without objection. Your Honor.

THE COURT: All right. Agent Stoner, you may step down. You are free to leave. You have no further responsibilities under your subpoena. Thank you for being here.

Call your next witness please.

MR. CLEMENTS: We'd like to call Mr. Ronnie Boatwright.

WHEREUPON,

RONNIE BOATWRIGHT,

having been duly sworn by the Clerk of Court, testified as follows:

THE DEPUTY CLERK OF COURT: Have a seat in the witness chair.

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q Mr. Boatwright, how are you doing today?

A All right.

Q I'm going to ask you to kind of speak up loudly. Some courtrooms have a microphone; we don't have one in here. Make sure the jury hearing everything you're saying and the court reporter can get it all down, okay. All right, if you don't understand the question I'm asking, which sometimes I can be confusing, I apologize, please ask me to state it again; I'll be happy to do so.

A All right.

Q Mr. Boatwright, how old are you?

A 33.

Q And where do you live?

A Dillon.

Q Dillon?

A South Carolina, yeah.

Q How long have you lived in Dillon?

A About a year.

Q About a year? Before living in Dillon where did you live?

A Marion.

Q In Marion?

A Yes.
Q You live in Marion back in September of 2012?
A Yes.
Q Okay. Where in Marion did you live?
A Silver Trace.
Q Silver Trace. And you, had you lived here all your life before moving to Dillon?
A Yes.
Q Did you know Ian Gause?
A Yes.
Q Did you know Rishawn Gause?
A Yes, sir.
Q Did you know Charles Wilson?
A Yes.
Q Did you know Ky Graham?
A Not like that.
Q Not as you knew him, but not like you do the rest of them?
A Yes.
Q How about Lamont Davis, did you know him?
A No.
Q How about Richard Woodbury, did you know him?
A No.
Q All right. Now you recall where you were September 29th, 2012?

A Yes.
Q Where were you?
A Withlacoochee Street.
Q Whose house were you at?
A Charles Wilson.
Q And what were you doing there?
A We just burning CDs, drinking a little bit.
Q Okay. And where were y'all at?
A At the house or in the yard. We was outside under the car shed.
Q Under the car shed? I'm gonna show you State's Exhibit Number 17. Do you recognize that?
A Yes.
Q What is that?
A That's the house.
Q All right. And what is that on the left side of the house here?
A In the yellow?
Q Right, this part of the house here.
A Car shed.
Q That's the car shed? And is there a van parked there?
A Yes.
Q Was that van parked there on the night you were there?

A Yes.
Q Okay, up under the car shed?
A Yes.
Q And y'all were in the front of the van?
A I was in the side of the van.
Q You were on the side of the van? Okay, all right. What — who all was there with you when you were there burning CDs?
A Rishawn Gause, Ian Gause, Charles Wilson, Tywana Grisham (ph).
Q Tywana Grisham? Anybody else?
A I think that's it.
Q You think that's it. How were y'all burning CDs, using computer or ——
A Computer.
Q ——downloading music? Putting them on CDs you play them in the car or whatever?
A Yes.
Q And were y'all having a good time?
A Yes.
Q Was there any problems, any trouble?
A No.
Q Anybody else upset, mad, or anything?
A No problem, trouble.
Q Okay, all right. And five of y'all were there.

Did y'all all get there at the same time or did people kind of arrive at different times?

A Ian and Rishawn did. We got there like around a little bit after 7.

Q All right. And Charles and the other fella ---

A They had already been there.

Q They had already been there, okay. Who was the next person that showed up?

A Probably like two hours later Woodbury, Davis, and Graham.

Q They showed up?

A They showed up.

Q How did they get there?

A Black Cherokee.

Q Black Cherokee?

A Yeah.

Q State's Exhibit 1, does that look familiar to you?

A Yeah.

Q What is that?

A Black Cherokee.

Q That's the black Cherokee they came up in?

A Yes.

Q Who got out of the car first, if you know?

A I think Mr. Graham.

Q Graham did?
A Yeah.
Q Okay. And what did he do after he got out the car?
A He came up and spoke to everybody.
Q Okay.
A That's about it.
Q And who got out next, if anyone?
A I think Davis got out next.
Q Okay. And who else got out?
A Woodbury.
Q Woodbury. Could you tell who was seated where in the Cherokee?
A No, I ain't pay no attention.
Q You didn't pay it any attention? Okay. All right. Mr. Woodbury came up. Did he come up to where the front of the van was, where everybody was?
A Yes.
Q All right. When he came up what was said or what happened?
A He spoke to everybody. Him and Mr. Gause, Ian Gause, had got into it so we broke them up. You know, then he left. He left, then he came back and they had got into it again so ---
Q When you say they got into it did they -- were

they hitting each other or ---
A No.
Q ---running their mouth?
A Running their mouth.
Q Okay.
A Yeah, so we broke it up. He left went, back to the truck and he came back, they start fussing again. Then he laid out in front of his truck so next thing I know, what happened, he was holding like something on his side. So he was like, you got something, you got something.
Q Who was holding something?
A Mr. Woodbury.
Q Okay.
A Yeah.
Q What did Ian say?
A He was like, you got something, you got something. But I ain't never know what he said after that, but he was like, you got something, you got something so ---
Q Where was Rishawn when all this was going on.
A He was around.
Q How about Charles?
A Charles was around. He was trying to break it up. Everybody was trying to break it up.

Q Okay.
A So, yeah, he was like, you got something, you got something. So a few minutes later that's when Rishawn had went to his car. I don't know where he went at the car, went in the street and shot the gun in the air. So he calmed down for a little bit.
Q So that, when he fired that warning shot everybody kind of calmed down, chilled out?
A Yes.
Q Okay. And he did that out in the front?
A Yeah, out in the front.
Q Okay. And after he did that everybody chilled out for how long?
A A couple of seconds. Not long, a couple of minutes.
Q Okay. Minutes or seconds?
A I say a couple of minutes.
Q Okay.
A Yeah. So ——
Q Then what happened?
A What happened after that?
Q Did you ever see anybody leave after Rishawn fired his gun in the air?
A Ain't nobody leave.
Q You didn't see nobody leave?

A Ain't nobody leave.
Q Okay, all right.
A So after that I don't know what happened then. Just everybody end up in the road after that. Next thing I know people just took off running, took off running, ran in the car porch. The next thing I know ---
Q Who ran into the carport?
A Mr. Woodbury, Rishawn Gause, Ian Gause. So, what happened? Probably like about five minutes Ian came back out and he said, man, I got stabbed, he stabbed me. Rishawn came, he said, he stabbed me too. He like, man, he got me good. He like, man, I need to go to hospital. I was like, Rishawn, take him to hospital. He jumped in the car and went to the hospital and about ---
Q Where was, where was Woodbury when Ian said, man, he stabbed me?
A He wasn't nowhere in sight.
Q All right.
A Yeah, so once they went to the hospital probably like 20 minutes, something like 10, 20 minutes later Mr. Woodbury came back looking for his knife. He found his knife and he went on.
Q Did you ever see his knife?

A Yes.
Q Where did you see it?
A It was laying right off the cement under the car shed, like the cement right there, like the cement right there, right here beside it.
Q On the ground?
A Yes.
Q Did you see this?
A I see half of it.
Q Or you saw this?
A Yeah, I seen that.
Q It was one of the halves; you're not sure?
A He had the other half in his hand.
Q He had the other half in his hand?
A Yeah.
Q Okay. Did you see where he came from, which side of the house he came from when he said, when he picked the other half of his knife up?
A He came from the back. I ain't for sure. I believe he came from the back; I ain't for sure.
Q Back of the house but you're not sure?
A Yeah, I'm not sure.
Q Around the opposite side that the car shed was on or the same side the car shed was on?
A Behind the car shed.

Q Okay. How well lit was it out there, Ronnie?
A Dark.
Q Okay. Dark?
A Yeah, dark.
Q When y'all were downloading music on the CD, burning CDs, did y'all have the light on under the shed?
A Yes. Actually when they ran out, when they start running out the street, I say Ian -- I mean, Ian, Rishawn Gause, and Mr. Woodbury, once they ran secrete ran once they got up under the carport somebody cut the light off in the car porch.
Q Was there a switch to cut it off under the carport?
A Yeah, it's a switch all the way beside the door.
Q Do you know who cut it off?
A I'm thinking Tywana Grisham 'cause he was really about the only one in the house.
Q He was in the house?
A Yeah, he was in the house.
Q Why would he cut the light off, if you know?
A I think he was -- I think maybe he was under the car porch. When they started running he probably got scared and ran in the house and cut the light off trying to keep the heat down.

Q Okay. Did you see anybody jump anybody?
A No, huh-uh. I ain't even see the stabbing. I ain't seen nothing, you know.
Q The light was off under there?
A Yes. And they were fighting like, it looked like they were fighting in front of the van. I didn't run, you know, I didn't run behind them.
Q Who was fighting and who was trying to break it up?
A Whatever happened it happened under the van, I mean, in front of the van so I didn't see that. I don't know what happened.
Q All right. So you just know it was kind of chaos?
A Yes.
Q All right. What was Rishawn trying to do? Was he trying to fight anybody or?
A No.
Q What was he trying to do?
A He was trying to calm it down too. Everybody really trying to calm it down.
Q Ky Graham trying to calm it down?
A Yes, everybody. Everybody.
Q Everybody?
A Everybody.

Q All right. What else did you see about stabbing or hitting or anything?
A That's it, what I just told you. That's all I know.
Q Okay. And there was constant mouthing off, right?
A Yes.
Q Okay, all right. Did you see anybody try to get anybody to leave?
A Yes.
Q Who did you see try to leave?
A Charles Wilson.
Q Charles Wilson?
A That's his house so he, yeah, he try to kill the drama before it happened.
Q Who did Charles Wilson try to get to leave?
A Woodbury.
Q Woodbury?
A Yes.
Q And it was his house and he tried to kill the drama?
A Yes.
Q Okay, all right. Was anybody trying to help him get Woodbury to leave?
A My understanding I think his ride.

Q His ride was trying to get him to leave too?
A Yes.
Q Okay, all right. From where you were watching and observing did he have opportunity to leave?
A Yes.
Q How much opportunity?
A Million chances.
Q All right. A million chances?
A A million chances.
Q Okay. After whatever happened happened, you didn't see it, it was on other side of the van?
A Yes.
Q And then you didn't see where Woodbury went, did you?
A No.
Q And then you saw and heard Ian Gause say he stabbed me and come out from behind there?
A Yes.
Q And take me to the hospital?
A Yes.
Q All right. Who took him to the hospital?
A Rishawn Gause.
Q In what car?
A Ford Focus.
Q Where was the Ford Focus parked at, if you know?

A It like it was parked in the grass.
Q Okay. All right. Tell me if I'm right. Say this is the car shed right here, the van is parked here, right?
A Yes.
Q Is that correct?
A Yes.
Q And they're right behind the van. You got the Cherokee parked ---
A Yes.
Q ---the same in line?
A Yes.
Q Where -- to the left or right? Where would the Ford Focus have been parked?
A It was to the right.
Q To the right?
A Yeah.
Q Over here on the grass?
A Yes.
Q Was it parked like this or was it parked at an angle like this, if you know?
A I ain't for sure.
Q You're not for sure. Don't tell me if you're not for sure.
A All right.

