

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Dorchester County
Diane Schafer Goodstein, Circuit Court Judge

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S.C. Supreme Court

Opinion No. 2012-UP-576 (S.C. Ct. App. filed 10/24/2012)

07-GS-18-1755

THE STATE,

RESPONDENT,

V.

TREVEE J. GETHERS,

PETITIONER

Appellate Case No. 2013-000617

APPENDIX

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**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Treveen J. Gethers, Appellant.

Appellate Case No. 2010-178687

Appeal From Dorchester County
Diane Schafer Goodstein, Circuit Court Judge

Unpublished Opinion No. 2012-UP-576
Submitted October 1, 2012 – Filed October 24, 2012

AFFIRMED

Appellate Defender Elizabeth A. Franklin-Best, of
Columbia, for Appellant.

Attorney General Alan Wilson, Chief Deputy Attorney
General John W. McIntosh, Senior Assistant Deputy
Attorney General Salley W. Elliott, and Senior Assistant
Attorney General Harold M. Coombs, Jr., all of
Columbia; and Solicitor David Michael Pascoe, Jr., of
Orangeburg, for Respondent.

PER CURIAM: Trevee J. Gethers appeals his conviction of murder, arguing the trial court erred in denying his motion for a directed verdict because the State failed to produce sufficient evidence to prove Gethers murdered the victim. We affirm¹ pursuant to Rule 220(b), SCACR, and the following authorities: *State v. Weston*, 367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006) ("When ruling on a motion for a directed verdict, the trial court is concerned with the existence or nonexistence of evidence, not its weight."); *id.* ("When reviewing a denial of a directed verdict, [an appellate court] views the evidence and all reasonable inferences in the light most favorable to the state."); *id.* at 292–93, 625 S.E.2d at 648 ("If there is any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the [c]ourt must find the case was properly submitted to the jury.").

AFFIRMED.

FEW, C.J., and WILLIAMS and PIEPER, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

THE STATE,

RESPONDENT,

V.

TREVEE J. GETHERS,

APPELLANT

Appeal from Dorchester County

Diane Schafer Goodstein, Circuit Court Judge

Opinion No. 2012-UP-576

Appellate Case No. 2010-178687

PETITION FOR REHEARING

On October 24, 2012, this Court affirmed Appellant's murder conviction and sentence in an unpublished opinion. State v. Trevee J. Gethers, 2012-UP-576 (Ct. App. filed Oct. 24, 2012). Appellant respectfully requests this Court grant his Petition for Rehearing and direct a verdict of acquittal in his favor.

Although this Court recited no facts to support its decision, this Court cited State v. Weston, 367 S.C. 279, 625 S.E.2d 641 (2006) for the legal standard used when considering a directed verdict motion. Appellant agrees with this Court that Weston, *supra*, provides an accurate discussion of the current state of the law in this area. However, when the law is applied to the facts presented at

Appellant's trial, the only conclusion is that the trial judge erred in failing to direct a verdict of acquittal. When the evidence against a defendant is circumstantial, the trial judge should submit the case to the jury only "if there is any substantial evidence which reasonably tends to prove the guilt of the accused or from which his guilt may be fairly and logically deduced." State v. Mitchell, 341 S.C. 406, 409, 535 S.E.2d 126, 127 (2000). "The jury weighs the evidence but when there is an absence of evidence, it becomes the duty of the trial judge to direct a verdict." State v. Schrock, 283 S.C. 129, 134, 322 S.E.2d 450, 452-53 (1984). Evidence must constitute positive proof of facts and circumstances, which reasonably tends to prove guilt. Id. at 133, 322 S.E.2d at 452 (citing State v. Manis, 214 S.C. 99, 51 S.E.2d 370 (194); see also State v. Bostick, 392 S.C. 134, 139, 708 S.E.2d 774, 776 (2011)). A trial judge should grant a directed verdict motion when the evidence merely raises a suspicion that the accused is guilty. State v. Lollis, 343 S.C. 580, 541 S.E.2d 254 (2001). In this case, the evidence presented by the prosecution did not rise above the level of a mere suspicion.

Appellant was convicted of the September 17, 2007 murder of Earl Robinson. On that date, the decedent had earlier borrowed \$200 from his son, Marcus. He was found in his SUV in a parking area of an apartment complex. R. 71, ll. 18-22. He had been shot once in the arm, with the bullet entering his chest and mortally wounding him. R. 221, ll. 5-23. Neighbors in the apartment complex heard arguing in the parking lot just prior to the gunshots. R. 52, l. 12- 53, l. 7. The apartment complex was known as a very high crime area and gunshots were "fairly common." R. 63, l. 7; R. 72, l. 24- 73, l. 6. Law enforcement obtained a buccal swab from appellant and obtained his DNA profile. R. 101, ll. 4-9. Appellant's DNA was found on the Bluetooth telephone headset that was found in the apartment complex. Significantly, the headset was "not located anywhere around the vehicle." R. 123, ll. 4-9.

Veronica K. was appellant's friend. R. 155, l. 23- 156, l. 2. She testified that on the date the decedent was killed, she was supposed to meet with the decedent, have sex with him and receive money from him. R. 156, ll. 14 - 25; R. 158, l. 1 - 159, l. 9; R. 176, ll. 10-14. That evening, she was using Maggie Reid's telephone. R. 157, ll. 1-2. At some point, Veronica and Appellant drove to Virginia, and then eventually traveled to New York. R. 164, l. 4 - 165, l. 2. During the investigation, law enforcement obtained the decedent's telephone, and noticed a number of telephone calls that he made to his son and to the telephone that was registered to Reid, Veronica's friend. R. 188, l. 18 - 189, l. 17. Their investigation led them to identify Appellant's telephone number. R. 192, ll. 2-25. Law enforcement also had identified Appellant's fingerprints located on the passenger side of the decedent's car. Law-enforcement never located the murder weapon even after exhaustively searching the area. R. 193, l. 5 - 197, l. 18.

Veronica gave a statement to law enforcement that suggested that she had Appellant meet with the decedent in order to take his money. At trial, she did not testify to these facts, but her statement was found admissible as a prior inconsistent statement. R. 208, l. 2- 209, l. 23; R. 204, ll. 6- 16. In exchange for cooperation, Veronica's charge of murder remained in the jurisdiction of Family Court. R. 279, ll. 7-11.

At the close of the State's case, counsel made a motion for directed verdict, which was renewed at the end of the case. R. 346, ll. 10-18. The trial court judge denied the motions. R. 346, ll. 19 -- 21.

The trial court judge erred when she denied Appellant's motion for a directed verdict because the evidence adduced at trial did not rise above the level of providing a "mere suspicion" that Appellant was guilty of murder. The trial court judge erred by not granting Appellant's motion for a directed verdict because the evidence did constitute positive proof of facts and

circumstances which reasonably tended to prove his guilt of murder. At most, the evidence proved that Appellant had a relationship with a young woman who had a relationship with the decedent.

Appellant respectfully requests this Court grant his Petition for Rehearing and direct a verdict of acquittal in his favor.

Respectfully submitted,

Susan B. Hackett

Susan B. Hackett
Appellate Defender

This 6th day of November, 2012.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Dorchester County

Diane Schafer Goodstein, Circuit Court Judge

THE STATE.

RESPONDENT,

$$Y_i$$

TREVEE J. GETHERS,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Petition for Rehearing in the above-entitled case has been served upon William Edgar Salter, III, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Trevee J. Gethers, #343706, at Perry Correctional Institution, 430 Oaklawn Road, Pelzer, SC 29669, this 6th day of November, 2012.

Susan B. Hackett

Susan B. Hackett
Appellate Defender

ATTORNEY FOR APPELLANT

SWORN TO BEFORE ME this 6th day
of November, 2012.

_____(L.S.)
Notary Public for South Carolina

My Commission Expires: October 2, 2013.

The South Carolina Court of Appeals

The State, Respondent,

v.

Treveen J. Gethers, Appellant.

Appellate Case No. 2010-178687.

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

John C. Camarillo, Jr.

C.J.

W. B. W.

J.

Daniel Roper

J.

Columbia, South Carolina

cc: W. Edgar Salter, III
Elizabeth Anne Franklin-Best

FEB 25 2013

CLERK OF COURT

FILED

February 22, 2013

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM DORCHESTER COUNTY

Diane Schafer Goodstein, Circuit Court Judge

RECEIVED

MAY 15 2013

S.C. Supreme Court

THE STATE,

RESPONDENT,

V.

TREVEE J. GETHERS,

APPELLANT

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

COURT OF GENERAL SESSIONS
2007-GS-18-1755

STATE OF SOUTH CAROLINA)

vs.)

TREVEE GETHERS)

DEFENDANT)

TRANSCRIPT OF RECORD

VOLUME 1

November 15-16, 2010
St. George, South Carolina

B E F O R E:

THE HONORABLE DIANE SCHAFER GOODSTEIN, JUDGE;
and a jury.

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

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HARRISON BELL, JR., ASSISTANT SOLICITOR
Attorneys for the State

SARA JAYNE ROGERS, ASSISTANT PUBLIC DEFENDER
Attorney for the Defendant

BONNIE H. KELLY
Official Court Reporter

TRANSCRIBED BY:
CAROL M. THUEME, RPR

1 THE COURT: And as I understand it, we have a
2 Jackson v Denno hearing.

3 MR. HILTON: We do, Your Honor.

4 THE COURT: All right.

5 MR. HILTON: Here before the Court is Mr. Trevee
6 J. Gethers. He's charged in Indictment 2007-GS-18-1755,
7 an indictment that charges the defendant with murder. And
8 we are prepared to go forward on our Jackson v Denno
9 motion and any other motions Defense or the State may
10 have.

11 THE COURT: Very well. Thank you. And I
12 believe that will be the place to start.

13 Anything before we begin with the Jackson v
14 Denno hearing?

15 MS. ROGERS: No, Your Honor.

16 THE COURT: Very well. Mr. Gethers is here. We
17 told you we'd get to you as soon as we possibly could,
18 Mr. Gethers. And thanks for your patience, okay?

19 THE DEFENDANT: Sure.

20 THE COURT: Very well. All right. You all
21 please be seated and call your first witness, please, sir.

22 MR. HILTON: Thank you, Your Honor.

23 The State would call Detective Steve Morelli.

24 THE CLERK: Please raise your right hand and
25 state your full name for the record.

1 THE WITNESS: Steve Morelli.

2 THE CLERK: And spell your last name, please.

3 THE WITNESS: M-O-R-E-L-L-I.

4 STEVE MORELLI, after being duly sworn, testified
5 as follows:

6 THE CLERK: Thank you. You may have a seat.

7 THE COURT: I've really considered what I'm
8 going to do. I have the lawyers with jackets on, but what
9 am I going to do with my police officers with the uniforms
10 on? It's going to be funny if they're here in their
11 little white undershirts and everything, and I felt real
12 bad about that.

13 THE WITNESS: That's okay.

14 THE COURT: But if it's of any help to you, I
15 don't know if you can see it, but my court reporter has
16 fans. So if you want her to hand you one, she will pass
17 you a fan.

18 All right. Your witness.

19 MR. HILTON: Thank you, Your Honor.

20 IN CAMERA DIRECT EXAMINATION

21 BY MR. HILTON:

22 Q Detective Morelli, who are you employed by?

23 A Dorchester County Sheriff's Office.

24 Q And how long have you been with the sheriff's office?

25 A Eight years.

1 Q And where did you work before that?

2 A St. George Police Department.

3 Q All right. So in total, how long have you been in
4 law enforcement?

5 A Eleven years.

6 Q Okay. Were you assigned to investigate a case
7 involving a murder of Mr. Earl -- or Robert Earl Robinson
8 over in the [REDACTED] area back on September 17th of
9 2007?

10 A Yes, I was.

11 Q All right. And what assignment did you receive in
12 that case?

13 A I was assigned to assist the lead investigator --

14 Q Okay.

15 A -- in anything he may or may not need.

16 Q That's the case I'm going to be talking about and I'm
17 going to ask you some questions about that, specifically
18 about any statements given by the defendant.

19 When were you first able to kind of develop a
20 suspect in that case?

21 A It was several days after the initial incident.

22 Q All right. And what was the name of that suspect
23 that you all came up with?

24 A Trevee Joxteer Gethers.

25 Q And on what occasion did you have the opportunity to

1 first encounter Mr. Gethers?

2 A We'd gotten information that he was picked up in New
3 York and I went to New York to transport him back to South
4 Carolina.

5 Q On his trip back from New York, did he make any
6 statements?

7 A Not about the case, no.

8 Q Did you ask him anything about the case?

9 A No, I did not.

10 Q All right. So when you all got him back from New
11 York, what opportunity did you have to then speak with him
12 in sort of a formal setting?

13 A The following morning, on October the 2nd.

14 Q October 2nd. And was that in the form of what you
15 would consider an interview?

16 A Yes, sir, it was.

17 Q All right. And what was the type of set-up that that
18 interview took place in?

19 A Myself and Captain Marshall inside the interview room
20 of Dorchester County Sheriff's Office.

21 Q And if you would, describe that interview room for
22 the Court.

23 A There's a table and three or four chairs. It's got a
24 two-way mirror.

25 Q About how big is it?

1 A Probably about five-by-six, five-by-seven.

2 Q All right.

3 A I'm not exactly sure of the exact diameter of it.

4 Q And at the time were you all doing any video
5 recording of the statements?

6 A Yes, we did.

7 Q And, in fact, was this statement on this day,
8 October 2nd, was it video recorded?

9 A Yes, it was.

10 Q And as a law enforcement officer of 11 years, how do
11 you start off any interview?

12 A We read Mr. Gethers his Miranda rights and made sure
13 that he understood them.

14 (WHEREUPON, The Court's Exhibit No. 1 was marked
15 for purposes of the record.)