Q It was parked over here?
A Yes.
Q So this is where Rishawn went before you heard a gunshot?
A Yes.
Q Did you see Rishawn fire the gun or you just heard him fire the gun?
A Yes.
Q Okay. And he fired in the air?
A Yeah.
Q And that chilled everybody out for a moment?
A For a moment, yeah.
Q After he shot the gun what did Rishawn do?
A He put the gun back up.
Q He put the gun back?
A Yeah.
Q Did you see where?
A He put it in the trunk.
Q You think he put it in the trunk?
A Yeah.
Q All right. Did you see anybody else with a weapon up or a gun up?
A No, no.
Q You didn't see any of that?
A No, no, no.

Q Okay, all right. How much opportunity did Woodbury have to leave after Rishawn fired the gun and until the time you heard Ian say, man, he stabbed me?
A It just ---
Q Was there opportunity to leave?
A He been have the opportunity, sir.
Q Sir?
A He been have the opportunity to leave. He had plenty of opportunity to leave.
Q Plenty of opportunity to leave?
A Yeah, he chose to stay.
Q Okay. Beg the Court's indulgence a moment. Mr. Boatwright, you're under oath, right?
A (No verbal response.)
Q You got any friends ---

THE COURT: Say yes or no. Hold on a minute. I need a verbal statement for my court reporter.

THE WITNESS: Oh, yes. Yes. Yes.

THE COURT: Thank you. Go ahead.

BY MR. CLEMENTS:
Q Yes, you're under oath. You trying to reward any friends here today?
A No.

Q You trying to punish any enemies?
A No.
Q What are you telling today?
A I come to tell the truth.
Q Is that what you saw and what you heard?
A Yeah, yes.
Q Now have you been -- had a problem with the law before?
A Yes.
Q All right. You, in 2003 did you have a conviction for safe cracking?
A Yes.
Q And did you also have a conviction for giving false information?
A Yes.
Q And breaking into a car?
A Yes.
Q And having possession of a controlled substance?
A Yes.
Q And that was 2005?
A Yes.
Q All right. And have you been in any trouble since then?
A No, huh-uh.
Q All right. Please answer any questions

Mr. Wilson may have.

THE COURT: Cross-examination.

MR. WILSON: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. WILSON:

Q So is there any question that you will give false information? There's no question about that 'cause you've done it in the past; haven't you?

A Gave false information in the past?

Q Yes, sir.

A No, sir.

Q You've never done that?

A No, sir.

Q So you deny that you were convicted of that?

A Convicted of what?

Q Giving false information?

A Oh, giving false information?

Q Yes, sir.

A Oh, yes, yes. I plead guilty to that, yes.

Q You did that. You did that.

A Yeah.

Q And so there's no question you've been convicted of it before so there's no question that you're capable of giving false information, right?

A No, not today I won't.

Q Let's talk about this, not today. But you'd do it some other day but not today.
A Never, never.
Q Never.
A First and last.
Q First and last?
A Yes.
Q Okay, let's talk for a minute. Now let's talk about what we know. We know you were there, right?
A Yes.
Q Okay. And, well let me ask you this first. You related to Rishawn and Ian?
A Yes.
Q Yeah, y'all cousins, right?
A Yes.
Q So you're not unbiased, are you? This is your family, right?
A Yes.
Q All right. Right. And you over there there night with your family, right?
A Yes.
Q And you're not happy about what happened 'cause a member of your family got injured, got killed, right?
A Yes.

Q Ain't no question about that, right?
A No question.
Q Okay. And you here today — well, let me ask you, when is the first time that you gave a statement to the Solicitor about what happened?
A Probably about three months, three, four months ago.
Q Three or four months ago. This happened, what, a year-and-a-half ago. And three or four months ago you finally show up and give a statement, and say, you know, let me tell you what happened, right?
A They subpoenaed me to come give my statement so I came gave my statement.
Q Well, didn't you know that the police were investigating this way back 18, 15, 16 months ago, however many months ago?

MR. CLEMENTS: Objection, Your Honor. Him coming and talking with me has nothing to do with talking to the police. I think that's mischaracterizing this in front of the jury.

MR. WILSON: I simply asked him when he did.

THE COURT: All right, I'll — you may continue. Objection sustained.

MR. WILSON: Thank you.

BY MR. WILSON:
Q Did you ever go to the police and give a statement from the day that this incident happened back in September of 2011 or 12 and three months ago when you gave the Solicitor a statement?
A No.
Q No, no. And you didn't want no part of talking to the police about this, did you?
A Well, if it came about, you know, I would.
Q Yeah, but, and who got you to go down to the Solicitor's Office and give him a statement three months ago? How did that come about? Did your cousin Ian Gause, Rishawn Gause, get you to go down there and talk?
A No, my — his mother.
Q Yeah, his mom got you to come and go down there. That's how you ended up down there, right?
A Yes.
Q Yeah. And before that you'd been silent. You hadn't had anything to say about all this?
A 'Cause ——
Q Right?
A Ain't nobody asked me no questions so, you know.
Q But you knew about it, right?
A Yes.

Q Okay. Let's talk about what happened at the house that night. What time of day did you get out to Withlacoochee? What time did you get out there?
A A little bit after 7.
Q Huh?
A A little bit after 7.
Q A little bit after 7. So you're out there a little bit after 7 and when you get there who's there at the house?
A Charles Wilson, Tywana Grisham.
Q Charles Wilson, Tywana Grisham. Just the three of you then. When you get there, three guys there?
A Two guys there.
Q Well, two there when you get there and you make the third, right?
A No, I make the fifth.
Q Well, that's what I'm asking. When you get there who was there?
A Tywana Grisham and Charles Wilson. When I got there I came with Ian Gause and Rishawn Gause.
Q So you brought some other folks with you?
A Yes.
Q Okay. So when you got there, a total of five people there?
A Yes.

Q Okay. And you guys are sitting out around drinking, and what else y'all doing? Any pot.
A Burning DVDs. No, I don't smoke pot.
Q You don't smoke pot? Nobody else smoking no pot out there?
A I don't know.
Q You don't know?
A No.
Q And you knew you wasn't gonna tell us anyway, right?
A Yeah.

MR. CLEMENTS: Objection, Your Honor.

THE COURT: Objection sustained.

MR. WILSON: All right.

BY MR. WILSON:
Q Let me ask you this, was there any pot out there that night, anybody smoking?
A No.
Q You didn't see anybody ---
A I ain't seen nobody smoking.
Q When you and these other five guys are out there and this is before Mr. Woodbury comes up, at what point did Rishawn and Ian Gause come up?
A They been there. They all been sitting outside in the car shed.

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Q So they were there when you got there at 7:00?
A No, I rode with him. I rode with them, Rishawn and Ian Gause.
Q Okay, so you went to this event with Rishawn and Ian?
A Yes.
Q So the three of y'all showed up there. And the other guys were there, two guys, and that made five?
A Yes.
Q Okay. Now how long were y'all there before you say Mr. Woodbury showed up?
A Probably about two, two-and-a-half hours, something like that.
Q Okay. Now what are y'all doing this whole two-and-a-half hours?
A We drinking a little, burning CDs.
Q Drinking liquor. Well, was Ian drinking?
A Yes.
Q What about Rishawn, was he drinking?
A Yes.
Q What about you, were you drinking?
A Yes.
Q Okay. What about Charles Wilson, was he drinking?
A Yes.

Q Okay. What were y'all drinking?
A E&J Co cola.
Q E&J and Co cola?
A Yeah.
Q All right. Now how many CDs did y'all burn before ---
A I don't know. I don't know.
Q You don't know?
A No.
Q Well, did you burn any?
A I wasn't coming there for CDs, but they were burning CDs so I don't know how many they burned.
Q So you didn't see no CDs but y'all were supposedly burning some CDs, right?
A Yes.
Q So at some point in time Mr. Woodbury shows up in a car with two other individuals?
A Uh-huh?
Q Fair?
A Yes.
Q Okay. Now it's night, right, by this time?
A Yes.
Q And now at that point in time the lights on on the porch, right?
A (No verbal response.)

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Q You have to say yes or no.
A It was night, yeah. It was night, yeah, we put the lights on, yeah.
Q Yeah, so the light was on. Well, now at some point in time during the evening the light gets cut off, right?
A Yes.
Q Now, and you told the Solicitor, I think, that you think that Mr. Grisham cut the light off.
A Yes.
Q And he cut it off because of the heat?
A I'm thinking so.
Q What heat you talking about? Now this is September 30th when this is happening so it ain't hot.
A No. His mom was in the house so he ain't want drama around his house so he ain't want her all in it so.
Q So he cut the light off on the porch?
A I guess so. I'm not him; I don't know.
Q Well, let's talk about it a minute. Look, at that point there's some arguing and some whatever going on out there; is that fair?
A Yes.
Q And who is doing the arguing now? When we're out

there, who is doing the arguing? Before the light gets cut off, who is arguing?
A Mr. Gause, Ian Gause and Woodbury.
Q Okay. When Mr. Woodbury came up, did he strike, did he do anything to anybody other than speak?
A No.
Q No. He came up and he spoke to everybody who was there and your friend ——
MR. CLEMENTS: Is that a question, Your Honor, or a statement. I would object if it's a statement.
THE COURT: Hold on a minute. Question and answer, question and answer. Please continue.
BY MR. WILSON:
Q He came up and he spoke to everybody there; did he not?
A Yes.
Q All right. And Mr. Gause, Mr. Ian Gause, wasn't happy with that, was he?
A No.
Q No. In fact, he said to him, you know, well, you disrespect me, you ain't speaking to me, what's up with that?
A He just asked him, you can't speak to me, simply like that, you know.

Q Yeah, and it started from there; didn't it?
A Yes.
Q Yeah, it started from there. And no question at that point in time Mr. Woodbury hadn't done a single thing other than appear and speak, and it was on from that moment; wasn't it?
THE COURT: Is that a question, Mr. ——
MR. WILSON: Yes, sir.
BY MR. WILSON:
Q Is that a fair statement?
A Well, yes, but at the same time we broke it up during that time right there. Mr. Woodbury went back to his truck. He could have left then but I guess he went and got what he got and came back.
Q We're going to come to that in just a minute.
A Okay.
Q We're going to come to that. Let me just go back with you so we're clear. At that point in time absolutely nothing had happened except that, right?
A Yes.
Q Except that Mr. Ian Gause was upset 'cause he says he didn't get spoken to?
A Yes.
Q All right. And Mr. Woodbury didn't hit him at that point, did he?

A I don't think so.
Q No. In fact, didn't Mr. Woodbury walk away and walk back towards his car?
A Yes.
Q Yeah. And Mr. Gause, Mr. Ian Gause, followed him back to the car; did he not?
A No, no.
Q Oh, he didn't follow him back to the car.
A No, he didn't follow him back to the car.
Q Oh, he didn't follow — well, where did Mr. Ian Gause go?
A He stay right here in the carport.
Q And so then what happened?
A Like you say, Mr. Woodbury walked out, went to the truck. He came back to the carport and then, I guess they started, they started fussing more and they end up in front of his truck and then out to the street and then.
Q Okay, go ahead, you finished?
A Head out to the street. The next thing I know Mr. Woodbury start running, Ian behind him.
Q Mr. Woodbury start running?
A Yeah.
Q And Mr. Ian Gause ran behind him, right?
A Yes.

Q Did you see that gun in Mr. Ian Gause's hand?
A No.
Q You never saw the gun in Ian Gause's hand?
A I never seen no gun.
Q Never saw it. So if he had a gun that night you don't know nothing about it?
A No.
Q Is that right?
A Yes.
Q All right. And that's what your testimony is?
A Yes.
Q Okay. Now but no question that Mr. Woodbury was running out into the road and Mr. Gause was chasing him? Ain't no question about that, is there?
A I don't know. Like I said, I don't know whether he got stabbed in the road or what.
Q No, that wasn't my question.
THE COURT: Answer his question if you know the answer.
THE WITNESS: He say it again.
BY MR. WILSON:
Q There's no question that Mr. Woodbury was running out into the road and Mr. Ian Gause was chasing him at that point into the road?
A He ran behind him, yes.

Q All right, yeah. And then Mr. Woodbury runs back and runs up into the carport, and Mr. Ian Gause and Mr. Rishawn Gause chased him back up under the carport, right?
A Yes.
Q Yeah. So he was running for his life; wasn't he?
A I don't know about that.
Q Well ——
A I don't know.
Q Well, you know for a fact that Rishawn Gause had gun. Ain't no question about that, right?
A Yes, but he put the gun back up.
Q He put it back up. So he just takes his gun out of the trunk of his car is what you told the Solicitor, right, and he fires a shot and then he just takes the gun and puts it back up under truck of the car, close it down, and then comes back over there to where y'all are all standing and y'all just sit around and get another drink; is that what happens?
A No, they were still in the highway after that 'cause he shot the gun. They were still in the highway.
Q That's right. Rishawn Gause — I'm sorry, Ian Gause and Mr. Woodbury were still in the road

because Mr. Ian Gause was still chasing him at that point when his brother fired the gun, right?
A No.
Q No? No, what? What part of that is no?
A He wasn't chasing him.
Q He wasn't chasing him?
A He was never chasing him.
Q He was just walking behind him?
A No. When they was in the road, when he ran that's when he ran after.
Q Well, that's what I'm saying. Is that not chasing him? In your mind that's not chasing if he runs and he runs after him, that's not chasing him?
A Yes.
Q Yeah, it's chasing him. And then Mr. Woodbury managed to get away from that, runs back up under the carport, and he comes up under there, right?
A Once they ran out of the road, once they ran out of the road, when they ran to the car porch, that's when Ian ran to the car porch with him. So after they ran up to the car porch, about five minutes Ian came out said he had got stabbed. His brother had came out and said I got stabbed too, he stabbed me good ——
Q So what about ——

A ——I need to go to the emergency room.
Q So what about those five minutes then, let's talk about that. Those five minutes when Mr. Woodbury runs from out of the road and runs back up under the carport with them in pursuit of him, and for five minutes there's nothing going on and then Mr. Ian Gause tells you, or says to y'all, that he has been stabbed?
A Yes.
Q So now what happened during those five minutes? Where are Mr. Woodbury, Mr. Rishawn Gause, and Mr. Ian Gause when these five minutes are occurring?
A He was in front of the van in the car porch.
Q Right. 'Cause they were fighting. They were fighting in front of the carport?
THE COURT: Is that a question, Mr. ——
BY MR. WILSON:
Q Were they not?
A I don't know. I told you I never seen it.
Q You didn't see it?
A No.
Q So for the whole five minutes after they run back up under there, you are just -- what are you doing?
A I just gave up because we tried to break it up so long I just gave up.

Q You just gave up?
A Yes.
Q So what are you doing? That's my question. What are you doing during these five minutes?
A I'm just standing around.
Q Standing around?
A Yeah.
Q And where was Charles Wilson during these five minutes?
A I don't know.
Q Where was Mr. Grissett?
A He probably in the house.
Q Probably was in the house?
A Yeah.
Q Is that when the lights got cut off?
A Yes.
Q In fact, the lights got cut off, isn't it true, that the lights got cut off when Mr. Woodbury ran back up under the shed of the house and they were in pursuit of him, that's when the lights got cut off?
A Yes.
Q Right. And the lights got cut off because we don't want nobody knowing what's going on, right?
MR. CLEMENTS: Objection.
THE WITNESS: Your Honor.

THE COURT: Hold on a minute.
MR. CLEMENTS: Pure speculation.
THE COURT: Objection sustained.
MR. WILSON: Thank you.
THE COURT: Rephrase -- you can ask the question, rephrase your question.
BY MR. WILSON:
Q When did you -- that's fine. Just let me move to another issue here. Let me ask you about this, now as I understand your testimony at no point in time did you ever see Mr. Ian Gause with a gun?
A No.
Q That's your testimony?
A Correct.
Q That's your testimony, right?
A Yes.
Q Okay. And the only time that you saw a gun in the hands of Rishawn Gause was when he was firing a shot in the air?
A Yes.
Q Is that right?
A Yes.
Q Okay. Now anybody else out there have any guns?
A Not to my recall.
Q How many shots total were fired out in that night

while you were there?
A One.
Q One shot?
A Yes.
Q No question in your mind about that?
A No question.
Q All right. One shot?
A One shot.
Q Okay. Now you said at some point in time that after this five minute gap where you don't really know what's going on and the lights are off, that at some point in time Mr. Woodbury is gone around the side of the house or the back of the house or somewhere?
A Well, after the Gauses came from under the shed I never seen Mr. Woodbury till later on 'cause he came back in the light.
Q Well, you told the Solicitor about 15, 20 minutes later that Mr. Woodbury showed back up.
A Look, after they went to the ER, he showed up like 20 minutes later ---
Q Okay.
A ---to get his knife.
Q I'm sorry?
A To find his knife. He showed up like 20 minutes

later after that.
Q Yeah, he came back from around the house — or where did he come from?
A Came from around the house.
Q Right, came from around the house and after they had left, right?
A Yes.
Q He came from around the house and he picked up the knife that was there, plus his car was still there; was it not?
A I don't know.
Q Well, the jeep that he was in?
A I don't know about that jeep. Could be still — the jeep could have been still there; I don't remember.
Q Well, let me ask you this, didn't you tell the Solicitor earlier that the jeep was parked in the yard?
A I said I don't know how he left. It was parked in the yard 'cause he came back with the knife. I said I don't know how he left.
Q Well, you were there. When he came back —
A I probably went in the house once he got the knife; I don't know.
THE COURT: Let him finish answering his

question. When he's talking let him finish answering your question.

MR. WILSON: Yes.

BY MR. WILSON:

Q Go ahead.

A Go ahead.

Q My question is, when Mr. Gause, when Mr. Ian Gause told you that he had been injured and that they left and went to the hospital?

A Yes.

Q Right?

A Yes.

Q At some point in time you said a few minutes later that Mr. Woodbury came back from around the side of the house?

A Yes.

Q Right?

A Yes.

Q Now you're still there?

A Yes.

Q Where are you standing when Mr. Woodbury comes back from around the side of the house, where are you standing?

A I was standing like in front of the van right by the knife.

Q You're standing in front of the van?
A Right by the knife.
Q Right by the knife. And there are only two cars parked in the yard, right?
A I recall the van. I don't recall nothing else.
Q You recall the van, but don't recall anything else. So how did Mr. Woodbury leave?
A I don't know. Probably went in the house after that. I don't remember how he left.
Q You don't remember, okay. So he gets the knife, then you just went in the house?
A Once he got the knife he wiped the knife off.
Q What did he wipe it off with?
A He wiped it with his shirt or something; I don't remember. I don't really remember. I know when he wiped it off. I think he wiped it on his shirt up here somewhere.
Q Okay, all right. And so then he gets the knife, he leaves. But you go in the house first, is that what you're saying?
A After he left — once he got there I don't remember what he did after that. I can't remember.
Q Okay.
A I don't know how he left.
Q Okay. Now is the reason that can you can't

remember because you were intoxicated or you just don't know?
A No, I just don't remember.
Q Well, is there any reason that you didn't go to the police and tell them this story the day after this happened?
A No, because they ain't came to question me so I really didn't say nothing but really to no police; but to my family that's all I said something to.
Q Okay, all right.
MR. WILSON: Court bear with me one second please.
THE COURT: Yes, sir.
BY MR. WILSON:
Q I just want to ask you one last thing. And I know we talked about this a minute, but you used the phrase to keep the heat down when you said they turned the lights off to keep the heat down ——
A To keep his ——
Q The heat being the police ——
THE COURT: Hold on, let him finish.
BY MR. WILSON:
Q The heat meaning the police or the heat meaning the electric heat?
A Naw, to keep his mom from out — keep his mom

from knowing what's going on, really.
Q So when you were referring to heat you were referring to his mom?
A Yes.
Q Okay. Not to the police?
A Not the police, no.
Q Okay.
MR. WILSON: No other questions, Your Honor, thank you.
THE COURT: Any redirect?
MR. CLEMENTS: No, Your Honor, I ask he be released from his subpoena.
MR. WILSON: No objections, Your Honor.
THE COURT: Sir, you're free to step down. You have no further responsibilities from your subpoena. Thank you for being here.
Ladies and gentlemen, we're going to take a break at this time. We've been going for a while. You all stepped out earlier, but we did not, we did not. So we're going to step down a few minutes. I'm gonna ask you to step to the jury room. Do not, do not discuss the case. I'll get you back out here quickly as possible.
(WHEREUPON, the jury was removed from the courtroom at 11:22 a.m., and the following

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proceedings commenced in open court.)
THE COURT: Anything from the State before we step down?
MR. CLEMENTS: No, Your Honor.
THE COURT: Defense counsel?
MR. WILSON: Nothing.
THE COURT: We'll stand down ten minutes.
(WHEREUPON, a recess was taken from the proceedings.)
THE COURT: State ready to proceed?
MR. CLEMENTS: We are, Your Honor.
THE COURT: Defense counsel?
MR. WILSON: Yes, sir, Your Honor.
THE COURT: Anything before I bring the jury in, Mr. Clements.
MR. CLEMENTS: Yes, sir, may we approach.
(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)
THE COURT: All right, bring the jury please.
(WHEREUPON, the jury was returned to the courtroom at approximately 11:41 a.m., and the following proceedings commenced in open court.)
THE COURT: All the jurors are present.

Mr. Clements, call your next witness please.

MR. CLEMENTS: Thank you, Your Honor. If it please the Court, Your Honor, we call Ky Graham.

THE CLERK OF COURT: Mr. Graham, place your left hand on the Bible, raise your right hand.

WHEREUPON,

KY GRAHAM,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: Have a seat in the witness box.

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q Mr. Graham, could you please state your name and spell your name please for the court reporter.

A My name is Ky Graham, K-Y G-R-A-H-A-M?

Q I'm gonna ask, if you would, speak up 'cause you have a sort spoken voice. If you'd speak up so all these jurors can hear you, okay?