16 BY MR. HILTON:

17 Q Let me show you what's been marked as Court's Exhibit
18 1 and ask you to take a look at this and see if you
19 recognize it.

20 A Yes, I do.

21 Q What is that?

22 A That's the Statement of Miranda Rights that we use,
23 the form.

24 Q Okay. And is that the form that you used with
25 Mr. Gethers?

1 A Yes, it is.

2 Q Okay. And not only is that a copy of the form, but
3 is that the actual form that would have been read to
4 Mr. Gethers?

5 A Yes, it is.

6 Q And the information that's on the page, what is at
7 the top of it there?

8 A I generally ask the individual their full name, just
9 like I did with Mr. Gethers. He advised his name was
10 Trevee Joxteer Gethers. I asked him what his date of
11 birth was, how old he was, and what grade he had completed
12 in school.

13 Q What information did he give you in response to those
14 questions?

15 A That he was born [REDACTED] he's 19 years old,
16 and he had completed the 11th grade.

17 Q Okay. Did it appear to you that he understood the
18 English language?

19 A Yes, he did.

20 Q Could he read and write?

21 A Yes. Yes, sir.

22 Q Okay. And below that information there's a series of
23 statements. What are those statements?

24 A You're referring to?

25 Q The Miranda rights on the page.

1 A Right. The Miranda rights. And then on the side of
2 each one, I get the individual to initial the statement,
3 that they understand each one.

4 Q Right. And, in fact, is that what you read to
5 Mr. Gethers that day?

6 A Yes, it is.

7 Q Will you read that to the Court as you would have
8 read it to Mr. Gethers?

9 A "You have the right to remain silent." Mr. Gethers
10 initialed to the left.

11 "Anything you say can and will be used against
12 you in a court of law." Mr. Gethers initialed to the left
13 of that.

14 "You have the right to talk to a lawyer and have
15 him present while you are being questioned." He initialed
16 beside that one.

17 "If you cannot afford to hire a lawyer, one will
18 be appointed to represent you before any questioning if
19 you wish." He indicated by his initials that he
20 understood that one.

21 And number five, "You can decide at any time to
22 exercise these rights and not answer any questions or make
23 any statements." He initialed beside that one, stating
24 that he understood.

25 Q And the "T" and "G" to the left of each one of those,

1 is that his initials?

2 A Yes, sir.

3 Q And you witnessed him initial that?

4 A Yes, sir, I did.

5 Q And did he sign the bottom of the page?

6 A He -- at the bottom of those there's a waiver of
7 rights and it basically states, "I've read the above
8 statement of my rights and I understand each of those
9 rights, and having these rights in mind, I waive them and
10 willingly make a statement." And when that was read,
11 Mr. Gethers signed stating that he wished to make a
12 statement.

13 Q Okay. Did he seem to understand what he was reading?

14 A Yes, sir, he did.

15 Q And what he was signing?

16 A Yes, sir.

17 Q Okay. And ultimately on October 2nd, did he make any
18 statement at all?

19 A He made a verbal statement, but nothing written.

20 Q Okay. Did you promise him anything in order to get
21 him to make any kind of statement?

22 A No, I did not.

23 Q Threaten him in any kind of way?

24 A No, I did not.

25 Q Was there anything that Mr. Gethers may have

1 perceived as being a promise or a threat?

2 A No, sir.

3 Q Did he ever ask you for anything to eat or drink?

4 A Not that I recall.

5 Q Ask you to use the restroom?

6 A Not that I recall. He may have. That would have
7 been facilitated if he did.

8 Q That's something that would have been provided to
9 him?

10 A Right. Right.

11 Q About how long did the interview on
12 October 2nd take?

13 A Approximately total, 20 minutes. I wasn't a long
14 interview at all.

15 (WHEREUPON, The Court's Exhibit No. 2 was marked
16 for purposes of the record.)

17 BY MR. HILTON:

18 Q I will show you what's been marked as Court's
19 Exhibit 2. It's got on the side "Trevee Gethers,
20 October 2nd, 2007." Do you know what's contained on
21 this tape?

22 A That would be the interview with Mr. Gethers on that
23 date.

24 Q After it was recorded, did you have the opportunity
25 to review the tape?

1 A I did at one point.

2 Q Okay. And is it an accurate recording of the
3 interview as it was conducted on October 2nd, 2007?

4 A Yes, sir.

5 Q Now, was there another time after October 2nd that
6 you were able to meet with Mr. Gethers?

7 A Yes, there was.

8 Q And do you recall when that was?

9 A I believe that was November 27th.

10 Q All right. And what type of meeting was that?

11 A At the request of Mr. Gethers, he wished to meet with
12 myself and the other detective.

13 Q And who is the other detective?

14 A Detective Garrison.

15 Q And was that meeting arranged?

16 A Yes, it was. We contacted the Solicitor's office and
17 arranged it with his attorney, date and time, in the
18 interview room at the sheriff's office.

19 Q And who was present for that meeting on
20 November 27th?

21 A Myself, Detective Garrison, Mr. Gethers, and his
22 attorney at the time, Marva Hardee-Thomas.

23 Q Okay. Do you remember if you or Detective Garrison
24 went over his Miranda rights again at that time?

25 A Yes, sir. Detective Garrison.

1 Q And did he seem to understand at that time what was
2 going on?

3 A Yes, sir, he did..

4 Q And did his attorney Ms. Hardee-Thomas assist him in
5 that process?

6 A Yes, sir, she did.

7 Q Was there any promises or threats made with regards
8 to the second meeting?

9 A No, sir, there wasn't.

10 Q Was there anything he could have perceived as being a
11 promise or a threat?

12 A No, sir.

13 Q And on that day with the assistance of
14 Ms. Hardee-Thomas did he give a statement?

15 A He gave a verbal statement, yes, sir.

16 Q Okay.

17 (WHEREUPON, The Court's Exhibit No. 3 was marked
18 for purposes of the record.)

19 BY MR. HILTON:

20 Q I'll show you what's been marked as Court's Exhibit
21 No. 3. On the side it's labeled "Trevee Gethers,
22 11-27-2007." Are you familiar with what's on this tape?

23 A Yes, sir.

24 Q And what would this have been?

25 A That would be the interview, the second interview for

1 Mr. Gethers.

2 Q And have you had the opportunity to review that
3 interview?

4 A Yes, sir, I have.

5 Q And is that an accurate recording of the interview as
6 it went down on October 27th -- excuse me,
7 November 27th?

8 A Yes, sir, it is.

9 MR. HILTON: Your Honor, at this time that would
10 be all the State has for Detective Morelli. We do intend
11 to call one more witness.

12 THE COURT: Sure. Cross-examination.

13 MS. ROGERS: No questions, Your Honor.

14 THE COURT: Very well. You may come down.

15 THE WITNESS: Thank you, ma'am.

16 THE COURT: Call your next witness.

17 MR. HILTON: At this time we call Detective John
18 Garrison.

19 THE COURT: All right.

20 THE CLERK: Please raise your right hand and
21 state your full name for the record.

22 THE WITNESS: John Byron Garrison.

23 THE CLERK: Spell your last name, please.

24 THE WITNESS: G-A-R-R-I-S-O-N.

25 JOHN GARRISON, after being duly sworn, testified

1 as follows:

2 THE CLERK: Thank you, have a seat.

3 THE COURT: Your witness.

4 MR. HILTON: Thank you.

5 IN CAMERA DIRECT EXAMINATION

6 BY MR. HILTON:

7 Q Detective Garrison, you're also with the sheriff's
8 office?

9 A Yes, sir, I am.

10 Q I gathered that from the uniform, right?

11 A Yes, sir.

12 Q And how long have you been with the sheriff's office?

13 A I have been with Dorchester County Sheriff's Office
14 five years.

15 Q And where were you employed before working at the
16 sheriff's office?

17 A I started my career at Charleston County Police in
18 1981. I left there after some 11 or 12 years and I went
19 to SLED. I worked at the State Law Enforcement until I
20 retired and then I came on with the Dorchester County
21 Sheriff's Office.

22 Q And as with Detective Morelli, were you assigned to
23 investigate the homicide of Mr. Robert Earl Robinson?

24 A Yes, sir, I was.

25 Q And that's the one that occurred in [REDACTED] back

1 on September 17th of 2007?

2 A Yes, sir, it is.

3 Q And what assignment did you receive in that case,
4 what was your role?

5 A Kevin Marshall was the supervisor over the CID at
6 that time and he assigned me as the lead investigator in
7 this case.

8 Q And you have been present in the courtroom and you
9 heard Detective Morelli mention a statement on
10 October 2nd. Were you present for that
11 October 2nd statement?

12 A The first statement, no, sir, I was not.

13 Q Okay. But were you present for the second statement?

14 A Yes, sir, I was.

15 Q All right. And on the second statement, do you
16 recall who was present in the room during the
17 November 27th 2007 interview?

18 A Yes, sir, I do.

19 Q And who was that?

20 A It was Detective Morelli, Ms. Marva Hardee-Thomas,
21 Mr. Gethers, and myself.

22 Q And do you recall whether you went over Mr. Gethers'
23 Miranda rights with him during that second interview?

24 A I did, yes, sir.

25 Q Okay. And how did you go about doing that?

1 A The form that we use is a printed Miranda form -- I
2 believe it's similar to the one you had awhile ago -- and
3 I read that form to him with some -- since his attorney
4 was present there's some slight variations in the "you
5 have the right to have your attorney present," and other
6 than that, it was read off the form.

7 Q And I will show you what's been marked as Court's
8 Exhibit 1. And just the best you can, paraphrase what you
9 read to Mr. Gethers on that day.

10 A Statement number three which states on here, "you
11 have the right to talk to a lawyer and have him present
12 with you while you're being questioned," like I said,
13 Ms. Hardee-Thomas was present and we just reiterated the
14 fact that she -- or questioned the fact that she was
15 representing him and that he was satisfied with her being
16 there, and then they both agreed, so we just modified that
17 just a little bit.

18 Q All right. And was that recorded on the videotape?

19 A Yes, sir, it was.

20 Q And that would be what's been referred to as Court's
21 Exhibit 3?

22 A No. 3, yes, sir.

23 Q Did it appear to you that Mr. Gethers knew what he
24 was doing on October (sic) 27th?

25 A Yes, sir, it did.

1 Q Was there anything that appeared to be threatening
2 towards Mr. Gethers?

3 A No, sir.

4 Q Anything that would make him feel pressured into
5 giving a statement?

6 A No, sir, there was not.

7 MR. HILTON: Your Honor, at this time the State
8 would have no further questions for Mr. Garrison. I would
9 intend to publish the exhibits that have been marked as
10 Court's Exhibits 3 and 2 for the Court after the testimony
11 has been presented.

12 THE COURT: I understand. Cross-examination.

13 MS. ROGERS: Yes, Your Honor.

14 IN CAMERA CROSS-EXAMINATION

15 BY MS. ROGERS:

16 Q Mr. Garrison, did you at any time imply or tell
17 Mr. Gethers that if he told you who had committed this
18 crime that you all would let him go home?

19 A No, ma'am, I don't think so.

20 Q Do you think there's any way he could have perceived
21 that from your actions or comments that you made to him
22 during this interview?

23 A Now we're speaking of the November 27th interview?

24 Q Yes.

25 A I don't think so, no, ma'am.

1 Q And can you please describe the room? I know you
2 described the room for October 2nd, but was it the same
3 room for the November 27th?

4 A Yes, ma'am, it's the interview room we had at that
5 time, and I would describe it as approximately
6 five-by-seven. It's got, like I said, a two-way mirror in
7 it. There's a table and chairs. It's not a very fancy
8 room, a very small room.

9 Q At any time during that interview, did Mr. Gethers
10 request anything to drink, eat, use the restroom?

11 A I don't recall if he did or not.

12 MS. ROGERS: No further questions, Your Honor.

13 THE COURT: Any redirect?

14 IN CAMERA REDIRECT EXAMINATION

15 BY MR. HILTON:

16 Q If he had, would that have been on the video?

17 A Yes, sir, it would have been.

18 MR. HILTON: No further questions, Your Honor.

19 THE COURT: Recross?

20 MS. ROGERS: No, Your Honor.

21 THE COURT: You can come down.

22 THE WITNESS: Thank you, Your Honor.

23 THE COURT: That would conclude the witnesses or
24 not?

25 MR. HILTON: It will, Your Honor. At this time

1 we would like to publish the tapes for the Court.

2 THE COURT: Sure. Absolutely.

3 MR. HILTON: Portions of them. We don't intend
4 to publish the full tape, just portions of them.

5 THE COURT: Okay. Now, Counsel, you have seen
6 the tape in its entirety; is that right?

7 MS. ROGERS: Yes, Your Honor.

8 THE COURT: And if you -- here's what I will do.

9 Let me look at the portions that you need me to
10 review and then I may review the remainder. We can all
11 sit here and review them together or do it -- well, I
12 think we probably need to do the whole tape, just view the
13 whole tape.