A All right.

Q Mr. Graham, how old are you?

A 40.

Q Where do you live?

A Owen Street.

Q In Marion?
A Yes.
Q How long have you lived in Marion?
A Since about '91.
Q Okay. Where did you live before then?
A Connecticut.
Q Connecticut?
A Yes.
Q And do you have a record for burglary second and criminal conspiracy?
A Yes.
Q Okay. That happened a long time ago?
A Yes.
Q All right. Now you know Richard Woodbury?
A I knew him for a couple of years.
Q Okay. How about Lamont Davis?
A Yes.
Q All right. Do you know Charles Wilson?
A Yes.
Q All right, does he have a nickname?
A They call him Junior.
Q Okay.
A Yeah.
Q They also call him Banner?
A Yes.

Q Okay. And did you know Ian Gause?
A No.
Q Did you know Rishawn Gause?
A No.
Q Did you know Ronnie Boatwright?
A Not really, no.
Q You just knew him but didn't know him well? Okay. Do you recall the night of September 29th, 2012?
A Yes.
Q Who were you riding around with?
A I was with Richard Woodbury.
Q And who else?
A Lamont, Lamont Davis.
Q How long you been riding with them? What time y'all start riding around?
A I can't recall the time, how long we were riding around.
Q You been with them a few hours before you went to Junior's house?
A Yes.
Q Where was Junior's house?
A It was on south Withlacoochee.
Q I'm gonna show you State's Exhibit Number 1, do you recognize that?

A Yes.
Q What is that?
A That's a Cherokee jeep.
Q Whose car is that?
A Richard Woodbury.
Q Is that the car you were riding in?
A Yes.
Q Where were you seated in the car?
A Passenger side.
Q Passenger side front?
A Yes.
Q Who was driving?
A Richard.
Q Where was Lamont Davis seated?
A He was in the back.
Q Okay, the driver's side or passenger side, if you know?
A I think it was — I can't remember.
Q Can't remember, that's okay. I'm gonna show you State's Exhibit 17. Do you recognize that?
A Yes.
Q What is that?
A That's Charles Wilson's house.
Q That's Junior's house?
A Yes.

Q Okay, you recognize that van?
A Yes.
Q Was that van there that night?
A Yes.
Q I'm gonna show you State's Exhibit Number 10. Do you recognize that or not? It's fine if you don't.
A Can't recall.
Q You can't recall it, that's fine. That's good. Now you were riding in the passenger side of Richard Woodbury's car and y'all went up to Junior, Charles Wilson's house; is that correct?
A Yes.
Q Where did you pull in and park at?
A Right on the — before you get to the, under the shed.
Q All right, right behind that van?
A Yes.
Q Pull in behind that van? Were there any other car in the yard that you remember?
A I think it was just one other car. I think it was on the side, the grass part.
Q Okay. Do you know what kind of car that was or not?
A No.
Q Okay, all right. It is parked over on the grass?

A Yes.
Q All right. And as you were sitting on the passenger side of the car it'd been over to your right?
A Yeah, on the right.
Q Okay, all right. Now y'all pulled up to Charles Wilson's house. Had you been drinking any at that time?
A I had a little something.
Q Little something?
A Yeah.
Q Weren't drunk, weren't intoxicated?
A No.
Q How about Richard?
A He had a little something.
Q Okay. Was he drunk or intoxicated?
A He was just — wasn't really.
Q Wasn't really?
A No.
Q He was okay to drive?
A Yes. Yes.
Q When y'all pulled up to that home in Withlacoochee who got out the car?
A I had got out the car.
Q You got out the car?

A Yes.
Q And what did you do when you got out the car?
A I came over to the car porch and spoke to everybody.
Q Okay. Now was there any particular reason you were coming or just said, hey, let's stop by and see my boy?
A I just wanted to see my boy Junior.
Q No real reason, just visit?
A Yes.
Q All right. When you got there and you spoke to everybody was everybody seem to be fine?
A Yes.
Q You didn't see any trouble brewing at that time?
A No.
Q Who got out the Cherokee next?
A I think after a while I think Richard got out after a while.
Q You were standing around talking a little bit.
A Yeah.
Q Then he got out?
A Yeah.
Q And Lamont stayed in there at that time?
A Yes.
Q Okay.

A Yes.
Q What did Ian -- I mean, what did Rich Woodbury do?
A Uh, he came and spoke to everybody.
Q All right. After he spoke to everybody, anybody else say anything?
A I think him and Ian had a little words.
Q Start having words?
A Yes.
Q Do you have any idea what that was about?
A No.
Q You aware of any trouble they had in the past or any beef or anything, to your knowledge?
A No.
Q No. You said they started having words, what do you mean? As far as the volume or the type of language or that kind of thing, how would you describe it?
A Just like regular talking, you know, a little heated a little bit but.
Q Little heat.
A Yeah, a little heat.
Q Did it stay a little heated, did it get much more heated?
A I think it calmed down after that.

Q Calmed down for a minute?
A Yeah.
Q And then what did Richard do? He go back to the jeep?
A Yes.
Q Okay. And you stayed under the carport?
A I had went back to the jeep too.
Q You went back to the jeep too?
A Yes.
Q All right. And what, if anything, did you say to Richard about what's going on, let's leave, want to go, what about it?
A You know, I was just sitting in the truck whatever and stuff, you know, just talking and stuff and ——
Q Did you suggest that y'all leave?
A Well, yeah, at first but ——
Q Okay.
A ——you know.
Q But Richard didn't leave, he didn't want to leave?
A He would leave but...
Q But he didn't?
A I had said, you know, I said, you know, he had — the guy Ian was saying a little something and, you

know, after that he had got out of the jeep.
Q So he got out the jeep again?
A Yes.
Q Was he mad?
A I can't...
Q Wasn't happy, was he?
A I don't think he was, wasn't.
Q Were they still talking smack?
A Yeah. Well, when he got out, you know, he just ---
Q They started talking smack?
A Yes, when he was over at the carport.
Q Did they get nose to nose, or were they just a little bit apart talking junk to each other?
A At first they was nose to nose. He just, he was — Ian was in the car porch.
Q And they were talking smack to each other, Richard got back out the car?
A Yeah.
Q All right. Richard retrieve anything at that time from the car?
A Yes, the knife.
Q He had the knife then?
A Yes.
Q Okay. And Ian was at the back under the carport?

A Yes.
Q Okay. Is this the knife?
A Yes.
Q Had you ever seen it before?
A Yes.
Q You had seen it before?
A Yes.
Q Richard carried it with him?
A Yes.
Q In the car?
A Yes.
Q Okay.

THE COURT: For the record that's State's Exhibit 23.

MR. CLEMENTS: Thank you, Your Honor.

BY MR. CLEMENTS:

Q So Ian is still in the carport talking junk. Richard gets back out the car, got that sword. What kind of sword is that, do you know? Ninja, martial arts, something like that?
A I think it's some kind of martial arts.
Q Do you have any knowledge of Richard's into that or likes martial arts or takes martial arts or anything?
A Yes.

Q He does?
A Yes.
Q Okay. Now pretty involved in martial arts or a little bit, if you know?
A I think he pretty much a little bit. I can't recall too much.
Q Okay. After he got out did Richard go back towards the carport?
A No. I think Ian had came up. They were having a few words and stuff.
Q Okay. Outside the car?
A Yes.
Q All right. What was anybody else saying about anything? What did anybody do to try to calm it down?
A Well Charles, he had Ian, you know, by you know, by — he had, Ian was on his back and he was trying to, you know ——
Q But y'all split them in between?
A Yeah.
Q Like this?
A Yeah.
Q Is that right? Okay. And did you or Lamont get out the car and try to get Richard get in the car?
A Well, I had got out the passenger side, you know.

We was talking and stuff, you know, trying to calm ——

Q What were you saying, calm down, or what?

A You know, tell him to get back in the car and stuff.

Q All right. Did you tell him it's time to go?

A Yes.

Q You did? All right. But he didn't go? He didn't get back in the car then?

A No.

Q All right. Lamont in the car the whole time during this part of it so far?

A Eventually he got out after that.

Q Eventually he got out too?

A Yes.

Q And what was he doing when he got out? What was he trying to do when he got out the car?

A You know he was trying to break it up too.

Q What was he trying to do with Richard?

A Tell him to get in the car and stuff, the jeep.

Q Okay. And did Richard do that?

A Not at -- I can't recall what happened.

Q You can't recall? Did you see other than Charles who is in between them, and you and Ian and Richard out, did you see what anybody else did to try to

break it up or anything?
A Not that I know.
Q Okay. Did you hear anybody else say anything about anything?
A No.
Q Okay. Did you see Richard pull his Ninja sword out, not apart, but did you see him pull it out?
A Yes.
Q Okay. But he didn't pull it apart at that time?
A No, he didn't pull it apart.
Q What was Ian doing and what was Charles doing? Was Charles still in between them?
A Ian had pulled out his, you know, gun from the side?
Q He had his gun, he had it down by his side?
A Yeah, and that's when Charles moved out the way.
Q Okay. And Richard had his sword, he pulled his sword out, and then Ian pulled his gun out?
A Yes.
Q That's the way it went?
A Yes.
Q Okay. Now when did you hear a noise at all, if you heard a noise, let me ask you that? Did you hear a noise?
A We talking about like a -- yeah, I heard a noise.

Q What was the noise? What did it sound like?
A A gunshot.
Q A gunshot? Where did it come from? Did it come from Ian?
A No.
Q Where did it come from?
A Came from Rishawn.
Q Rishawn?
A Yeah.
Q And where was Rishawn at?
A I think he was on the car porch I believe.
Q He was on the carport or over by his car?
A No, I think he was on the car porch.
Q He was on the carport. And where did he shoot? Fire in the air, or did you see him, or you just heard him?
A He shot in the air, shots in the air.
Q What did he say?
A He didn't say nothing.
Q He didn't say go away, get him out of here, or anything like that?
A I think he probably was just trying to stop it or something like that.
Q So that's warning, in your mind that's a warning shot?

A I'm not ——
Q To stop everything?
A I'm not too sure.
MR. WILSON: Your Honor.
THE COURT: I'll sustain the objection.
BY MR. CLEMENTS:
Q To stop everything. What did you take that shot to be for, for what purpose?
A I was thinking of a warning shot.
Q You were thinking it was a warning shot?
A Yes.
Q Try to break everything up?
A Yes.
Q All right. Did it stop everything momentarily or not?
A No, Ian had Richard go down the street, you know, pointing the gun at him.
Q All right. And when did they come back into the yard?
A I was on the carport. And after a while, you know, I saw, you know, Richard backing up. And Rishawn and, you know, Ian had, you know, going towards the car porch, and had the guns out and stuff like.
Q So Ian had his gun out then?

A Yes.
Q And you could see it. What kind of gun was it?
A I can't, I can't recall.
Q You don't know?
A I can't remember.
Q Do you know the difference between different kinds of guns?
A Somewhat.
Q Okay. But it was a handgun?
A It seemed like it. I'm not sure.
Q All right. Now when did you see them start swinging?
A I didn't really actually see them swinging. I just was hearing it. I had moved all the way around the van and came all the way back to the, near to the grass part, you know.
Q All right. And when you heard a shot you backed up more towards the house?
A Yes.
Q Okay.
A Yes.
Q And you remember giving a statement to law enforcement?
A Yes.
Q Okay.

A Yes.
Q Did they ever move from the street to the front yard and then start swinging at each other or not?
A They was under the car porch, you know. I could hear them, you know, sound like they, you know, fighting and stuff.
Q All right. And Ian and Richard both you heard?
A I couldn't see it, but you know, 'cause the light had went out so.
Q Okay, all right. Did you see anybody turn the light out?
A No, I didn't see nobody turn the light out.
Q Okay, all right. And what did you hear next after you heard the sounds like fighting?
A You know, I just backed away, you know, trying to stay, you know.
Q You didn't try to break them up at that point in time any further?
A No.
Q Why not?
A You know, 'cause they had guns on them, you know.
Q They had a gun and a sword?
A You know, I didn't want to get involved like that so.
Q All right. And what did you hear next?

A You know, after a while I thought I heard Ian, you know, saying — he got up. It sound like he was saying, you know, like -- I can't recall. He was saying something but I can't recall.
Q Saying something?
A Yeah.
Q To his brother or to who?
A I think he was saying something to his brother.
Q Yeah. After he said that what did they do?
A After a while they got in the car and they left.
Q Did you know where they were going, hear where they were going?
A No, not at first.
Q You see any blood on anybody?
A Huh-uh.
Q Did you have opportunity to see that?
A No. You talking about the blood, right?
Q You just saw them get in the car and leave?
A Yes.
Q And then after that where did Richard — what did he do? You saw him right after that?
A After that I think he was coming from around the building.
Q Came from around the building, around the house?
A Yes.

Q What did you see him do?
A He came back. You know, he had one of his knives. One of them was on the ground in front of the car porch.
Q One was in his hand?
A Yes.
Q And so one was on the front, in the front of the carport, right?
A Yes.
Q Okay. And when he -- when you heard them fighting they were inside the carport, right?
A Yes.
Q And when Richard ran out from -- you saw Ian come out the front of the carport, right?
A Yes, Ian and his brother?
Q And Richard went the other way, went out the back of the carport?
A He must have ran behind the building.
Q Okay. But he went out the back of the carport; he didn't come out the front of the carport?
A The back, yeah, back.
Q He went out the back and came around the building?

MR. WILSON: Your Honor.

THE COURT: Rephrase your question.

BY MR. CLEMENTS:
Q Okay. Where did you see him come from?
A He looked like he was coming from around the side of the house.
Q Around the side of the house, the other side?
A From the ---
Q From the carport?
A Yeah, from the back, yeah, going towards straight to the back.
Q Okay, all right. So if this is the carport and this is the front of the house, which direction did he come from, this direction or this direction?
A The back of the house.
Q Back of the house?
A Yeah, back.
Q All right. Now did you or did you not see Richard retrieve his sword from the car before you ever saw a gun? Is that true or not true?
A Before I saw the gun?
Q Yeah.
A I think I saw him before he got to, you know, before he got the gun.
Q All right. And at that time when he went and got his sword out the car did he have opportunity to leave then or didn't have opportunity?

A I mean, he could have, yeah.
Q He could have?
A He could have, yeah.
Q And you were trying to get him to leave; weren't you?
A Yeah, we were trying.
Q Who else was trying to get him to leave?
A Me and Lamont.
Q How about Charles?
A I think he was; I'm not too sure.
Q All right. But everybody was trying to break it up?
A Yes.
Q And about how many different opportunities did Richard have to leave?
A I say about a few, maybe about a few.
Q About three or so?
A Yeah.
Q Okay. Beg the Court's indulgence a moment. Please answer any questions Mr. Wilson may have.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. WILSON:

Q Mr. Graham, you told the Solicitor you recall giving a statement to the police back on September,

actually the morning of September, right?
A Yes.
Q And to Lieutenant Smith and Lieutenant Flowers. And at this time in that statement did you ever tell them about any guns being there that night, did you?
A No.
Q I'm sorry?
A No.
Q No. The first time that you're talking about guns is today, right?
A Yes.
Q But you told them back on September 30th, did you not, that you saw a knife in the hands of Mr. Woodbury but you never ever mentioned anything about any guns being on or in the possession of Shawn, Rishawn, or Ian, correct?
A No.
Q Right. And the answer was, no, you did not?
A No.
Q Is that correct?
A No.
Q All right.
MR. CLEMENTS: Your Honor, can he get a verbal response.
THE COURT: He did give a verbal response.

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It might not have been loud enough. He gave a verbal response. Yes, sir.

MR. CLEMENTS: I couldn't hear. I apologize, Your Honor.

THE COURT: That's all right.

BY MR. WILSON:

Q What changed between September 30th and today so that your testimony is different today than it was September when this happened?

A You know, I just, I guess I just want to, you know, tell the truth, you know.

Q So today you're trying to tell the truth a little bit more, is that what you're saying?

A I just couldn't recall so many things at the time, you know.

Q Well, you saying that you couldn't recall the night this happened -- this happened around 11:00, correct, 11:00, somewhere theres about and you're at the police station at five a.m. giving a statement six hours later but your memory was better today than it was a year-and-a-half ago when this happened or within hours after this happened? Is that what you're saying?

A Yes.

Q Yes, sir. Okay. So let me ask you this, whose

idea was it to go to your boy Junior's house?
A That was mines.
Q That was your idea?
A Yes, sir.
Q It wasn't Woodbury's idea, was it?
A No.
Q And he took you there and when he went there he wasn't even gonna get out car originally, was he?
A That question I don't know.
Q You said that you wanted go to your boy's Junior's house so y'all go to Junior -- why were you going there again?
A Just went there in you know, to talk, chat with them.
Q About what?
A See what's going on tonight.
Q Didn't go there to buy drugs?
A No.
Q You under oath?
A Well yeah, I bought one.
Q Right, you went there to buy drugs. That's why you went there and --

MR. CLEMENTS: Your Honor, we need a side bar please, or we have a point of law.

(WHEREUPON, counsel approached the Bench

for an off-the-record discussion.)
BY MR. WILSON:
Q Okay. I forget exactly where we was at again, but let's go back. So when you get there and you get out of the car, you go to the house, and Mr. Woodbury and Mr. Davis are still in the vehicle, right?
A Yes.
Q They stay in the vehicle.
A Yes.
Q And when you go, is the light on up under that carport when you first get there?
A Yes.
Q And you go in and you greet whoever is there, you speak to the people ---
A Yes.
Q ---who are there?
A Yes.
Q And you're there for how long before you go back to the car?
A I say about several minutes.
Q Okay. You're there several minutes. At some point while you're still up there under the carport Mr. Woodbury gets out, and he comes up to where y'all are?

A Yes.
Q Under the carport?
A Yes.
Q And when he comes under the carport he speaks to everybody, does he?
A Yes, he does.
Q And at that point is there any problem when he gets out speaks to everybody?
A No.
Q Okay. The problem started when Mr. Woodbury supposedly didn't speak to Ian Gause?
A Yes.
Q And Mr. Gause took offense to that; did he not?
A Yes.
Q All right. And he demanded some kind of response as to why he wasn't spoken to?
A Yes.
Q Okay. And they had some words?
A (No verbal response.)
Q You have to say yes or no please, sir.
A Yes.
Q And after they had these words Mr. Woodbury then goes back to his car; does he not?
A Yes.
Q All right. Well, and Mr. -- and as I understand

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it you went back to the car too?
A Yes, I did.
Q Well, then Mr. Ian Gause comes to the car where y'all are, to the door, right?
A He didn't come to the door.
Q Well, how did he get to the car?
A After -- no, Richard had came out.
Q Richard came out of where?
A The jeep.
Q So Richard gets out of the jeep, that's what your testimony is?
A Yes.
Q All right. He gets out of the jeep and does what?
A He had grabbed his, you know, his, you know, knife.
Q He got a knife out of the jeep is what you're saying?
A Yes.
Q Then what?
A Him and Ian, you know, they was talking.
Q Talking where?
A You know, talking to each other, you know.
Q I understand. Where were they, where were they as they were speaking to each other?

A Ian, he was on the car porch and, you know, Richard was outside.
Q Richard was outside where?
A Of his jeep.
Q He was standing at the jeep.
A Yes.
Q Was the door open or was the door closed?
A I think it was still open.
Q Okay, all right. So Ian — I'm sorry, Ian is under the carport. Mr. Davis — I'm sorry, Mr. Woodbury is, as you say, standing near the car with the door open, correct?
A Yes.
Q Where are you?
A I was still in the jeep. After a while I got it.
Q So you're still in the jeep. Are you in the passenger, front passenger seat?
A Yes.
Q You're sitting in the front passenger seat. Mr. Davis is in the back?
A Yes.
Q So then what happens?
A You know, they had a few words, then Charles, you know, was trying to, you know, was holding, you know, Ian back.

Q Holding Ian back from what?
A 'Cause he had, you know, took his gun out.
Q Ian take his gun out?
A Yeah.
Q All right. Now where is the -- you say that mr. Woodbury had the knife. Where was the knife?
A It was inside the jeep.
Q Yeah, but I'm saying, as I understand your testimony, what you're saying is that Mr. Woodbury retrieved the knife from the jeep at some point. Is that what you're saying?
A Yes.
Q All right. And where was it? Where did he put it? Where did he have it?
A He had it in his pocket.
Q He had it in his pocket?
A Yes.
Q So it was concealed?
A Yes.
Q Okay.
A Yeah.
Q So did Mr. -- could anybody see it?
A No.
Q All right. So Mr. -- Ian Gause would not have seen the knife if he had it?

MR. CLEMENTS: Objection, calls for pure speculation.

THE COURT: Objection sustained.

BY MR. WILSON:

Q He had it and you said that it was covered up by his clothing. Is that a fair statement?

A Yes.

Q All right. So it was not ready visible to you and you were standing close to him?

A Well, I was standing like on the side of the jeep.

Q Well, were you closer to him than Ian Gause was?

A Yes, a little, yeah.

Q Okay. And then Ian Gause you see, then see Ian Gause with a gun in his hand?

A Yes.

Q Right? And Ian Gause is being, trying to, is being held back by Charles Wilson, correct?

A Yes.

Q All right. 'Cause he's trying to get past Charles Wilson to get to Mr. Woodbury, right?

A Yes.

Q All right. And now, let me ask you this, backing up just a second, how many shots were fired out there that night that you heard?

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SW - K. GRAHAM - CROSS

A Just one.
Q One shot?
A Yes.
Q One shot, the whole night one shot is fired. Is that your testimony?
A Yes.
Q Okay. There wasn't three or four shots fired? That never happened?
A No, I just heard just one shot.
Q And there's no question you were out there because you brought Mr. Woodbury there and did you leave with Mr. Woodbury?
A I was still there.
Q That's what I'm saying. You brought him there and you left with him?
A Yes.
Q So if any shots had been fired at that location you would have heard them?
A Yes.
Q And you didn't hear but one?
A Just one.
Q Okay. Now let me ask you this, is there any question about the fact that Mr. Ian Gause was trying to get past your friend Junior to get to Mr. Woodbury? No question about that, is there?