14 If you intend to publish the whole tape or if
15 you have any concerns about what is on the remainder that
16 you're familiar with --

17 MS. ROGERS: I prefer to publish the whole tape,
18 Your Honor.

19 THE COURT: Very well.

20 MR. HILTON: And, Your Honor, for clarification
21 purposes, I would not intend to publish the entire tape
22 should I publish it for the jury. It's just there's a lot
23 of things on there that are extraneous and that would not
24 be otherwise admissible.

25 THE COURT: Sure.

1 MR. HILTON: And so just for ease, I would
2 rather do --

3 THE COURT: We can see the tape --

4 MR. HILTON: This happened back in 2007, Your
5 Honor. It's cutting edge.

6 (At this point the videotape was played but not
7 transcribed.)

8 THE COURT: Is that the end of the first tape?

9 MR. HILTON: That is the end of the first tape.

10 THE COURT: Okay.

11 MR. HILTON: That was Court's Exhibit 2. The
12 State would now offer and publish Court's Exhibit 3.

13 THE COURT: All right.

14 (At this point the videotape was played but not
15 transcribed.)

16 THE COURT: I think that's enough for this
17 evening. We have 20 more minutes and I'm concerned about
18 keeping the court personnel here so very late.

19 The jury's coming in at 9:30 in the morning and
20 we've got this to deal with, we've got a couple of other
21 things to deal with, so I'll see you all here at 9
22 o'clock.

23 MS. ROGERS: Yes, Your Honor.

24 THE COURT: Thank you. I will see you all in
25 the morning at 9.

1 (The proceedings were concluded for the day and
2 reconvened on November 16th, 2010.)

3 THE COURT: Thank you, everyone. Good morning,
4 everyone.

5 All right. Let's see what we've got. Fire it
6 up.

7 (At this point the videotape was played but not
8 transcribed.)

9 THE COURT: All right. Anything further from
10 the State for the Jackson v Denno hearing?

11 MR. HILTON: Nothing from the State, Your Honor.

12 THE COURT: Very well. Anything from the
13 Defense?

14 MS. ROGERS: Yes, Your Honor. We would like to
15 call my client.

16 THE COURT: All right. Very well. Okay. Come
17 on around, please, sir.

18 THE CLERK: Please raise your right hand and
19 state your full name for the record.

20 THE WITNESS: Trevee Gethers.

21 THE CLERK: And could you spell your first and
22 last name.

23 THE WITNESS: T-R-E-V double E, G-E-T-H-E-R-S.

24 TREVEE GETHERS, after being duly sworn,
25 testified as follows:

1 THE CLERK: Thank you. You may have a seat.

2 THE COURT: All right. Just for our record, of
3 course, Mr. Gethers is being called only with regards to
4 the Jackson v Denno hearing and in no way gives up any of
5 his Fifth Amendment rights with regards to this trial.

6 MS. ROGERS: Thank you, Your Honor.

7 THE COURT: Yes.

8 IN CAMERA DIRECT EXAMINATION

9 BY MS. ROGERS:

10 Q Mr. Gethers, with regards to the first interview on
11 October 2nd, did you feel like you could ask to use the
12 restroom or were you cuffed?

13 A I was handcuffed.

14 THE COURT: You're going to have a speak up just
15 a little bit.

16 BY MS. ROGERS:

17 Q Speak up a little bit.

18 A Yes, I was handcuffed.

19 Q Did you feel like you needed to make a statement at
20 that time?

21 A Yes, ma'am.

22 Q And that statement that you made was that you had
23 gone to work that day; is that accurate?

24 A Yes, ma'am.

25 Q And then you asked for your lawyer?

1 A Yes, ma'am.

2 Q With regards to the second interview on
3 November 27th where Marva Hardee-Thomas was present, at
4 that point did you feel coerced in any way to make a
5 statement?

6 A Yes, ma'am.

7 Q And why had you originally contacted the officers in
8 the first place?

9 A Because my lawyer said it would be best.

10 Q Okay. And when you actually made that statement, was
11 that something that you -- was there a reason you made a
12 statement to the police officers that day? Was there
13 something that prompted you to do that?

14 A Yes, ma'am.

15 Q And what was that?

16 A When they cut the tape off, my lawyer told me, she
17 was like, "If you want to go home, it will be best for you
18 to tell these people something, anything you know."

19 Q Did the officers ever tell you that?

20 A They came back in the room and they took the
21 handcuffs off me, so it made me feel like if I tell them
22 something I would be released.

23 Q Did you feel like you could ask to use the restroom,
24 ask to leave the room at any time?

25 A No, ma'am.

1 Q Do you remember the officer telling you that if you
2 tried to leave, somebody would tackle you down the hall?

3 A Yes, ma'am.

4 Q Did that make you feel like you didn't have a choice
5 to continue with the interview?

6 A Yes, ma'am.

7 Q And at any time did you feel like anybody was putting
8 words into your mouth or taking statements and twisting
9 your words?

10 A Yes, ma'am.

11 Q And can you tell us a little bit about that?

12 A As I was -- had to deal with Detective Garrison and
13 he was questioning me, he seemed like he was coaching me
14 at the same time while I was talking to him.

15 Q Do you feel like the statement you gave that day was
16 voluntary or do you feel like you were coerced in any way?

17 A I feel like I was coerced.

18 MS. ROGERS: No further questions at this time,
19 Your Honor.

20 THE COURT: Cross-examination only as to issues
21 relevant to Jackson v Denno.

22 MR. HILTON: Yes, sir, Your Honor.

23 Thank you, Mr. Gethers.

24 IN CAMERA CROSS-EXAMINATION

25 BY MR. HILTON:

1 Q You said that -- let's talk about the
2 October 2nd interview first. You said you felt like you
3 needed to give a statement, but, in fact, about maybe five
4 or six minutes into the actual interview, you said, "I
5 don't want to talk any more," right?

6 A The first time on tape?

7 Q Yes, on the October 2nd interview. And so after
8 that they didn't threaten you or tell you you had to
9 continue or anything, did they?

10 A No.

11 Q And on the November 27th interview, in fact it was
12 you who contacted the police in a letter, wasn't it?

13 A Yes, sir.

14 Q You told them you wanted to make a statement?

15 A Yes, sir.

16 Q And they arranged that through your attorney,
17 Ms. Hardee-Thomas?

18 A Yes, sir.

19 Q And, in fact, brought you up to the room and you did
20 just that, you made a statement, right?

21 A Yes, sir.

22 Q And I've watched the tape, you've watched the tape.
23 I didn't see anybody pull out a gun or pull out a hose and
24 threaten you and tell you, "If you don't make this
25 statement we're going to hurt you." Did you hear any of

1 that on the statement?

2 A No, sir.

3 Q Was any of that before the videotape?

4 A No. But when they paused the videotape, my lawyer
5 told me, you know, if you want to go home, you will tell
6 these people anything you know or tell them something.

7 Q And that was Ms. Hardee-Thomas who told you that?

8 A Yes.

9 Q Okay. Did the police ever tell you you were going
10 home if you made a statement?

11 A No, but they made it seem like that when they took
12 the handcuffs off.

13 Q You thought when they took the handcuffs off you were
14 free to leave in that orange jumpsuit you were wearing?

15 A Yeah, if I told them something.

16 MR. HILTON: Thank you. No further questions,
17 Your Honor.

18 THE COURT: All right. Any redirect?

19 MS. ROGERS: Just briefly, Your Honor.

20 IN CAMERA REDIRECT EXAMINATION

21 BY MS. ROGERS:

22 Q In that first interview on October 2nd, do you
23 remember the police officers telling you when you got an
24 attorney that you needed to get in touch with them?

25 A Yes, ma'am.

1 Q And did that also contribute to you writing those
2 officers?

3 A Yes, ma'am.

4 MS. ROGERS: No further questions, Your Honor.

5 THE COURT: All right. Very well. Thank you.

6 Any recross?

7 MR. HILTON: No, Your Honor.

8 THE COURT: You can come on down. Thank you,
9 Mr. Gethers.

10 All right. Now, with regards to the Jackson v
11 Denno, as you know, I am to determine by a preponderance
12 of the evidence whether or not these statements can be
13 submitted to the jury. It's ultimately up to the jury to
14 determine the voluntariness of the statements.

15 Miranda was given, I saw it, witnessed it on the
16 tape, and I believe that the State certainly has met its
17 burden that (a) Miranda was given and (b) that these
18 statements were voluntary. So I would not restrict the
19 admissibility of these statements other than we would
20 probably -- or relevant to purposes of all the business of
21 who was representing him was Ms. Hensley and all of that.
22 And just as you said, Mr. Hilton, that that doesn't have
23 any relevance for these issues. And in any event, unless
24 it became relevant somehow, we would certainly clip those
25 because the jury doesn't need to see all that, all right,

1 but I'm satisfied that I have seen the full tape.

2 Now, other motions from the Defense?

3 MS. ROGERS: Yes, Your Honor.

4 THE COURT: All right.

5 MS. ROGERS: We would like to make a motion for
6 bond during the trial.

7 THE COURT: Okay.

8 MS. ROGERS: As you are well aware, my defendant
9 has been in Berkeley County or the St. George Detention
10 Center for the past three years. At his last bond
11 hearing, which was 11-19-09, it was stated if he did not
12 have his trial by February of 2010, that home monitoring
13 would be granted to him. And he has -- he is not a flight
14 risk. His family is here. He has an interest in coming
15 to this proceeding. He's waited three years for it. And
16 since he has been incarcerated for three years, if his
17 family wants to pay to have him come home for four or five
18 days, I think it would be a perfectly reasonable thing for
19 them to do.

20 THE COURT: Thank you so much.

21 Even if I'd sent him home on home detention
22 prior to yesterday, I would have taken him into custody
23 yesterday for trial because the bond would have been at an
24 end because the trial would be beginning. So thank you
25 very kindly. I would respectfully deny your motion.

1 MS. ROGERS: Thank you, Your Honor.

2 THE COURT: Any other motions from the Defense?

3 MS. ROGERS: No, Your Honor.

4 THE COURT: All right. Now, there are two
5 things that I want to do.

6 I believe that the State wanted to put on the
7 record that there was an offer and that the offer was
8 rejected. Do I understand that?

9 MR. HILTON: Yes. The offer was for Mr. Gethers
10 to plead guilty to murder. In exchange for that, the
11 State would be recommending a 30-year sentence, which is
12 the minimum for murder.

13 THE COURT: I understand. And, first of all,
14 you are aware of that offer?

15 MS. ROGERS: Yes, Your Honor.

16 THE COURT: All right. And your client -- and
17 that was communicated to your client?

18 MS. ROGERS: Several times, Your Honor.

19 THE COURT: Very well. And that has been
20 rejected by your client?

21 MS. ROGERS: Yes, Your Honor.

22 THE COURT: Is there any need for me to do any
23 examination with regards to those negotiations with
24 regards to your client?

25 MS. ROGERS: Not on my part, Your Honor, but I

1 think that was part --

2 THE COURT: Well, I may do that in a moment.

3 Does that offer remain, Mr. Hilton?

4 MR. HILTON: It does not. I mean, when we pick
5 the jury, that offer is going to expire. Now, I may
6 extend it again at some point in time during the trial;
7 however, it is --

8 THE COURT: Insofar as the offer, that would be
9 a new offer?

10 MR. HILTON: That would be a new offer. This
11 offer expires upon the seating of the jury.

12 THE COURT: Thank you very much.

13 At the seating of the jury or the beginning of
14 the jury selection?

15 MR. HILTON: I think the seating of the jury
16 would be my intention.

17 THE COURT: Very well. Thank you. I just
18 wanted that clarification. Thank you for that,
19 Mr. Hilton.

20 Do you mind if I examine your client about that?

21 MS. ROGERS: No, Your Honor.

22 THE COURT: Very well. If you would just stand
23 for me, please, Mr. Gethers.

24 Mr. Gethers, let me just -- I'm looking for
25 communication.

1 I don't know a thing about your case other than
2 what I've heard. I'm very recent to it, and this of
3 course is your life and these are decisions that you must
4 make and they are yours. So please, please, please, don't
5 take anything I might say as any kind of coercion or
6 encouragement, because I don't know a thing about your
7 case.

8 I wouldn't be capable of advising you one way or
9 the other, other than to tell you -- and I know that
10 you've been communicating with your lawyer because I have
11 had a chance to know that from our other times that we
12 have been in court, so I am encouraged and satisfied that
13 you have been communicating with your lawyer. So, please,
14 do not take anything that I say to you now that I have
15 any -- and I want to say I don't have a dog in the fight.
16 I do have a dog in a fight, and that is justice, that
17 there be justice and that your rights be preserved during
18 the course of this trial.

19 So let me just ask this question of you only
20 because there's been the offer made and a request that the
21 record be clear that you understand that there was a plea
22 offer. And you know what a plea offer is?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Okay. There was a plea offer made
25 that you would plead guilty under this plea offer to

1 murder and all that goes with that in terms of it's a most
2 serious offense and it has all the classifications that go
3 with murder and that there would be a recommendation by
4 the State for the minimum sentence for murder, which is 30
5 years in prison.

6 First of all, do you understand that that was
7 the offer?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Okay. Was there anything else that
10 you understood about that offer? Was there something else
11 involved with it or was that it so far as you know?