A Richard had grabbed his side.
Q Okay.
A So I guess he was probably maybe thinking that he probably had a, you know, a gun on him or something like that.
Q Now did you tell the Solicitor that just a minute ago or is that something new? Richard grabbed his side. Did you say that earlier in your testimony or is this the first time you're saying that?
A I don't -- I don't recall.
Q You speaking to me or are you speaking to the Solicitor?
A I don't recall, you know.
THE COURT: He's answered the question.
BY MR. WILSON:
Q All right. So you don't recall if you said that earlier?
A No.
Q So you don't know if that's a third version of your story, the one that you gave to police that night, your earlier testimony to the Solicitor, and now what you're telling me?
A I don't recall.
Q You don't recall, okay. Now as I understand it you have known Junior for a while, right?

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A Yes.
Q And how long you say you've known Junior?
A Probably about seven years.
Q About seven years. And how long had you known Rishawn and Ian Gause?
A I didn't know them.
Q Okay, all right. Let me, let me ask you this, in your statement on September 30th of 2012, you recall giving that statement to those two officers lieutenant Smith and Lieutenant Flowers?
A Yes.
Q All right. Do you recall telling them saying that a tall guy, Ian ---

MR. CLEMENTS: Your Honor, I would object. May we approach.

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

BY MR. WILSON:
Q Again, let me ask you, you recall giving a statement to the police back in September of 2030 (sic)?
A Yes.
Q And you testified today that there were guns in the hands of both Ian and in the hands of Rishawn at some point during the evening, correct?

A Yes.
Q All right. And do you recall telling the police that back then?
A I don't, I don't recall.
Q Okay. All right, you don't recall that?
A No.
Q All right. Do you recall telling the police that at some point in time that Ian came up to the car that you and Mr. Woodbury were sitting in. You recall telling him that?
A I don't recall that.
Q You don't recall that either, all right. So you don't recall a lot about what you told the police back on September 30th, right?
A No.
Q Have you seen the statement that you made to the police? Have you seen it at all, ever?
A I'm not sure.
Q Okay, all right. Let me go on and ask you some other stuff here. Let's go to the lights going out. Now at some point in time you said if I — and I don't want to miss quote your testimony again. If I say something you didn't say you just stop me.
A Okay.
Q You're saying at some point Ian and Mr. Woodbury

was out in the road?
A Yes.
Q Okay. And then at some point they came out of the road back into the carport area?
A Yes.
Q All right. When they come back into the carport area that's when the lights go out, fair?
A Yes.
Q All right. The lights go out. Now while the lights are out, how long are the lights out before it is that Mr. Ian says that he has been injured, and wants to go to the hospital? How long?
A I'd say about maybe several minutes.
Q Several minutes. The lights are out.
A Several minutes.
Q Now during that time when the lights are out can you see anybody or you just hearing what's going on?
A I couldn't really see nobody. I was just hearing what's going on because I had backed up, you know.
Q Okay. Now during the five minutes or several minutes or couple of minutes, however long a period it was when these lights were out and whatever is going on is going on, where is Mr. Rishawn Gause?
A He was on the car porch.
Q He was on the carport?

A Yes, sir.
Q Where is Mr. Ian Gause?
A He was on the car porch.
Q He was on the carport. Where was Mr. Woodbury?
A He was on the car porch.
Q So somehow they got from the road up under the carport?
A Yes.
Q All right. And there's no question that all three of them are up under this carport at this point in time?
A Yes.
Q All right. Now did you ever see Mr. Rishawn Gause go back to his car and put his gun back in the trunk of his car?
A I haven't seen.
Q You never saw that?
A No.
Q What kind of gun was it that Mr. Ian Gause had?
A I can't, I'm not, I can't recall that.
Q Okay. You just know it was a gun?
A Yes.
Q All right. Now did you actually see anybody get cut or stabbed or struck, period?
A No, I haven't seen it.

Q I'm sorry?
A I haven't seen it.
Q All right. You never saw that. So you don't know what happened during that period of time when the lights are out?
A No, I haven't, you know.
Q And whatever happened happened during that period when the lights are out?
A Yes.
Q Is that a fair statement?
A Yes.
Q All right. Now as I understand your testimony you, after the whatever happened had happened, that Mr. Woodbury came back from around the side of the house at some point?
A Yes.
Q Okay. And one of the knives that the Solicitor been referring to was laying down on the pavement in where you were at under the carport?
A Yes.
Q Right?
A Yes.
Q And you then do what? When he comes back what occurs?
A You know, we were standing, just you know, I

think he was apologizing to, you know, Charles and stuff.
Q All right. For what?
A You know, I guess the incident, you know, around his house and stuff.
Q Apologizing for it happening at his house at, Mr. Junior's house?
A Yes.
Q Okay. Then what?
A I think that's when he had left I believe.
Q So then you and Mr. Davis — I'm sorry, you and Mr. Woodbury left?
A Yes.
Q In the black jeep that we've been talking about?
A Yes.
Q And now how long was it — well, let me rephrase that and ask it this way I guess. At some point in time Ian, Mr. Ian and Rishawn both left before Mr. Woodbury came from around the house. Is that a fair statement?
A Yes.
Q All right.
A Yes.
Q How long were they gone before Mr. Woodbury came from around the house?

A I say about, you know, maybe about several minutes or so.
Q Okay. Did you ask him why he was around the side of the house?
A No.
Q All right, okay. And when Mr. Ian Gause and Mr. Rishawn Gause left did you know that Mr. Ian Gause was injured?
A At the time I didn't know.
Q You did not know?
A I didn't know.
Q In fact, you didn't learn about that until later on; is that correct?
A Yes. Yes.
Q How much later was it that you learned about his injuries?
A It was at Club Fusion.
Q Okay. So you went to Club Fusion at some point in time?
A Yes.
Q Later this same night after this happened?
A Yes.
Q Okay. And you learned about the fact that he had some severe injuries at that point?
A Eventually, yes.

Q Yes, okay. Now during the — well, let me ask it this way I guess. What was the purpose of turning out the lights?

MR. CLEMENTS: Calls for speculation, Your Honor. I object, he's ---

THE COURT: Restate your question. Hold on, restate your question.

MR. WILSON: Judge, he's right. I asked what was the purpose of turning out the lights. I'll rephrase it and ask it a different way.

BY MR. WILSON:

Q I probably should have asked you this, one, did you turn out the lights?

A No.

Q Okay. Do you know who did turn out the lights?

A I didn't know.

Q Okay, all right. And, but you know the lights were turned down?

A Yes.

Q No question about that?

A Yes.

Q And did you ever go in the house at all?

A No, I never went in.

Q Okay, all right. Did Mr. Woodbury ever go in the house?

A No.
Q And did the lights come back on after Mr. Woodbury came from around the house? Did somebody ever turn the lights back on before you left, you and he?
A I can't recall that part.
Q Okay. Well, what happened to all the other people who were there after Mr. Woodbury ran around the back of the house? What happened to the rest of the people? Where did everybody go?
A All I know is, you know, Lamont, he was, he was gone, you know, the situation was gone and stuff like that. I think everybody else was sitting on the porch.
Q Okay, all right. Did you ever see Mr. Rishawn Gause fighting with Mr. Woodbury?
A I couldn't see that part.
Q You couldn't see that part. That was when the lights were out ——
A Yes.
Q ——whatever happened?
A Yes.
MR. WILSON: Court bear with me just one second please.
THE COURT: Yes, sir.

BY MR. WILSON:

Q Let me ask you this about this whole incident with the street now. When Ian and Mr. Woodbury were going into the roadway at some point early on, right?

A Yes.

Q And this has been before the lights got cut off?

A Yes.

Q And at that point you saw Ian with a gun and Mr. Woodbury going into the road; is that right?

A Yes.

Q All right. I don't have any other question.

THE COURT: Any redirect?

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q And when you saw them go into the road, Mr. Woodbury had what that he had retrieved from the jeep?

A He had the knife.

Q Okay.

A Yes.

Q NowMr. Wilson asked you about where everybody went, and you talked about Lamont had gone, right?

A Yes.

Q When did Lamont leave?

A It was sometime during the middle, but I don't really know.
Q When the gunshot was fired? Was that it or not?
A I'm not sure. I'm not sure.
Q So if Lamont left anybody could have left, right?
A Yes.
Q Including Mr. Woodbury?
A Yes.
Q And after Ian, were you — wait a minute, you said you didn't know Ian and Rishawn, didn't you?
A No, huh-uh.
Q Mr. Woodbury was your friend?
A I just knew them for a couple of years.
Q That's who you were hanging out with?
A Yes.
Q Okay. Now you said you didn't see Rishawn, you told Mr. Wilson you didn't see Rishawn putting the gun in the trunk. You didn't — did you see him fire the gun or just hear him?
A I actually saw him, you know, fire the gun.
Q And did you see him retrieve the gun from the trunk---
A I didn't see him ---
Q ---before he fired it?
A I didn't see him retrieve it from the trunk.

Q So you don't know where he got it from and what he did with it?
A No, I don't. I don't recall.
Q All right. Now Mr. Wilson asked you about where everybody went and then what y'all did after Ian and Rishawn left to go to the hospital and Mr. Woodbury comes back from around the house to get his sword out by the driveway there, the part, half of it. What time after that did the police show up?
A I can't recall exact time.
Q Who did they talk to?
A Um...
Q Did they talk to Richard?
A Yes.
Q What did he tell them?

MR. WILSON: Your Honor, this is not new matter. I mean, this is totally new. It's not ——

THE COURT: Restate your question, Mr. Clements.

MR. CLEMENTS: I'm asking him about what they did. He asked them about what they did after Mr. Woodbury came from around the house and Ian and Rishawn had left and he asked him about talking to the police so this is ——

THE COURT: I'll allow it. Go ahead.

BY MR. CLEMENTS:
Q What did Mr. Woodbury tell the police about where the fight, the gunshot was, when they asked him?
A I think he said down the street or...
Q He told them it was down the street?
A Yes.
Q And they left, right?
A Yes.
Q Okay. Y'all went to Club Fusion, and on your way home what happened?
A We came back to my house and ---
Q Who came up there at your house also?
A It was a cop.
Q And what did you tell the cop about the knife?
MR. WILSON: Your Honor, I object.
THE COURT: Sustain the objection.
THE WITNESS: Um...
THE COURT: Hold on a minute.
(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)
THE COURT: Go ahead, Mr. Clements.
BY MR. CLEMENTS:
Q Mr. Graham, what did you tell the police there about where the knife was?
A You know, I told them, you know, it was in the

jeep.
Q And what did Richard tell them, if anything?
A I don't know.
Q Okay. And then you went and gave your statement ——
A Yes.
Q ——at the police department?
A Yeah.
Q And do you recall whether you did or you can't recall whether you did? You understand my question? You can either recall if you did or recall that you did not say anything about guns to the police?
A I can't recall.
Q You can't recall whether you did or whether you did not, either one?
A Yes, I can't recall.
MR. WILSON: Your Honor — I withdraw it. I withdraw the question yes the objection.
THE COURT: Anything further, Mr. Clements?
MR. CLEMENTS: Beg the Court's indulgence a second. That's all we have, Your Honor.
THE COURT: Any recross?
MR. WILSON: Nothing, Your Honor.
MR. CLEMENTS: We'd ask Mr. Graham be

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relieved from his subpoena.