12 THE DEFENDANT: I think that was it.

13 THE COURT: Of course, I should say just so I'm
14 clear with you, of course you know that any person by
15 statute, by statute, is entitled to credit for the time
16 they have already served in pretrial detainment or
17 pre-resolution. In other words, you have been in jail for
18 a very long time -- you have been in jail for three
19 years -- and of course you'd get credit for that time that
20 you have served. You understand that?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Okay. People are entitled to that
23 by statute. Sometimes folks think that the Court has to
24 give it to them, but the statute, our law gives them that
25 credit for the time they have already served. You

1 understand that?

2 THE DEFENDANT: Yes, ma'am, I do.

3 THE COURT: Okay. But with all of those
4 parameters, that it would be a plea to murder, a
5 recommendation of 30 years, obviously credit for time
6 served, you understand that offer?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Okay. It is then communicated to me
9 and apparently to the Solicitor's office through
10 Ms. Rogers, and perhaps through counsel that you had
11 earlier, that that is not a plea offer that you wish to
12 take; is that correct?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: All right. Very well. Do you have
15 any questions about the plea offer?

16 THE DEFENDANT: No, ma'am.

17 THE COURT: Very well. Now, do you understand
18 that that offer, that that offer is going to be withdrawn
19 at the time that the jury is seated?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Do you know what that means, to have
22 the jury seated?

23 THE DEFENDANT: To have the jury picked.

24 THE COURT: That's a better way to say it. Yes,
25 sir, when the jury's picked that offer, that plea is

1 withdrawn. You understand that?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Okay. Very well. Any questions
4 about any of that?

5 THE DEFENDANT: No, ma'am.

6 THE COURT: And you can certainly ask your
7 lawyer if there are any questions about that, too, okay?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Wonderful. Wonderful.

10 All right. Any further questions along that
11 line, Mr. Hilton?

12 MR. HILTON: None, Your Honor.

13 THE COURT: All right. And Ms. Rogers?

14 MS. ROGERS: No, Your Honor. The only thing,
15 just to make the record clear, part of that offer was also
16 as opposed to day-for-day with traditional murder, he
17 could serve a portion of it instead of the full 30 years.

18 THE COURT: What?

19 MS. ROGERS: Instead of serving every year of
20 the sentence, he would get credit for good behavior and
21 those types of things. That was also a part of the plea.

22 THE COURT: That couldn't be --

23 MS. ROGERS: Well, maybe I'm --

24 THE COURT: So I'm delighted we clarified that.
25 I'm so glad that we're having this conversation.

1 It's day-for-day. You understand that,
2 Mr. Gethers?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: All right. That would have been
5 awful if you had taken -- if that had remained the offer.

6 I'm going to tell you that it's day-for-day, and
7 you need to know it's day-for-day, okay? There aren't any
8 good time credits, none of that, no parole offense, okay?
9 Are you with me?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Very well. Anything you want to add
12 to that, Mr. Hilton?

13 MR. HILTON: That confusion may come from prior
14 negotiations where we talked about either a voluntary
15 manslaughter plea or something like that. Murder is
16 day-for-day as far as I know, and that was my
17 understanding when I made the offer.

18 THE COURT: Are you clear? I don't want you
19 confused. I so don't want you confused.

20 Now, I don't know -- I don't know -- hear me --
21 I don't know whether or not there were ever any offers for
22 voluntary manslaughter. I don't know that. You
23 understand?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Okay. I don't know a thing about

1 that, all right? What I understand is on the table at
2 this time is murder, okay? And I'm telling you murder is
3 day-for-day. You understood that?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Okay. Very well. I don't think it
6 really makes a difference because you rejected it, so
7 there's certainly no harm done in that regard, okay,
8 because you weren't relying on that.

9 Now, hold on a second for me, okay?

10 Now, Mr. Hilton, just so there's -- I'm
11 absolutely clear -- to your information, was there a plea
12 offer made of voluntary manslaughter?

13 MR. HILTON: That was made earlier on. He
14 rejected that offer and that was probably --

15 THE COURT: Well, now, that could have been
16 Mr. Jennings because I understand Mr. Jennings had this
17 case prior to you.

18 MR. HILTON: Well, I know I made that offer as
19 well.

20 THE COURT: You made that offer?

21 MR. HILTON: Now, Mr. Jennings may have made it,
22 too, but that offer has since been rejected and that is
23 not the offer at this point.

24 THE COURT: All right. Now, who did you
25 communicate that offer to, Mr. Hilton?

1 MR. HILTON: That was made to Ms. Sara Jayne
2 Rogers.

3 THE COURT: Okay. To Ms. Rogers, okay. And it
4 was an offer of a plea to voluntary manslaughter. And a
5 recommendation of how many years?

6 MR. HILTON: We never really got to a date range
7 or a time range on that plea.

8 THE COURT: All right. Is that accurate,
9 Ms. Rogers?

10 MS. ROGERS: Yes, Your Honor. I think we were
11 still up there in the 20 -- in the high number range in
12 terms of years.

13 THE COURT: I can understand that. All right.
14 So that, did you communicate that to your -- you
15 communicated that? Your client was aware of that?

16 MS. ROGERS: Yes, Your Honor.

17 THE COURT: Very well. Then there you go. That
18 makes perfect -- now the mystery is solved. That was the
19 voluntary manslaughter that you had conversations and you
20 talked about perhaps some of the other math, but at this
21 point the voluntary manslaughter plea offer was rejected;
22 is that correct?

23 MS. ROGERS: Yes, Your Honor.

24 THE COURT: Okay. And then today all -- the
25 only negotiations that is on the table is murder, 30?

1 MS. ROGERS: Yes, Your Honor.

2 THE COURT: Very well. Thank you, Ms. Rogers.

3 MS. ROGERS: Thank you.

4 THE COURT: You understand that, Mr. Gethers?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Do you have any questions about
7 that?

8 THE DEFENDANT: No, ma'am.

9 THE COURT: Do you understand that sometime ago
10 there was a plea offer made of voluntary manslaughter?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Okay. Was that rejected?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Okay. And then now you understand
15 that what is on the table is murder?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Okay. I think we're clear about
18 everything. Any questions about any of that?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: Well, you can -- and of me you have
21 no questions but you can continue to ask your lawyer about
22 that if you have any questions, okay?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Thank you so much, Mr. Gethers.

25 Now, a couple of things I want to do. I have

1 learned over the course of watching these tapes that the
2 decedent's name is Mr. Robinson; is that right.

3 MR. HILTON: His full name is Robert Earl
4 Robinson. You'll hear him referred to during the trial as
5 Earl Robinson.

6 THE COURT: Okay. And do we have members of
7 Mr. Robinson's family present?

8 MR. HILTON: We do. Back in the second room is
9 Ms. Jestine Robinson.

10 THE COURT: Yes.

11 MR. HILTON: Marcus Brothers on the left-hand
12 side. And I think it's a friend, right? It's the
13 sister-in-law in the middle.

14 THE COURT: Okay. Very well. And do we have
15 members of Mr. Gethers' family as well?

16 MS. ROGERS: Yes, Your Honor, we do.

17 THE COURT: Thank you. All right. And these
18 are the folks who are here?

19 MS. ROGERS: Yes, Your Honor.

20 THE COURT: Thank you so much. I want to take
21 just a moment to speak to family members who are present
22 because here's what I want you to know.

23 I want you to know that while I'm working up
24 here and doing what I must do, that I want to appreciate
25 and tell you that I know particularly in these cases, they

1 are heart-breaking. They are heart-breaking for families,
2 and I know that. I want you to know that I know that.

3 Having said that, I want to talk a little bit
4 about the way that we need to proceed because we must keep
5 an appropriate decorum for the jury. Because the jury,
6 they have very important business to do and they must have
7 appropriate decorum in the courtroom to allow them to do
8 the work that they must do.

9 So I am aware that there are heart-breaking
10 moments and particularly in these cases for family. This
11 is how we're going to be proceeding.

12 First and foremost, I hope you can understand
13 and appreciate, I can have no outbursts from family
14 members. As difficult as that may be, I cannot have that
15 because that interferes with the jury's work, and that we
16 must not do. I must not allow that to occur.

17 There are moments when family members can become
18 overwhelmed. And I appreciate that, I understand that.
19 So our bailiffs in our court don't let people come and go
20 during testimony. And they don't allow people to come and
21 go during the opening statements or closing arguments,
22 except for family.

23 If you feel yourself overcome, if you need to
24 get up and move, you are welcome to get up and leave the
25 courtroom. It is perfectly fine. That applies to family.

1 It doesn't apply to the other folk in the courtroom, but
2 it does apply to family.

3 In other words, if you just feel your heart
4 bursting, please feel free to get up and leave the
5 courtroom. When you are together and you are composed,
6 come back. You can come and go pretty much as you need
7 to.

8 Now, of course I know I don't need to ask, but I
9 do need to ask you to do that quietly.

10 And if you find yourself tearful, please feel
11 free to exit the courtroom until you can gain your
12 composure in time.

13 Is that clear to everyone? Does anybody have
14 any questions about that?

15 (There was no response.)

16 THE COURT: Very well. And I appreciate so much
17 your cooperation in that regard. I truly, truly do.

18 Very well. Now, the victim's advocate through
19 the Solicitor's Office, you know, if you need to
20 communicate with the victim's advocate, they're here for
21 you, and please know that's why they are here.

22 Of course, Ms. Rogers, if I need to attend to
23 any requests that might come from your client's family, if
24 you'll just let the Solicitor know first in that regard as
25 well.

1 MS. ROGERS: Yes, Your Honor.

2 THE COURT: What I would ask, though, is during
3 our breaks, I am going to ask family members to let one
4 family member exit and then the other. And I will try to
5 monitor that and I'm going to ask my bailiffs to try to
6 monitor that so that you all -- and I don't know how you
7 feel. I would think your emotions are many. And so one
8 family maybe leave when we take a break and then as we
9 take another break, maybe the other family leave, and then
10 just give both a minute to exit so you don't feel like
11 you're jumbled with each other, and that may be something
12 that you may find unpleasant. I don't want to add to your
13 sadness in that regard.

14 All right. Anything further at this time from
15 the State?

16 MR. HILTON: Nothing from the State, Your Honor.

17 THE COURT: From the Defense?

18 MS. ROGERS: No, Your Honor.

19 THE COURT: I've got to have an examination and
20 it needs to be -- it will be on the record. It does need
21 to be ex parte. So I need other than my security folks,
22 my clerk, my court reporter, my law clerk, everybody else
23 needs to leave the courtroom now, please.

24 (A break was taken while people left the
25 courtroom.)

1 THE COURT: All right. Now, Mr. Gethers, if you
2 would please stand for me. And, Ms. Rogers, you also.

3 Let me tell you what I'm going to be asking you,
4 Mr. Gethers, and so that you understand it fully.

5 Under our Constitution, you are entitled to the
6 Fifth Amendment protections. And, of course, the Fifth
7 Amendment protections mean that no one can be caused to be
8 a witness against himself. I always add herself. The
9 Constitution just says himself.

10 Now, obviously Ms. Rogers is your lawyer and she
11 is your agent and so one of the questions that I ask, and
12 it's become my policy to ask in murder cases, is to ask
13 the defendant whether or not the defendant understands any
14 concessions that might be made by their lawyer beginning
15 with the opening statement. The reason that I ask that is
16 because that is a waiver of your Fifth Amendment right.
17 And so I ask Counsel at this juncture whether or not they
18 intend to make any concessions, you know, agree to any
19 facts stated by the State in the opening statement.

20 I'm going to pause and ask if you understand
21 what I'm saying at this point?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: I'm going to ask Ms. Rogers whether
24 or not she intends to concede anything in her opening
25 statement, okay?

1 Yes, ma'am.

2 MS. ROGERS: After conversations with my client
3 yesterday, Your Honor, we spoke about it and we are going
4 to concede the date of the murder and that my client was
5 present.

6 THE COURT: Do you understand that?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: And do you understand that in her
9 opening, that Ms. Rogers intends to concede, meaning to
10 agree to the date of the murder; do you understand that?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: And that you were present.

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: All right. No other information do
15 you intend to concede; is that right?

16 MS. ROGERS: No, Your Honor.

17 THE COURT: Okay. Do you intend to concede that
18 your client witnessed the murder? In your opening. I'm
19 just asking in your opening.

20 MS. ROGERS: No, Your Honor.

21 THE COURT: Very well. Very well. So I would
22 look only for the concession of the date and that your
23 client was present. Very well.

24 MS. ROGERS: I guess it would be more
25 appropriate to say in the area as opposed to present, for

1 as a kindness for us and she also does it a little bit for
2 herself, I think. So, ladies and gentlemen, please feel
3 free to help yourself.

4 Madam Presiding Juror, do you think you need to
5 pass a handful of cough drops around? Everybody's being
6 shy.

7 Thank you, Ms. Simmons. There you go. Go ahead
8 and do the papers, too, before we get going. Thank you.

9 Ladies and gentlemen, at this time I ask that
10 you please draw close as we listen to the opening
11 statements of counsel.

12 MR. HILTON: Thank you, Your Honor.

13 Ladies and gentlemen of the jury,
14 September 17th, 2007, the victim in that case,
15 Mr. Robert Earl Robinson, lost his life to that man
16 sitting right over here at the defense table in his
17 attempt to rob Mr. Robinson of a few dollars. And what
18 did he get from it? Not one red cent.

19 Ladies and gentlemen, the defendant,
20 Mr. Gethers, is charged with murder in this case, and in a
21 minute I'm going to talk to you a little bit about what
22 murder is. We all have an idea, but I'm going to talk to
23 you in a little bit about what that is.

24 But, first of all, I want to introduce myself
25 again. I'm Russell Hilton. I'm one of the prosecutors

1 for Dorchester County. And seated at the prosecution's
2 table with me is our Senior Assistant Solicitor, Harrison
3 Bell, also Major John Garrison with the Dorchester County
4 Sheriff's Office.

5 And most importantly seated on the front row
6 back here is the victim's family, the people that he left
7 behind. Because this is an important day not only for
8 Mr. Gethers, it's his day in court, but it's also their
9 day in court. It's their day that justice is done for
10 Mr. Gethers and for their family.

11 I mentioned a minute ago the defendant is
12 charged with murder. What is murder? It's one of the
13 most serious charges that we have here in the state, and I
14 submit to you, anywhere. And even though it's the most
15 serious charge, it has the shortest definition. Murder is
16 this: It's the unlawful killing of another with malice
17 aforethought. The unlawful killing of another with malice
18 aforethought. It's that simple.

19 So when someone is killed at the hands of
20 another, the State has to prove malice. That's what makes
21 it a murder, as opposed to some other justifiable killing.
22 So what is malice is what it all comes down to.

23 Malice has several definitions, and towards the
24 end of the trial the judge is going to charge you on the
25 law. She will give you a pretty ad nauseum definition

1 about what all these offenses are, all these charges and
2 the law that applies to this case, and she's going to tell
3 you about malice. But right now, malice is -- I will give
4 you several definitions.

5 One, it comes from someone who is devoid of
6 social responsibility. That's one definition of it.

7 Another definition is that it's the reckless
8 disregard for the safety of others.

9 And the definition that I think is the most
10 appropriate here is an intentional act of violence. An
11 intentional act of violence such as shooting somebody.
12 That's murder.

13 Now, you heard the judge mention a minute ago
14 proof beyond a reasonable doubt. This is a criminal case
15 and so the burden of proof is a little bit higher; it's
16 proof beyond a reasonable doubt. And there's no fancy
17 definition for that. Proof beyond a reasonable doubt is
18 exactly what it says. It's not beyond all doubt, it's not
19 beyond every factual scenario you can think. It's beyond
20 all reasonable doubt.

21 And the definition that she will give you is if
22 you look at the evidence at the end of this trial, you
23 consider all the testimony, you consider all the exhibits
24 presented to you.

25 If at the end of this trial you're firmly

1 convinced of the defendant's guilt, firmly convinced, then
2 the State has met its burden and you took an oath that you
3 would render a verdict that is in accordance with that
4 evidence and hold the defendant accountable for his
5 actions and find the defendant guilty.

6 I submit to you, ladies and gentlemen, at the
7 end of this case you will be firmly convinced and, in
8 fact, you'll be certain of it. But again, that is not the
9 standard. It's firmly convinced.

10 You are going to hear testimony that on
11 September 17th, the victim came out to an apartment
12 complex in Summerville. It's down Orangeburg Road just
13 right by the Bi-Lo. It's Orangeburg Road near Summerville
14 High School. The victim was coming there to bring some
15 money to a girl named Veronica Kitt.

16 And you're going to hear testimony that Ms. Kitt
17 is actually a co-defendant of Mr. Gethers. You're going
18 to hear testimony that there were phone conversations
19 going back and forth from about 4:30 or so that afternoon
20 between the victim and Ms. Kitt, Ms. Kitt and the victim,
21 Ms. Kitt and the defendant, the defendant and Ms. Kitt,
22 and those phone conversations went on right up until a
23 minute or two around the time of the murder. Those calls
24 were going back and forth up until the time Earl Robinson
25 was shot.

1 You're going to hear from crime scene people
2 from the sheriff's office. You're going to hear from
3 people from SLED. You're going to hear from forensic
4 analysts and they're going to tie the defendant to the
5 scene from fingerprints, DNA. He was there.

6 And most importantly, you're going to hear how
7 the defendant and Ms. Kitt, the co-defendant, shortly
8 after this crime occurred, shortly after this murder
9 occurred, they took off to New York and they were
10 apprehended up in New York using fake IDs. And you'll
11 hear much, much more.

12 Ladies and gentlemen, this isn't a complex case.
13 It's a case that doesn't require -- it doesn't require any
14 special training or skill to be a juror. You were chosen
15 for -- it looked like you all had common sense to me and
16 that's why I put you on the jury. And that's all it takes
17 here is a little bit of common sense, to listen to the
18 testimony, look at the evidence presented.

19 And this is our system of justice, this
20 courtroom, the judge, the court reporter, this is our
21 system of justice. And that's what we're all here for is
22 justice. And at the end of this trial I'm going to ask
23 you for justice. I'm going to ask you to hold the
24 defendant accountable for his actions.

25 Again, on behalf of the family and on behalf of

1 the state of South Carolina, I want to thank you for your
2 willingness to serve as jurors and participate in our
3 system of justice.

4 THE COURT: Thank you, Mr. Hilton.

5 Ms. Rogers.

6 MS. ROGERS: May it please the Court, Your
7 Honor.

8 THE COURT: Yes, ma'am.

9 MS. ROGERS: My name is Sara Jayne Rogers and I
10 represent Mr. Trevee Gethers.

11 Everyone has had one of those days where you
12 walk into a room or a bar and somebody thinks that it's
13 you or you walk into a bar or a convenience store and
14 something goes wrong while you're there. That is the
15 story of my client. He was simply in the wrong place at
16 the wrong time.

17 On September 17th, 2007, something terrible
18 did happen and Mr. Robinson and his family suffered a
19 great loss that day. However, my client was not
20 responsible for this crime.

21 The Solicitor will present evidence to you such
22 as the phone calls that he mentioned. But what he hasn't
23 told you is that Ms. Kitt and my client were in a
24 relationship. Ms. Kitt and the victim, Mr. Robinson, were
25 family friends. There were hundreds of phone calls

1 between the three of them and the two of them back and
2 forth and every which way for days before the murder. So
3 it was a common occurrence for these people to communicate
4 with one another.

5 When the Solicitor talks about reasonable doubt,
6 essentially the way that I like to define it is that it's
7 any doubt that causes you pause or hesitation in making
8 your decision. And it is our position that after you hear
9 the evidence from the State and you look at all the
10 factors together, that you will likely have just one doubt
11 and that one doubt is enough to come to the right, just
12 verdict that my client, Trevee Gethers, did not commit
13 this crime and is not guilty.

14 Thank you.

15 THE COURT: Thank you. Mr. Hilton, please call
16 your first witness.

17 MR. HILTON: Thank you. Your Honor, the State
18 would call Ms. Kimberly Ritchey.

19 THE CLERK: Please raise your right hand and
20 state your full name for the record. And I need you to
21 spell your first and last name.

22 THE WITNESS: Kimberly Ritchey. It's
23 K-I-M-B-E-R-L-Y R-I-T-C-H-E-Y.

24 KIMBERLY RITCHEY, after being duly sworn,
25 testified as follows:

1 THE CLERK: Thank you. You may be seated.

2 THE COURT: All right. And if you would,
3 just -- this is really a sound check -- just state your
4 full name for the record for me.

5 THE WITNESS: Kimberly Ritchey.

6 THE COURT: All right. If you would pull that
7 microphone down ever so slightly. There you go.

8 Your witness, Mr. Hilton.

9 MR. HILTON: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MR. HILTON:

12 Q Ms. Ritchey, where do you live?

13 A [REDACTED]

14 Q Specifically where?

15 A Oh, you want the apartment number?

16 Q If you don't mind giving it to us.

17 A [REDACTED]

18 Q All right. And were you living there back in
19 September of 2007?

20 A Unfortunately, yes.

21 Q All right. Do you remember a specific event that
22 evening that caught your attention?

23 A I sure do.

24 Q What do you remember about the evening of
25 September 7th -- September 17th, 2007?

1 A I remember my husband and I were sitting outside
2 because we don't smoke in the house and we heard some
3 arguing, which wasn't out of the ordinary for that
4 neighborhood. I went in to check on the kids. Our
5 children were three and five months at this point in time,
6 so I went in to check on the kids, and he remained
7 outside.

8 I heard a couple of gunshots and then a motor
9 was running for awhile, and by that point in time I came
10 outside and my husband was down at the bottom of the
11 stairs getting ready to go check out the vehicle that the
12 motor was running.

13 Q All right. Let me stop you right there and ask you
14 some specific questions about that.

15 Can you describe for the jury the layout of your
16 apartment in relation to the parking lot where you're
17 referring?

18 A Okay. The parking lot's right there in front of the
19 building. I am in the upstairs building, apartment, and
20 the window from the children's room and the back bedroom
21 looked right onto the area where the SUV was. I wasn't
22 looking out the window, but it is right there and you can
23 see the parking lot very clearly.

24 Q All right. And about -- just guessing the distance,
25 about how far would you say it would be from the window of

1 your little boy's room to the parking lot?

2 A I want to say about 50 steps.

3 Q Okay. Let me show you-- let me mark this.

4 (WHEREUPON, State's Exhibit No. 1 was marked for
5 identification only.)

6 BY MR. HILTON:

7 Q Let me show you what's been marked for identification
8 as State's Exhibit 1 and ask if you recognize what that
9 is.

10 A Yes, I do.

11 Q What is that?

12 A That is the Bi-Lo shopping center, my apartment
13 complex, and the [REDACTED] complex.

14 Q So it would be [REDACTED] and [REDACTED]

15 A Yes, sir.

16 Q All right. Can you spot on there where [REDACTED]
17 is located?

18 A I sure can.

19 Q All right. I'm going to give you a pen and just ask
20 if you'll circle the F building.

21 A (Witness complies.)

22 Q All right. We'll just circle the building here.

23 Would you be able to look at this picture and
24 put an X over where your apartment was?

25 A Uh-huh, yes. (Witness complies.)

1 Q This time -- well, let me ask you one more question
2 about this map.

3 Does it appear to be an accurate map of the
4 layout of [REDACTED] [REDACTED] and the Bi-Lo shopping
5 center?

6 A Sure, it is.

7 MR. HILTON: Your Honor, at this time we would
8 offer this as State's Exhibit 1.

9 THE COURT: Any objection?

10 MS. ROGERS: No, Your Honor.

11 THE COURT: Very well. State's Exhibit 1 is in
12 evidence without objection. It is a map/diagram.

13 (WHEREUPON, State's Exhibit No. 1 was admitted
14 into evidence.)

15 BY MR. HILTON:

16 Q And just so the jury will know, can you point up at
17 the screen up there and just identify where you circled
18 the building and put an X over the apartment?

19 THE COURT: Hold on just one second. She can
20 take that pen and mark it.

21 MR. HILTON: The high tech approach?

22 THE COURT: Yes. Thank you. There you go.

23 BY MR. HILTON:

24 Q What did you just mark?

25 A I just marked the top of my apartment.

1 Q And that's on the screen there, that is actually over
2 the X that you wrote on the paper?

3 A Yes.

4 Q All right. Where is the parking lot at that we're
5 referring to where you heard all the sounds coming from?

6 A Right here. (Witness indicates.)

7 Q Right in there?

8 A Right.

9 Q Now, do you remember -- when you went into your
10 little boy's room, do you remember anything that was said
11 in the conversation?

12 A Before I went inside to check on the children I
13 overheard yelling and screaming, something about money. I
14 didn't get clear details. Like I said, in that
15 neighborhood, arguments happen a lot.

16 Q Okay.

17 A So we just learned to kind of blow them off.

18 Q All right. Now, I stopped you a minute ago and you
19 said "your husband" and that's where I stopped you.

20 A Yes.

21 Q Where were you going to go after that?

22 A He remained on the steps until I came outside, and
23 when I came back outside, he was getting off the steps and
24 running over to the vehicle. At that point in time we
25 figured it was kids playing around in the parking lot,

1 because that happens, and he went to the vehicle to
2 initially get the plate number.

3 Q Okay.

4 A And -- well, almost got run over by the vehicle.

5 Q Did you -- did he holler back anything at you?

6 A He did.

7 Q What did he say?

8 A "Call the cops."

9 Q And is that in fact what you did?

10 A That is exactly what I did.

11 MR. HILTON: Please answer any questions
12 Ms. Rogers may have for you.

13 THE COURT: Cross-examination.

14 MS. ROGERS: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MS. ROGERS:

17 Q Ms. Ritchey, do you remember speaking with Captain
18 Marshall and some other officers when they arrived on the
19 scene?