THE COURT: You may step down. You have no further responsibilities under your subpoena.

Call your next witness.

MR. CLEMENTS: Your Honor, we'd call — it's going to be lengthy. It's our last witness and it's gonna take a little bit of time. I just want to let the Court know.

THE COURT: Ladies and gentlemen of the jury, it's 12:30. Rather than possibly push well beyond lunch I'm going to let you go to lunch at this time. Do not discuss the case. Do not discuss the case. Be back here at 1:45, 1:45.

(WHEREUPON, the jury was removed from the courtroom at 12:35 p.m., and the following proceedings commenced in open court.)

THE COURT: Anything from the State at this time?

MR. CLEMENTS: No, Your Honor.

THE COURT: Mr. Wilson?

MR. WILSON: Nothing, Your Honor.

THE COURT: 1:45.

(WHEREUPON, a lunch break was taken.)

MR. CLEMENTS: Your Honor, I just handed a wrap sheet of my next victim to Mr. Wilson to look

at and we need to approach, Your Honor, to see if there's any impeachable offenses.

THE COURT: Just come on over here.

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

THE COURT: Anything from the State?

MR. CLEMENTS: No, sir.

THE COURT: Mr. Wilson, anything from defense counsel?

MR. WILSON: No, sir, Your Honor.

THE COURT: Bring me the jury please, sir. State ready to proceed?

MR. CLEMENTS: We are ready, Your Honor.

THE COURT: Defense counsel?

MR. WILSON: Yes, sir.

(WHEREUPON, the jury was returned to the courtroom and the following proceedings commenced in open court.)

THE COURT: Madam forelady, I hope you all, and ladies and gentlemen of the jury, I hope you had a nice lunch at least a somewhat filling lunch and ready to proceed. At this time I'm going to recognize Mr. Clements.

Call your next witness please, sir.

MR. CLEMENTS: Your Honor, we call

Rishawn Gause.

THE CLERK OF COURT: Mr. Gause, if you will come forward. Place your left hand on the Bible, raise your right hand.

WHEREUPON,

RISHAWN GAUSE,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: Have a seat in the witness box.

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q Could you please state your name for the record and would you spell it for the court reporter?

A Rishawn Gause, R-I-S-H-A-W-N.

Q Rishawn, you're kind of soft spoken so I'm gonna ask you if you can, please keep your voice up so everybody can hear you. How old are you, Rishawn?

A 24.

Q And back in September 2012 you were how old?

A 22.

Q 22. And where do you live?

A Redding Road, [redacted] Redding Road.

Q And what town is that in?

A Marion.

Q And have you lived in Marion all your life?
A Yeah.
Q Can you please tell this jury who your family members are, siblings, mom and dad?
A You mean point them out?
Q Just tell us their names.
A Henry Gause, Elizabeth Gause.
Q Is that your mom and dad?
A Yeah. And my sisters and brothers, I got a brother named Quinton Gauze; a sister, Lawan Gause, she pass; a brother Ian Gause — well, that's why we're here — and another sister, Rodey Gause.
Q All right. Is she the one that live in Texas?
A Yeah.
Q And owned the Ford Focus?
A Yes.
Q All right. Ian Gause was your older or younger brother?
A Older.
Q How old was he at the time of his death?
A He had to be 25, 25.
Q Three years older than you?
A Yeah.
Q Okay. Now you remember that night, you remember talking to the police department?

A Yes, sir.
Q Were you or were you not, completely honest with them and forthcoming with all the information?
A I wasn't.
Q You weren't?
A No, I wasn't all the way honest.
Q And why was that?
A 'Cause I felt, how the situation went down, I felt like we got played in a way or something like that so I felt like if he did that I ain't about to tell so they can lock him. I was like, I'm gonna get revenge on my own.
Q You were gonna get your own revenge? What changed your mind about that, if anything?
A Speaking with my family, my mom, and all them. They said we don't need nobody going to jail or none of that, and then they -- I heard they had already had him so.
Q And so what did that do as far as your attitude about being completely honest with my office or with law enforcement? Does did that have any impact on that?
A Yeah, it changed.
Q What did you decide to do?
A Leave it up to the system.

Q Okay, all right. Now ---
A So I ---
Q I'm gonna ask you some questions and Mr. Wilson is gonna ask you some questions, and you don't have any revenge to be sought anymore, you be honest with us, okay?
A Yes, sir.
Q Can you tell us that night early on where you went, where did you end up, and how did you get to Withlacoochee?
A We went over there because to download some music. I drove over there, me, my cousin Ron, Ron Boatwright and Ian. I went over -- we went over there, called, and told him we was coming over to download some music. So while we was over there it was me and Charles Wilson. We was all sitting around just chilling and he was showing me exactly how to do it.
Q Where were y'all sitting?
A Had to be right there in the driveway like under the garage, I'm guessing, like.
Q Where the cars were parked, where you park your car?
A The car had to be parked on the side on the grass.

Q Okay, all right. I'm gonna show you State's Exhibit 17. Do you recognize that?
A Yes.
Q What — is that the house where this all happened?
A Yes.
MR. CLEMENTS: Can I ask permission for the witness to step down one second, Your Honor.
THE COURT: Yes, sir. What exhibit is it?
MR. CLEMENTS: 17.
BY MR. CLEMENTS:
Q Step down here a second, Rishawn.
A (Complies.)
Q If you would, can you point out to the jury where about y'all would have been parked?
A That would be right up here on the grass.
Q On the grass. Does that look like tire marks right there?
A Yeah.
Q Is that about where y'all were parked?
A Yeah.
Q And about where — can you point out whereabouts were y'all sitting downloading music?
A This way between right there.
Q Okay, all right.

A It's more, it's 'cause on that picture it looks close. It's more room really.
Q A lot more room?
A Yeah.
Q You can't see the room because of the van?
A Yeah.
Q All right. Charles was showing you how to download music off the computer and burn a disk. Is that what you said last?
A Correct.
Q Well tell this jury, if you can, exactly what y'all were doing and who was sitting around, standing around?
A Well, me and Banner, he was showing me how to download the music. We was drinking a little ——
Q Let me stop you, Banner, is that a nickname?
A Charles, Charles Wilson, I apologize. I apologize.
Q That's okay. That's his nickname?
A Yes.
Q Has he got another nickname too?
A Unt.
Q Nobody ever calls him Junior?
A Junior, Junior, okay. But Ian and Ron, they was there too, but during all that I guess we were just

drinking.
Q Okay.
A Chilling.
Q Had you drunk enough to get drunk or you just having a drink or two?
A A drinking or two.
Q You don't feel like you were intoxicated yet?
A No, we wasn't.
Q Okay, all right. Who else came up there to the house after y'all had been there a while?
A From my understanding — what was his name? The one, the guy who was up here earlier. I don't know ——
Q The guy was just testified last?
A Yeah, yeah, him.
Q The big guy?
A Yeah.
Q You didn't know him before?
A No, I don't know him.
Q Okay. You talking about Kye Graham?
A Yeah.
Q Okay.
A Yes, sir.
Q All right. He came up?
A Yes.

Q Okay. Did you notice how he got there?
A When Woodbury got out that's when I realized. But at the same time I wasn't, my focus wasn't on the situation with him coming there. I was just, I was just around; we were just hanging around. But then when I seen Woodbury get out, he got out -- I watched him 'cause I know him. I know of him. I know of him. So he came up, like, I was just watching how, I was really just paying attention to his body language. And from my understanding when he came up he did speak, he spoke, he shook hands though but on purposely he did not shake my brother hand, Ian, even though that ain't a crime but he did it like, you know, like you trying to be funny in some way or something. So that when Ian was like, oh, he had a smirk, my brother had a smirk. He was like, oh, so you can't shake my hand. So that when he was like, he said something and he started walking off. He got in the car. They got in the truck so I'm guessing -- what's his name, Kyle?
Q I don't want you to guess, okay, just tell me what you saw and ---
A Well, I know for a fact he walked, got in the truck. The other guy got in the truck. But the

whole situation is, they left. The thing on-- that's the thing I don't understand, the point key is that they had left but before, when they got into the little confrontation like, you know, exchanging words he got in the truck, he did leave. He -- they left. About three minutes later they pulled back up. I don't know if everybody else was aware, aware like that they did leave; but that when I said, I looked, I said, I said dang, I said, why dude come back 'cause -- let me retrack myself. Before he left, when they was leave -- they backed out the yard and left, and that's when Charles Wilson asked Ian, he was like, oh, he said, do you know him. And Ian laughed. He said oh, yeah, yeah, I know him. He said he was just messing with him 'cause he, 'cause they knew each other before then but a few weeks before that Ian had told me like all of a sudden he, Woodbury been ---

MR. WILSON: Objection. Objection.

THE COURT: Hold on.

THE WITNESS: Woodbury ---

THE COURT: Hold on. I'm sorry, what is your objection?

MR. WILSON: Objection to whatever he was told.

THE COURT: Objection sustained.
BY MR. CLEMENTS:
Q All right. You can't tell us hearsay from back in the past, okay?
A No, it wasn't relating to nothing. Okay, okay, I understand that.
Q Understand?
A Well ---
Q Just want to know what you saw and what you heard and what you know, okay?
A Well, I know that ---
Q Not from something ---
A I know they was --
Q ---from the past.
A I know they was cool at one point. I know that 'cause he's ---
Q At one point they were cool ---
A Yeah, 'cause he was at my house.
THE COURT: Hold on. Hold on. Mr. Gause, when he's talking let him finish.
And Mr. Clements, when he's talking let him finish.
MR. CLEMENTS: Yes, sir.
THE COURT: She can't take both of you talking, okay.

THE WITNESS: Oh, yes, sir.

THE COURT: You may continue.

BY MR. CLEMENTS:

Q At one time, you just told me at one time they were cool but tonight evidently they weren't?

A Yes.

Q Okay, all right. Well, you said they left and pulled around a couple of minutes, came right back?

A Yeah.

Q What happened then?

A It raise everybody's eyebrows 'cause I said, why — I said, here go dude again. So that when Ian, my brother looked, and he got out the truck and he was messing with his pants so Ian said, oh, oh,m you went and got something. He said, you went and got something, and that when he didn't say nothing. he was just looking, you know, if you have like a point to prove just messing with his pants. So during the process we under the garage still; they in the driveway. So Ian ain't go — he never went up to the truck. He was just like, oh, you went and got something? And that when he was just standing there like just looking.

Q When you said he was just standing there looking you talking about Ian or Woodbury?