20 A I don't remember the names, but I did speak with
21 officers.

22 Q Do you remember telling them that you heard one shot
23 at that time?

24 A Honestly I don't remember how many shots I heard or
25 what I told them as far as how many shots I heard.

1 Q Did you tell them that you saw two males in a car,
2 this particular car, arguing with each other?

3 A I did not -- I don't recall saying -- I don't recall
4 seeing two people in a vehicle at all.

5 Q Did you happen to see anybody fleeing the screen?

6 A No, ma'am.

7 MS. ROGERS: No further questions, Your Honor.

8 THE COURT: Redirect?

9 MR. HILTON: Nothing, Your Honor.

10 THE COURT: Very well. Is this witness free to
11 leave?

12 MR. HILTON: She is.

13 THE COURT: Very well. Thank you. You are free
14 to go. Any objections?

15 MS. ROGERS: No, Your Honor.

16 THE COURT: Thank you. Call your next witness,
17 please.

18 MR. HILTON: At this time the State will call
19 Mr. Michael Ritchey.

20 THE CLERK: Please raise your right hand and
21 state your full name for the record.

22 THE WITNESS: Michael Evans Ritchey, Jr.

23 THE CLERK: And could you spell your first and
24 last name, please?

25 THE WITNESS: M-I-C-H-A-E-L R-I-T-C-H-E-Y.

1 MICHAEL RITCHEY, after being duly sworn,
2 testified as follows:

3 THE CLERK: Thank you. Have a seat.

4 DIRECT EXAMINATION

5 BY MR. HILTON:

6 Q Thank you, Mr. Ritchey. Where are you currently
7 living?

8 A I'm currently living at [REDACTED] Road. It's
9 Apartment [REDACTED]

10 Q And back in September of 2007, the lady that just
11 testified, was that your wife?

12 A Yes, sir.

13 Q Okay. And where were you living back in September of
14 2007?

15 A At [REDACTED] in [REDACTED]

16 Q And the State's Exhibit 1 that's still being
17 displayed there on the screen, what's been marked and
18 circle, is that [REDACTED]

19 A Yes, sir.

20 Q All right. And about the 10:30, 10:45 hour of
21 September 17th, what were you doing at that time?

22 A Sitting outside having a cigarette.

23 Q Okay. And describe for the jury where you were
24 sitting and use the map if needed and kind of, you know,
25 explain the layout of everything.

1 A Okay. Do I just point this arrow?

2 THE COURT: What I would like to do if you'll
3 hold on for me one second, I would like to change the
4 color. You may need to do that. I don't know that this
5 monitor will let me do it.

6 I can do it. Hold on. All right.

7 BY MR. HILTON:

8 Q Where was the stairwell located on [REDACTED]

9 A The stairwell was right there.

10 Q All right. And is that where you were sitting
11 smoking a cigarette?

12 A Yes, sir, on the stairs.

13 Q All right. And when you were sitting up there, did
14 you hear anything unusual?

15 A I could hear a couple of males out in the parking lot
16 arguing.

17 Q When you say "a couple," how many is that?

18 A It sounded like two.

19 Q Okay. And were you able to hear anything that they
20 were arguing about?

21 A Wasn't really paying too much attention to it. It
22 was common around there, so kind of learned to tune it
23 out.

24 Q Did you have a view into the open area that's in
25 front of the apartment complex?

1 A Yeah, yes, sir.

2 Q Was there anybody out there?

3 A Not where I could see them.

4 Q Okay. And -- all right. And what did you hear while
5 you were up there?

6 A Like I said, I really wasn't paying too much
7 attention to it. All I heard was yelling and screaming
8 between two individuals.

9 Q Well, at what point in time did it catch your
10 attention?

11 A When I heard a gunshot.

12 Q Okay. And what did you do after that?

13 A As soon as I heard the gunshot, I ran to the bottom
14 of the stairs.

15 Q And what did you see?

16 A A vehicle cranked up and back out of one space, and
17 as they were pulling forward they went to back out and
18 into another space to turn around, at which time I ran
19 down to try to get a license plate number.

20 Q And did the vehicle stop?

21 A Yeah, it kind of jumped the curb into the grass and
22 almost hit me because it backed out to the road and
23 stopped in the middle of the road and just sat there with
24 the motor running.

25 Q And what did you do at that point?

1 A Went down to the vehicle to see what was going on,
2 make sure there were no kids in the vehicle.

3 Q Did you go up to the vehicle?

4 A Yes, sir.

5 Q And where did you approach the vehicle?

6 A I, at first, went to the rear of the vehicle, kind of
7 put my hands up to the glass, peaked inside to make sure
8 there was no kids in the back. Didn't see any kids in the
9 back. Walked up to the front door, seen somebody slumped
10 over laying with their head against the passenger's seat.
11 Opened up the door to check on them, seen blood everywhere
12 and kind of freaked out.

13 Q When you heard the gunshot and went down the stairs,
14 did you see anybody running?

15 A No, sir.

16 Q Did you see anybody running towards [REDACTED] area?

17 A No, sir..

18 Q Anybody running towards the Bi-Lo area?

19 A No, sir.

20 Q Did you see anybody running back through the grassy
21 area in front of the F building?

22 A No.

23 MR. HILTON: Please answer any questions that
24 Ms. Rogers may have for you.

25 THE WITNESS: Yes.

1 THE COURT: Cross-examination.

2 MS. ROGERS: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MS. ROGERS:

5 Q Mr. Ritchey, was it an unusual occurrence to hear
6 males arguing, gunshots, violent acts in [REDACTED]

7 A At the time, no, it was fairly common.

8 Q Had there been any prior break-ins, robberies --

9 A Yes, there's --

10 Q -- anything in the previous weeks?

11 A In the previous weeks? I don't know about prior to
12 that. There may have been some stuff.

13 Q What about afterwards, was there an increase or
14 continuation of violence?

15 A Yeah, I would say it kind of increased a little bit.

16 Q Is that the only time you heard a gunshot while you
17 were living at [REDACTED]

18 A No, ma'am.

19 Q And that evening you heard one gunshot?

20 A I heard a loud bang and that's all I remember
21 hearing.

22 Q And you went down to the car and you placed your
23 hands on the car to look inside of the vehicle?

24 A Yes, ma'am.

25 Q So your fingerprints would be on the car?

1 A Yes, ma'am.

2 MS. ROGERS: May I have one moment, Your Honor?

3 THE COURT: You may.

4 MS. ROGERS: Thank you.

5 No further questions, Your Honor.

6 THE COURT: Redirect?

7 MR. HILTON: No redirect.

8 THE COURT: Is this witness free to leave?

9 MR. HILTON: Yes, Your Honor.

10 THE COURT: Any objections?

11 MS. ROGERS: No, Your Honor.

12 THE COURT: You're free to go.

13 Call your next witness.

14 MR. HILTON: The State would call Shanika Moon.

15 THE CLERK: Please raise your right hand and
16 state your full name for the record.

17 THE WITNESS: Shanika Moon.

18 THE CLERK: And spell your first name and last
19 name, please.

20 THE WITNESS: S-H-A-N-I-K-A M-O-O-N.

21 SHANIKA MOON, after being duly sworn, testified
22 as follows:

23 THE CLERK: Thank you. Have a seat.

24 THE COURT: And the spelling of the names, do
25 you have all the spellings that you need, Ms. Kelly?

1 Very well. Your witness.

2 MR. HILTON: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 BY MR. HILTON:

5 Q Thank you, Ms. Moon. Where were you living back on
6 September 17th of 2007?

7 A [REDACTED] 1.

8 Q F-1?

9 A Yes, sir.

10 Q Was that located right underneath the Ritcheys?

11 A Yes.

12 Q So the two people that just testified, they were your
13 neighbors?

14 A Yes.

15 Q Okay. Do you remember an episode that occurred on
16 that night, September 17th that caught your attention?

17 A Yes.

18 Q What do you remember seeing that night?

19 A I was looking out the window and I saw two people in
20 the truck. I sat back down. When I sat back down, I
21 heard a "pop-pop" noise and that's when I looked outside
22 and saw the truck.

23 Q And the two people in the car, you weren't able to
24 identify anybody, were you?

25 A No.

1 Q All right. And were they sitting in the car with the
2 door closed or was the door open or what was the setup?

3 A It was closed, parked forward.

4 Q Okay. Could you hear any arguing?

5 A No. I wasn't out.

6 Q Okay. And after you heard what you said was the
7 "pop-pop," did you call 911?

8 A No.

9 Q Okay. How come?

10 A Because it always happened in the neighborhood.

11 Q That wasn't anything unusual for you?

12 A No.

13 MR. HILTON: All right. Please answer any
14 questions Ms. Rogers may have for you.

15 THE COURT: Cross-examination.

16 MS. ROGERS: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MS. ROGERS:

19 Q Ms. Moon, you said you saw two people in the vehicle?

20 A Yes.

21 Q Were you able to get a clear look at --

22 A No.

23 Q -- either of them?

24 A No.

25 Q And you said you also heard a "pop-pop." Would that

1 mean that you heard two shots?

2 A Uh-huh. I was on the phone and when I looked out the
3 window I saw two people in the truck. By the time I sat
4 back on the couch, that's when I heard the "pop-pop"
5 noise.

6 Q And that you said that that type of violence was a
7 common occurrence at [REDACTED]

8 A Yes.

9 Q How common would you say it was?

10 A Often.

11 Q So it wasn't the first time you heard a gunshot?

12 A No.

13 Q Was it the last?

14 A No.

15 MS. ROGERS: No further questions, Your Honor.

16 THE COURT: Redirect?

17 MR. HILTON: Just briefly, Your Honor.

18 REDIRECT EXAMINATION

19 BY MR. HILTON:

20 Q Ms. Moon, you said you saw -- I think you referred to
21 it as a car. Do you remember what it was?

22 A Unh-unh. It was a truck.

23 Q It was a truck?

24 A Uh-huh.

25 Q Do you remember if it was like a pickup truck or an

1 SUV?

2 A An SUV.

3 MR. HILTON: Okay. No further questions, Your
4 Honor.

5 THE COURT: Recross?

6 MS. ROGERS: No, Your Honor.

7 THE COURT: Is this witness free to leave?

8 MR. HILTON: She is.

9 MS. ROGERS: Yes, Your Honor.

10 THE COURT: Very well. You're free to go.

11 Call your next witness.

12 MR. HILTON: The State would call Williard
13 Driggers.

14 THE CLERK: Please raise your right hand and
15 state your full name for the record.

16 THE WITNESS: Williard Driggers.

17 THE CLERK: And spell your first and last name.

18 THE WITNESS: W-I-L-L-I-A-R-D D-R-I-G-G-E-R-S.

19 THE CLERK: Thank you. Have a seat.

20 THE COURT: Your witness.

21 DIRECT EXAMINATION

22 BY MR. HILTON:

23 Q Thank you, Mr. Driggers. Where are you currently
24 employed now?

25 A Right now I work for MUSC Public Safety.

1 Q Where were you employed back in September of 2007?

2 A Dorchester County Sheriff's Office.

3 Q All right. And do you recall getting a call on
4 September 17th, 2007, in reference to some shots being
5 fired?

6 A Yes, sir.

7 Q And what did you do when you received that call?

8 A Just as the dispatcher was putting the call out, I
9 was driving past the entrance of [REDACTED] and then I
10 turned right around and responded to the incident.

11 Q Do you remember what type of response time you had,
12 in minutes?

13 A It was less than a minute because I was driving right
14 past it.

15 Q And did you have any idea of where the incident had
16 occurred?

17 A They said on the back side of the apartment complex.

18 Q Is that where you went?

19 A Yes, sir.

20 Q When you approached the backside of the apartment
21 complex, what did you see?

22 A As I approached that part of the complex, I saw an
23 SUV out in the lane of travel where I stopped my patrol
24 car before I turned the corner and I got out to approach
25 the vehicle.

1 Q And when you approached the vehicle, did you notice
2 anything out of the ordinary?

3 A The engine was running and it was revving at high
4 RPMs.

5 Q How about the doors and windows, in what condition
6 were they in?

7 A The doors were closed and the windows were up.

8 Q And what did you do in reference to the car being
9 revved up?

10 A When I approached the vehicle, I saw somebody sitting
11 in the front seat slumped over. And I had a pair of
12 gloves that I carried with me that I put on and opened the
13 driver's side door to see if the person in that car, if
14 they were alive or breathing.

15 Q And what did you notice?

16 A It didn't look like they were breathing. And that's
17 when I reached in and turned off the ignition.

18 Q When you first opened the door, did you notice
19 anything that kind of caught your attention other than the
20 guy being slumped over?

21 A Yes, sir, I saw blood on the seat and on the person
22 that was sitting in the driver's seat and the smoke from
23 the gun powder was still floating inside the vehicle.

24 (WHEREUPON, State's Exhibit No. 2 was marked for
25 identification only.)

1 BY MR. HILTON:

2 Q Let me show you what's been marked as State's Exhibit
3 2 for identification. I would just ask if you recognize
4 this picture.

5 A Yes, sir.

6 Q Is that an accurate picture, kind of what you saw
7 when you approached the scene that night?

8 A Yes, sir.

9 MR. HILTON: Your Honor, at this time we would
10 offer State's Exhibit 2 into evidence.

11 THE COURT: Any objection?

12 MS. ROGERS: No, Your Honor.

13 THE COURT: State's Exhibit 2 in evidence
14 without objection. It's a photograph.

15 (WHEREUPON, State's Exhibit No. 2 was admitted
16 into evidence.)

17 BY MR. HILTON:

18 Q Is that the white Toyota Sequoia --

19 A Yes, sir.

20 Q -- that you came upon?

21 A Yes, sir, that's the one.

22 Q Okay.

23 A It's looks like the one I saw.

24 Q And the item inside the driver's door, what is that?
25 What appears to be the individual slumped over, is that

1 what that is?

2 A The person that I saw that was sitting in the seat.

3 Q [REDACTED] apartment complex, is that located in
4 Dorchester County?

5 A Yes, sir.

6 Q When you arrived on the scene, was there anybody in
7 the area?

8 A Not when I first pulled up. That's one of the things
9 that I noticed, that there was nobody outside around,
10 which was kind of a common occurrence when an incident
11 would happen, that there is a lot of people watching.

12 Q And how long did you stay at the scene?

13 A Several hours.

14 Q And over the course of that time, did people begin to
15 emerge?

16 A Yes, sir. After a couple other deputies arrived,
17 people started to come outside and stand around.

18 MR. HILTON: Please answer any questions
19 Ms. Rogers may have for you.

20 THE COURT: Cross-examination.

21 MS. ROGERS: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MS. ROGERS:

24 Q Mr. Driggers, when you were employed with the
25 Dorchester County Sheriff's Office, did you have a lot of

1 calls out to the [REDACTED] area?

2 A Yes, ma'am.

3 Q And what did they typically involve?

4 A A lot of fights, a lot of drug-related calls.

5 Q Would it be fair to say violent crimes?

6 A You could say that.

7 Q When you approached the vehicle, did you notice if
8 any of the doors were locked or unlocked?

9 A I only opened one door and that was the driver's side
10 and it was unlocked.

11 Q Okay. And you noted that there was blood on the
12 victim. Was there blood on the passenger seat or in other
13 areas of the car that you noticed?

14 A I didn't notice. At that point I considered it a
15 crime scene, and once I turned off the engine, I stepped
16 away to secure it and not to contaminate it.

17 Q When people began to come out and speak with you and
18 other officers, did anybody come forward and speak to you
19 about seeing what had occurred?

20 A Not personally to me. The people I talked to just
21 said they heard an argument and a gunshot.

22 MS. ROGERS: No further questions, Your Honor.

23 THE COURT: All right. Any redirect?

24 MR. HILTON: No redirect, Your Honor.

25 THE COURT: Is this witness free to leave?

1 MR. HILTON: He is.

2 THE COURT: Any objection?

3 MS. ROGERS: No, Your Honor.

4 THE COURT: Very well. You are free to go.

5 Call your next witness, please.

6 MR. HILTON: The State would call Officer Chris
7 Freshman.

8 THE CLERK: Please raise your right hand and
9 state your full name for the record.

10 THE WITNESS: Christopher Andrew Freshman.

11 THE CLERK: And spell your first and last name.

12 THE WITNESS: C-H-R-I-S-T-O-P-H-E-R
13 F-R-E-S-H-M-A-N.

14 CHRISTOPHER FRESHMAN, after being duly sworn,
15 testified as follows:

16 THE CLERK: Thank you. You may have a seat.

17 THE COURT: Your witness.

18 DIRECT EXAMINATION

19 BY MR. HILTON:

20 Q Thank you, Officer Freshman. From your uniform it
21 looks like you're still in law enforcement; is that
22 correct?

23 A Yes, sir.

24 Q And where are you employed at this time?

25 A Charleston City Police Department.

1 Q Okay. And how long have you been there?

2 A Since November of last year, one year.

3 Q Where were you employed prior to going to Charleston
4 City?

5 A Dorchester County Sheriff's Office.

6 Q Were you working for the Dorchester County Sheriff's
7 Office back on September 17th of 2007?

8 A Yes, sir.

9 Q Okay. Do you remember on that afternoon or that late
10 evening getting a call in reference to some shots being
11 fired in the [REDACTED] subdivision?

12 A Yes, sir.

13 Q Did you respond to that call?

14 A I did.

15 Q And what did you see when you approached the scene?

16 A I pulled in the same way that Williard pulled in, on
17 the right-hand side. I pulled up behind his vehicle. I
18 noticed a white in color Toyota Sequoia like the one that
19 was in the picture. It was -- seemed to be parked.
20 Driggers was approaching it. The engine was revving.

21 Q All right. Did -- at that time did you all consider
22 it to be a crime scene?

23 A I didn't because I didn't know what we had. After
24 Driggers opened the door he said he would have one, so we
25 began blocking off the area.

1 Q And what do you mean by "blocking off the area"?

2 A Well, at that time there wasn't anybody outside yet
3 so we were considering keeping people back away from the
4 scene and to keep other officers or deputies and the
5 investigators, a lot of them were going to come in. Once
6 they began to arrive, the crime scene tape, we began to
7 put that up around the area that some of the investigators
8 used.

9 Q All right. Were there a bunch of people traipsing in
10 and out of the scene?

11 A No, sir.

12 Q Do you recall talking to any of the folks that were
13 out there that night?

14 A Several. Once people started coming out, it was my
15 responsibility as one of the responding officers to speak
16 with anybody that may have seen something, so I spoke to
17 several that evening.

18 Q And do you remember the people that you spoke to?

19 A Vaguely. I remember the first two witnesses by face
20 because I've seen them before.

21 Q Okay. And there were some others?

22 A Yes, sir.

23 MR. HILTON: All right. Please answer any
24 questions Ms. Rogers may have for you.

25 THE WITNESS: Okay.

1 THE COURT: Cross-examination.

2 MS. ROGERS: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MS. ROGERS:

5 Q Officer Freshman, when you were employed at the
6 Dorchester County Sheriff's Office, did you go to [REDACTED]
7 [REDACTED] often?

8 A Yes, ma'am.

9 Q Is it fair to categorize it as a violent area?

10 A Yes, you could say that.

11 Q Was that the first shooting you had responded to at

12 [REDACTED]

13 A No, ma'am.

14 Q Was it the last?

15 A No, ma'am.

16 MS. ROGERS: No further questions, Your Honor.

17 THE COURT: Very well. Redirect?

18 MR. HILTON: No redirect, Your Honor.

19 THE COURT: Is this witness free to leave?

20 MR. HILTON: He is.

21 MS. ROGERS: Yes, Your Honor.

22 THE COURT: Very well. You are free to go.

23 Call your next witness.

24 MR. HILTON: May I have 30 seconds to see if my
25 next witness is out there?

1 THE COURT: You may.

2 MR. HILTON: At this time, Your Honor, the State
3 would call Detective Earl Asbell.

4 THE COURT: Okay.

5 THE CLERK: Please raise your right hand and
6 state your full name for the record.

7 THE WITNESS: Earl Asbell, A-S-B-E-L-L.

8 EARL ASBELL, after being duly sworn, testified
9 as follows:

10 THE CLERK: Thank you. You may have a seat.

11 THE COURT: Your witness.

12 MR. HILTON: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY MR. HILTON:

15 Q Detective Asbell, how long have you been working at
16 the Dorchester County Sheriff's Office?

17 A About a total of 35 years, 13 years as a reserve
18 officer and 21 years as a full-time officer.

19 Q And back in September of 2007, what was your position
20 with the sheriff's office?

21 A I was lieutenant over the crime scene unit.

22 Q And do you recall responding to a call on
23 September 17th, 2007, near the F building at [REDACTED]
24 apartment complex?

25 A Yes, I do.

1 Q And did you go out there for crime scene processing?

2 A Yes, sir, I did.

3 Q And let me ask you some questions.

4 First of all, what is crime scene processing?

5 A It's the process of gathering evidence in hopes of
6 developing a suspect or tying a suspect to a case.

7 Q At the time that you go out there, do you know
8 exactly what you're looking for?

9 A Not initially, no.

10 Q And what sort of items do you try to collect?

11 A Latent prints. If there's a shooting involved we try
12 to look for projectiles, shell casings, of course a
13 weapon, anything that's abnormal or anything in the
14 general vicinity of the crime scene.

15 Q And sometimes do you collect things that end up
16 having nothing to do with the scene itself?

17 A Yes, sir. We collect everything in the proximity.

18 Q When you arrived on the scene near the F building at
19 [REDACTED] apartment complex, what was the scene layout at
20 that time? What was there?

21 A Well, when I first got there, I come in on the
22 right-hand side of the complex. The area was cordoned
23 off. There was an immediate area around the crime scene
24 and then a few yards back was another crime scene tape
25 with police vehicles parked in between the two.

1 I immediately got out my camera. I spoke to
2 Captain Marshall and then Corporal Williard Driggers at
3 the time, and Williard informed me that he had opened the
4 passenger door.

5 At that time when I arrived EMS was standing
6 next to the car, but they moved and I started taking the
7 pictures as I was coming on the scene.

8 Q All right. And did you photograph the entire scene?

9 A Yes, I did. I photographed the vehicle from each
10 side and everything that was located around it.

11 Q When you began to process the vehicle, were you able
12 to find anything that identified who the victim was?

13 A Yes. When I arrived on the scene I took four
14 photographs surrounding the vehicle. At that time EMS
15 personnel approached me and let me know what had happened,
16 where the victim was shot.

17 I went ahead and photographed the victim while
18 he was sitting in the car and then I removed his wallet
19 from a back pocket, and it had his photo from his driver's
20 license in it, and it had Robert E. Robinson.

21 Q Was there anything between the victim's legs?

22 A Yes. We started looking for his cell phone. The
23 holder on his hip was empty, so I started looking around
24 the body and we found it between his legs, and I
25 photographed that and retrieved it from the vehicle.

1 MR. HILTON: Bear with me just a second, Your
2 Honor.

3 THE COURT: Ladies and gentlemen, I'll tell you
4 what we'll do. We'll give Mr. Hilton an opportunity to
5 organize the photos and get them marked. We'll take our
6 afternoon break now.

7 Please do not discuss this matter or allow
8 anyone to discuss it with you. Leave your notes in your
9 seat.

10 We'll take 15 minutes. We'll reconvene at 4:15.
11 Enjoy your break.

12 (The jury left open court at approximately 3:58
13 p.m.)

14 (A break was taken.)

15 THE COURT: Is there anything before we bring
16 the jury out, from the State?

17 MR. HILTON: Nothing from the State, Your Honor.

18 THE COURT: From the Defense?

19 MS. ROGERS: No, Your Honor.

20 THE COURT: Let's have the jury.

21 MR. HILTON: And if it's all right, there's a
22 few more things that I'm going to mark, if that's okay,
23 while the jury comes in.

24 THE COURT: Sure.

25

1 (WHEREUPON, State's Exhibits Nos. 3-26 were
2 marked for identification only.)

3 (The jury came into open court at approximately
4 4:22 p.m.)

5 THE COURT: All right. Mr. Hilton, you may
6 proceed.

7 MR. HILTON: Thank you, Your Honor.

8 THE COURT: Uh-huh.

9 BY MR. HILTON:

10 Q Detective Asbell, let me resume.

11 Let me show you what's been marked as State's
12 Exhibit 4 for identification and ask if you recognize that
13 picture.

14 A Yes. Picture number four is the white SUV that
15 Mr. Robinson was in. This was taken from the driver's
16 side looking back at the vehicle.

17 Q Is that one of the crime scene photos that you took?

18 A Yes, it is. You can see the crime scene tape in
19 front of the vehicle and it goes all the way around to the
20 back.

21 Q And is that photo an accurate photo of the scene as
22 it was that night?

23 A After I had shut the door, yes.

24 MR. HILTON: Your Honor, at this time we offer
25 State's Exhibit 4 into evidence.

1 THE COURT: Any objection?

2 MS. ROGERS: No, Your Honor.

3 THE COURT: Very well.

4 (WHEREUPON, State's Exhibit No. 4 was admitted
5 into evidence.)

6 BY MR. HILTON:

7 Q I will show you what's been marked as State's Exhibit
8 3 for identification.

9 MR. HILTON: And just for the Court's purposes,
10 Your Honor, I've already showed these to Ms. Rogers.

11 THE WITNESS: State's Exhibit 4 (sic) is a
12 photograph of the phone between the victim's legs.

13 BY MR. HILTON:

14 Q Is that the cell phone you were referring to a few
15 minutes ago?

16 A Yes, it is.

17 Q Right before we took that break?

18 A Pardon?

19 Q Right before we took our break?

20 A That's correct.

21 Q And is that picture an accurate picture of the phone
22 as it was positioned?

23 A Yes, it is. Couldn't get any further away from it.

24 MR. HILTON: At this time, Your Honor, we would
25 offer State's Exhibit 3 into evidence.

1 THE COURT: Any objection?

2 MS. ROGERS: No, Your Honor.

3 THE COURT: State's Exhibit 3 in evidence
4 without objection. It is a photograph.

5 (WHEREUPON, State's Exhibit No. 3 was admitted
6 into evidence.)

7 BY MR. HILTON:

8 Q All right. Detective Asbell, you testified a moment
9 ago that part of the crime scene process is that you
10 collect evidence from the scene. What sort of evidence
11 did you collect at this scene?

12 A There was several cigarette butts around the
13 immediate area of the car. While I was photographing or
14 just after I photographed Mr. Robinson's wallet, I was
15 called over to the side of the road. There was a
16 .40 caliber shell on the right-hand side just before you
17 rounded the curve to where his vehicle was and there was
18 also a Bluetooth, an earpiece that was laying in the
19 middle of the road.

20 Q And you referred to the cigarette butts. Were they
21 determined to have any connection to this crime?

22 A We never proceeded with that. Everything took us in
23 a different direction.

24 Q Let me show you what has been marked as State's
25 Exhibit 25, 24, and 23 and just ask if you recognize these

1 items.

2 A Yes. This is the Bluetooth that I photographed and
3 the earpiece that's connected to it and the distant shot
4 before I marked it with the photo placards. The distant
5 shot is State's Exhibit No. 24 without the photo placards.
6 State's Exhibit 23 is a close-up of the Bluetooth. And
7 State's Exhibit 25 is the earpiece that goes with it.