A Woodbury. Woodbury was standing there looking so.
Q Like this?
A Yeah, so that's when I went — I walked off and went to my trunk and I got the gun 'cause I was like I do see him fidgeting with something. So that's — when I got the gun I was watching the whole situation. They was, they kind of about to get into it so I shot the gun in the air and that when they calm down. They ——
Q All right, hold on one second. Let me find something for you. I'm gonna show you State's Exhibit Number 11. You recognize that?
A Yes.
Q What is that?
A Two guns.
Q All right. Are you extremely familiar with one of those guns?
A Yes.
Q Which one?
A This one.
Q That one. What kind of gun is that?
A A 380.
Q Is that a semiautomatic?
A Semiautomatic.

Q Whose gun is that?
A Mine.
Q Tell me about your ownership of it. Is it registered?
A Yes?
Q Legally registered to you?
A Yes, it's registered.
Q And where do you keep that gun most of the time?
A In the trunk. If I got it in the glove compartment I have the clip up; they say don't have it in. So I have it separated.
Q Okay. So if you have it in the glove box you have the clip out of it; but if you have it in the trunk, you may have the clip in it? Okay. And it's legally registered to you?
A Yeah.
Q All right. You pulled it out and you said you shot it? How did you shoot it? Up in the air, down on the ground, where?
A The reason, the reason I shot it 'cause they was in a confrontation and I told him -- like everybody telling them to leave, like Charles Wilson was telling him to leave and I was like go -- I said, man, y'all need to go ahead and chill. I said go ahead and leave, man, but they kept going back and

forth so I shot it in the air.
Q Okay.
A I put it up and just shot it in the air. That when everybody looked, got calm.
Q Did they stay calm?
A No, 'cause they didn't stay calm because after I shot in the air everybody, they got calm. I told them, I was like, go ahead and leave man. I said go ahead and leave. So I went back to the trunk to put it in there.
Q Okay.
A But he, for some reason I'm not -- it was like Woodbury had a point to prove. He---
Q You put the gun back in the trunk?
A Yeah.
Q Okay.
A And that's where I get it when I say, okay, I mess something up. I mess something— he said he didn't have nothing. That's why I put it back -- after I shot I was like 'cause Ian was steady saying he got something. Ian was like he got something so ---
Q And he said he did have something?
A Yeah, he said he didn't. He said I'll fight you. He said I will fight -- he said something like, I'll

fight you.
Q Okay. So ——
A So that's when I put the gun in the trunk.
Q All right.
A So ——
Q Do you know whether or not if Ian had his gun with him?
A I didn't see no gun. I was busy ——
Q All right. You can't say he didn't have one though, can you?
A No, I can't say that. I can't.
Q All right.
A But it's kind of seen him, possible for him too 'cause I know for a fact, I know he wasn't fighting with a gun in his hand.
Q Yeah.
A And when I came, and when they got into -- when they got into the whole brawl when I came up I seen my brother, they was, they were both tangling, going at it, whatever. So I got in the mid— that when Ian, he kind of backed up. He was like ——
Q What was Woodbury doing with his arms or with his hands.
A Swinging wild.
Q Swinging wild?

A Like, I never seen nobody fighting like that so it kind of — that's what stands out with me.
Q Can you stand up and demonstrate for this jury how you saw him swinging or not?
A Well — yeah, I can.
Q Stand up.
A He was swinging like, he was real low. He was low, but he was swinging like that. So I thought he was just throwing like, hey, so I run over there trying to break it up but that — Ian was like, oh, so, he said oh, he said oh, so you're gonna cut me. And I seen some blood dripping out his hand. He, said oh, so you're gonna cut me, and that when he looked — that when I was like, I said man, hey, yo, chill 'cause I'm seeing blood running down. He was like, he said man, he said — you want me to use the exact words he said?

THE COURT: Sit down. You can sit back down, okay. You're done illustrating?

THE WITNESS: Yes, sir.

THE COURT: Okay, you can sit down now.

THE WITNESS: But he was like ——

BY MR. CLEMENTS:
Q You asked me about the words, or there was some profanity used?

A It ain't really profanity, but it's ——
Q Rough wording?
A Pretty — yeah, he was like, he was like ——
Q Go ahead and tell us exactly what you heard.
A He said, he said, oh, so you're gonna, he said oh, so you're gonna cut me. And that — so that when he was like, man, he said, oh, that nigger done stabbed me. That what he said. He said I need — so when he said that ——
Q Who said that?
A My brother Ian.
Q Okay, all right.
A So that when he walked to my cousin, run, run, like run, Boatwright, and he said, he like, man, I got to go to the hospital. But he done took off running 'cause when I heard that, when I heard that when he said he done stab me, he took off just full speed running.
Q Which way?
A Behind the house.
Q Okay. And where were y'all when he took off ruining?
A Still like by the garage like.
Q By the car shed?
A Where the whole brawl was taking place.

Q Okay. And that was back under the car shed? Okay. So he took off to the backyard. What did you and Ian do?
A Like, the whole, the whole time the fight was going on he had to be at — he had to — I know for a fact how he was swinging — I don't know if everyone every time, everyone connected 'cause I'm sure he was defending himself too; but he didn't realize, he thought he was getting hit and like earlier I noticed the doctor had said like at one point you'll start to get weak but I seen him start being the aggressor in the fight.
Q Who, Ian or ——
A Woodbury.
Q ——Woodbury?
A Yeah. So, and I was looking. That's what made me like, I was like, man, chill, chill, and that when he was like oh, you gonna cut me and then he just took off running.
Q Okay.
A 'Cause he realized it was dark, kind of dark so he knew, he didn't know he had it.
Q Okay.
A So he was like oh, so you, he said, man, he stabbed me. So that when he walk, he was like I

guess he was in a state of shock really.
Q Okay, who Ian?
A Yeah, 'cause he, he wasn't panicking. That's why people saying, like, they didn't know how serious it was. But I started realizing — me knowing him because that's my brother; I know how he is. So when we got in the car like blood pouring down but I'm like, I'm telling him, I'm like, man, you good. I said, you good, man. I said he stabbed you; he got me too. And he said, naw, he said, but the thing, he said he got me good though. So I was like, I said man, he said man, we got to, he said hey, you can't, he said you got to put, you can't stop for no lights. That's the last thing he really told me. He was like, he said you can't stop for no lights so I hit the — I put the beamers on and I started speeding down the road.
Q The flashers?
A Yeah, the blinkers.
Q Yeah.
A So while I'm in there I'm just running everything trying to get him to the hospital, but that when I started noticing like blood coming out of, running down my back and on my arm and stuff. I'm like dang, so I ain't never felt when I got stabbed or

whatever.
Q How did you get cut?
A In the mix of it, trying to break it up.
Q Okay. And when you were trying to break it up did you have your front towards Mr. Woodbury or your front towards Ian trying to stop him?
A It was like trying to break both, in the mix of both.
Q In the middle of them?
A Yeah.
Q So you weren't turned to one or the other, you were in the mix?
A In the middle, yeah, sort of like just both like trying to in the mix of it.
Q Okay.
A But I never, I never felt, I ain't felt no -- all I did was see when he say he got cut, that's -- when we got in the car I realized that that's when I realized I got stabbed so I, that's why I was like it had to be a sharp blade or something 'cause I ain't never, I didn't feel it. And he didn't feel it and until he started slowing down. In the middle of the tussle he started, he wasn't moving like I was, you know, or a normal person like in a fight would do.

Q Okay.
A It was like they were favoring something; but he was in the mix so he didn't, I guess he didn't -- well, he didn't realize, it happened so quick. It happened so quick and it was dark.
Q All this transpired, did it take a long period of time, was it all seem to be pretty quick?
A What exactly you mean?
Q I mean, did it take a long period of time for all this to all kind of did it all happen pretty quick with each other?
A It folded out -- it happened quick after I shot the gun up, it was calm.
Q Okay.
A But then after that it just happened quick. Everything just went quick.
Q All right.
A And the whole, like I'm saying, like, it was dark so I seen, I seen, I just seen his wild swinging so I wasn't.
Q You never saw a weapon in his hand, just his wild swinging?
A No, I never seen the weapon. I just seen, I seen when, I seen when he was fidgeting with something in his pants; but then what made me put the gun back,

like, when he said I'll fight you.
Q Okay. All right.
A So I know, like, I know for, I know, I know I wouldn't have fought him if I would have seen two long blades.
Q Yeah.
A So I was, I was thinking maybe that's why, like, well you said I can't assume so I'm gonna keep it like that.
Q Okay.
MR. CLEMENTS: Beg the Court's indulgence moment.
BY MR. CLEMENTS:
Q When you went to the hospital did you stay up there with your brother?
A Yes.
Q What did the police ask you about your parents at the hospital?
A What did they ask about?
Q What did they ask you about your parents at the hospital?
A Their name.
Q And why were they asking?
A They wouldn't never really tell me but...
Q What did you say? Did you ——

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A Oh, I told him, I said ——
Q ——give them their phone number?
A Yeah, I said I wouldn't give them the phone number because I didn't, they — I said tell me what's going with my brother and they said, they said we need to talk to your parents. And I was like, nobody ain't getting no phone number. I said, 'cause if it's some bad news I said I want to be the one who break, I be the one who call. I said I don't need nobody to go calling my parents, you know, telling them something like that, and that when — that was really it, but then ——
Q Did you know how bad it was at that point?
A No.
Q Okay.
A I didn't know.
Q All right.
A But I had some kind of — he was — when we made it to the hospital he was sluggish. He, he had like, it was — I could tell it put effect. That's when I realized, like, to be honest I, if, I just went in panic mode really so I can't, a lot of things like in that process when we got out the car that's when I started realizing how serious it was 'cause there was blood every where from blood coming

out of me shooting, it was shooting out of my back. And him, it's dripping on him and he's like, he staggering a little. I'm like, I'm like, dang, so this is that serious. So I started telling everybody we need, we need some help in here. They were trying to get me, but I said take care of my brother. I was, like, get him. I said, I'm good, 'cause I see blood coming from me but I don't feel, I ain't feeling no weakness or nothing. But him, I could tell like, I guess it was a ma-- I don't know if it was a major organ or something but I could tell it was a big effect. I know his was worser than mine so.

Q Yeah. How many opportunities, if any, did Mr. Woodbury have to leave Mr. Wilson's house before this happened?

A The first time when we didn't speak and they got in the confrontation, when he left he could have left for good.

Q And before the fight could he have done that?

A Yeah, he had plenty of chances then. That was just when -- at our point it just, it wasn't really making no sense 'cause they, 'cause like they say, Ian was trying to get to him. He was trying to get to Ian too.

Q So they were both trying ——
A Yeah, they were trying to get, they was like trying to get to each other. And from my, I was wanting to know the question that was always in my head, I was like, when he came, like, he just — when he left to be the honest truth, he was, he was scared. He act like he was scared when he left and got in the car and drove off, but when he came back he was tough, wanting to fight, this and that, taunting.
Q Well, when you fired the gun in the air what, if anything, did you say?
A I tell them to go ahead. I said, man, just go ahead, man.
Q Okay.
A He stood right there holding like to his pants like, I ain't going nowhere like.
Q Okay. Please answer any questions Mr. Wilson may have.

CROSS-EXAMINATION

BY MR. WILSON:
Q Mr. Gause, you, you don't deny obviously based on your conversation with the Solicitor early on that you gave at least, at least two different statements to the police all of which weren't true, right?