8 MR. HILTON: Your Honor, at this time we would
9 offer these three items into evidence.

10 MS. ROGERS: Without objection, Your Honor.

11 THE COURT: Very well. State's Exhibits --

12 MR. HILTON: It would be 23, 24, and 25,
13 photographs.

14 THE COURT: These will be in evidence without
15 objection.

16 (WHEREUPON, State's Exhibits Nos. 23, 24, 25
17 were admitted into evidence.)

18 BY MR. HILTON:

19 Q Detective Asbell, when you recovered the Bluetooth
20 headset, did you notice anything about that Bluetooth
21 headset that was kind of interesting?

22 A Yes, the light was blinking on it. It was still
23 active at the time.

24 Q Had it been run over or anything?

25 A It appeared to have been because it was either run

1 over or it fell apart when it hit the road because the
2 earpiece was separated from it.

3 Q All right. But it was still blinking you say?

4 A Yes.

5 MR. HILTON: If you could mark this, please.

6 (WHEREUPON, State's Exhibit No. 27 was marked
7 for identification only.)

8 BY MR. HILTON:

9 Q Detective Asbell, let me show you what is marked now
10 as State's Exhibit 27 for identification and ask if you
11 can identify it as accurate. Open it up if you need to.

12 A Do you have a pair of scissors that I can open this
13 with?

14 Q I think we can accommodate.

15 A This is the evidence bag that Sergeant or Corporal
16 Zensen at the time, Sergeant Zensen now, placed the
17 Bluetooth in the night it was collected. It's got photo
18 placard number six on the bag is what was put in a
19 photograph and it says "Bluetooth."

20 Q Is the Bluetooth actually in that bag?

21 A It feels like it. I will open it up right now.

22 Yes, sir, it is.

23 Q Okay. And is that both components to it, both the
24 ear holder and the receiver itself?

25 A Yes, sir, it is.

1 MR. HILTON: Your Honor, at this time we would
2 offer State's Exhibit 27 into evidence, being the
3 Bluetooth headpiece.

4 MS. ROGERS: No objection, Your Honor.

5 THE COURT: Very well. State's Exhibit 27 is in
6 evidence without objection.

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

9 BY MR. HILTON:

10 Q Did you conduct any gunshot residue testing on the
11 victim?

12 A Yes, sir, about 2:30 in the morning I believe it was.
13 Let me check real quick. I have my notes here.

14 I performed the GSR kit on Mr. Robinson at
15 2:20 in the morning after we left the crime scene..

16 (WHEREUPON, State's Exhibit No. 28 was marked
17 for identification only.)

18 BY MR. HILTON:

19 Q Let me show you what's been marked for identification
20 as State's Exhibit 28. I would ask if you recognize what
21 is contained in this exhibit.

22 A State's Exhibit 28 is the SLED envelope that was
23 sealed by SLED. It contains the GSR kit.

24 Inside the GSR kit are four -- they're kind of
25 round-top-shaped things with a tacky end on them and what

1 we do is we go through and do the front, the back, and
2 both hands. Each one was mark. You have the left front,
3 left back, right front, right back. And you just go along
4 and stick it to the back of the hand and just tap it
5 along.

6 What you're trying to do is pick up any unfired
7 powder particles that are left object the hands. So you
8 have one for the left palm, left back, right palm, and
9 right back.

10 After we get through doing the one that's got
11 the tacky end on it, then we do a five percent nitric swab
12 and we swab the hands also. Both of them are placed back
13 in the kit.

14 There's also a control sample and there's two
15 swabs in there that are a shell casing.

16 That night we left it open because we had
17 recovered a shell casing. At the time we were taking
18 everything to SLED a shell casing had been recovered so it
19 was sealed and taken to SLED.

20 Q In fact, Lieutenant Asbell, you did recover a shell
21 casing from the scene, and I think you testified to that a
22 few minutes ago; is that right?

23 A Yes, I did. It was a .40 caliber, but after we had
24 it examined and the bullet examined, they were not the
25 same calibers. And so we knew he had been shot with a

1 different caliber bullet than the .40, so there was no
2 need to go to the powder.

3 Q It had no significance to this scene?

4 A None whatsoever. Besides the fact it was probably 40
5 or 50 feet away from the incident.

6 Q Now, the gunshot residue kit that is contained within
7 State's Exhibit 28 that's been marked for identification,
8 is that -- who was that kit actually performed on?

9 A Mr. Robinson.

10 Q The victim?

11 A Yes, sir. I performed the kit on him and Sergeant
12 Coker sealed it for me at a later date and transported it
13 to SLED along with various other items.

14 Q Let me ask you, did you recover any fingerprints from
15 the Toyota Sequoia while you were processing?

16 A Yes, sir. The following morning myself and Sergeant
17 Zensen -- she was a corporal at the time -- we processed
18 the car for latents and we lifted 34 latents on the
19 vehicle.

20 Q You say the following morning. You didn't do that at
21 the scene that night?

22 A No. When it gets dark and you get moisture in the
23 air, the car gets moisture on it, you know, so if you
24 apply any powder to it you're going to smear whatever's
25 there, so it was transported.

1 After we finished at the scene I followed the
2 tow truck and secured it in the garage until the next
3 morning.

4 Q And was that done in an effort to preserve any
5 evidence that was at the scene?

6 A Oh, yes. Yes, sir.

7 Q I want to ask you about some of those fingerprints.
8 We've marked a series of these in advance. And I'm also
9 going to give you -- we went from new technology to old
10 technology here.

11 Lieutenant Asbell, that's a rudimentary drawing
12 of an SUV and it's labeled the front and the rear. And
13 these two protrusions sticking off, that would be mirrors
14 if you were looking down at the car.

15 A Okay.

16 Q So, if you will, based on that drawing, will you
17 label the driver's side front door, driver's side back
18 door, passenger's side front? Just label the different
19 parts of the car. That way we'll know where we're
20 referring to.

21 A (Witness complies.)

22 Q I'm going to hand you some items, what's been marked
23 for identification as State's Exhibit 15 and ask if you
24 recognize what that is.

25 A State's Exhibit 15 is a photograph of a center post

1 between the two doors, the front and back door. This is
2 the front door handle. This was the seam where -- this is
3 the back door here.

4 What you see here is where we had powdered the
5 vehicle and there are latents present on the case and
6 that's what the scale tape was for here. This shows the
7 area where some of the latents were lifted.

8 Q And before we go any further, just tell the jury
9 briefly, how do you lift a fingerprint?

10 A The word "latent" means hidden, and most of the time
11 the prints are not visible. By applying black powder or
12 any other powder we might be using at the time, it
13 visualizes the prints. At that time we place a piece of
14 clear tape over them, lift them off the vehicle, and place
15 them on the back of a fingerprint card.

16 Q All right. And that photo, is that a photo of prints
17 that you lifted off the vehicle?

18 A Yes, sir. This is a photo prior to the lifting.

19 Q Okay. Let me also show you what's been marked for
20 identification as State's Exhibit 16, 17, 18, 19, and 20.

21 And just starting with State's Exhibit 16, can
22 you tell me what that is?

23 A State Exhibit 16 is the front outside door handle.
24 This was the card I was telling you about. We fill out
25 the face of it. It tells us the victim's name, the

1 incident location -- we didn't write it on there at the
2 time -- but it's got the case number, type of case it is,
3 the date, my name, my call number, and where the prints
4 are lifted from.

5 Q And on the rear of that card, what is that?

6 A Pardon?

7 Q On the other side of the card, what is that?

8 A This is the side where they place the latents on.
9 The paper's real smooth. Once the latent is lifted, you
10 lay it out on this card.

11 This is off the front door handle. And what I
12 did was start on the front of the door handle and put the
13 paper on, then I wrapped it around of the back door handle
14 so we could get both sides of the tape.

15 This one particular part here, the latent's on
16 the back part of the door handle.

17 And this is the passenger's front door handle,
18 so it's going to be in this area of the door here.

19 This is card three.

20 Q If you'll just draw a little line out so they're not
21 all bunched together and indicate which card or which lift
22 that is.

23 A That's card number three, lift number three.

24 Q Okay.

25 A That's the passenger's front door handle.

1 Q And the next card that you have, latent lift number
2 four, what State's number is that?

3 A State's Exhibit 17.

4 Q Okay.

5 A It's latent lift number four. This was the door
6 post, passenger's side front door.

7 What we're talking about here, if you look at
8 State's Exhibit 15, these are the two posts here
9 separating the front door from the back door. This came
10 off the post of the passenger's side to the front door.
11 This lift would have been between these two pieces of tape
12 here.

13 Q If you'll indicate that on the diagram.

14 A (Witness complies.)

15 Q All right. What is the next latent lift card that
16 you have? It should be number five. What State's exhibit
17 is that?

18 A State's Exhibit 18 is latent lift number five. This
19 is the door post passenger's side back door. And that's
20 going to be on this post here on left-hand side.

21 You have to excuse these drawings, they're kind
22 of far apart, but they're actually right next to each
23 other. This would be the center post between the two
24 doors here.

25 Q All right. What about latent lift number eight?

1 A Solicitor, I have latent lift number ten and 11.

2 This is in the same photograph.

3 Q All right. We'll talk about State's Exhibit No. 20
4 which is latent lift number ten.

5 A Okay. Latent lift number ten, passenger's rear door.
6 In the center of the door there's a full palm print
7 sitting right here going down the side of the car. That's
8 going to be dead center of this vehicle here.

9 That is State's Exhibit No. 20 and that's
10 actually card number ten. There's two cards that go with
11 this, card ten and 11.

12 Due to the width of the palm I couldn't get the
13 thumb on there, so State's Exhibit No. 19, which is latent
14 lift number 11, that is the thumb that goes with the palm.
15 Latent lift number 11 is State's Exhibit 19.

16 Q All right.

17 A And all of these latents were taken on this door
18 post, on this door handle, and in the center of the door
19 there.

20 Q I asked you about latent lift number eight a moment
21 ago. Let me show you what's been marked as State's
22 Exhibit 22 and 21 for identification and ask if you
23 recognize those.

24 A Okay. Card number eight, which is State's Exhibit
25 22, the latent, you can see the pinstripes and part of the

1 door handle, the passenger's front door here, this is just
2 above the pinstripes on the passenger's front door. You
3 can see the two little latents right above the pinstripe
4 there.

5 State's Exhibit No. 21 is reflecting the back of
6 the front door and part of the rear door with part of the
7 center post showing on both doors.

8 Q If you'll indicate those on the diagram, please.

9 A I'm sorry?

10 Q If you'll make a notation of those on the vehicle
11 diagram.

12 A (Witness complies.)

13 Q All right. Let me show you now what's been marked as
14 State's Exhibit 13 and 14 and ask if you recognize those
15 items.

16 A State's Exhibit 14 is the rear passenger's side edge
17 just above the pinstripe and State's Exhibit 13 is a
18 photograph of the latent prior to lifting it.

19 Q And where was that located?

20 A That was the rear passenger's side just above the
21 pinstripe.

22 Q All right. If you'll locate that on the diagram,
23 please.

24 A (Witness complies.) It would be on the rear edge of
25 the back door here.

1 Q Let me now show you what's been marked for
2 identification as State's Exhibit 10, 11 and 12 and ask if
3 you recognize those.

4 A State's Exhibit 10 is a photograph of the driver's
5 front door with part of the rear door showing. State's
6 Exhibit No. 11, which is card number 16, the driver's side
7 door left of center just above the pinstripe. This was
8 the latent that was lifted -- this was a photograph of a
9 latent on the vehicle left of the center of the door above
10 the pinstripe.

11 Q And likewise if you'll indicate those on the diagram.

12 A (Witness complies.)

13 Q Let me show you now what's been marked as State's
14 Exhibit 7, 8 and 9 for identification and, likewise, ask
15 you if you recognize those.

16 A I left one out. Let me go back to this card here.

17 State's Exhibit 12, which is card number 19,
18 this was on the edge of the driver's door. You can see
19 the fingerprints. This is the edge of the door right
20 here.

21 Q I think I took your picture.

22 A Thank you. That's going to be the latents down here
23 by the scale tape.

24 Q And did you indicate that one on the diagram that was
25 latent lift number 19?

1 A (Witness complies.) State's Exhibit No. 8 is card
2 number 21. This was the rear driver window closest to the
3 front door. The latent is not showing up real close. You
4 can see two pieces of scale tape here. This latent is
5 going to be the one closest to the front door. This would
6 be just inside this piece of tape right here.

7 State's Exhibit No. 9 is off of the same window,
8 it's just to the right of it. That's the window on the
9 passenger's rear door.

10 If I might clarify something here. When it says
11 "rear driver window" next to card number 20, we
12 misnumbered the card so you'll see number 20 scratched
13 through and number 21 on there.

14 Q And finally, let me show you what's been marked as
15 State's Exhibit 5 and 6 and ask if you'll identify those
16 and indicate those on the diagram.

17 A (Witness complies.) State's Exhibit No. 5 is a
18 picture of the edge of the rear door going into the back
19 panel of the rear window. State's Exhibit No. 6 is card
20 number 23, the driver's side quarter panel between the
21 back door and window. This is the latent this was lifted
22 off that area. If you look right below my finger there,
23 you'll see those latents next to that tape. These are
24 latents on card 23.

25 Q Did you indicate those on the chart?

1 A Yes, I did.

2 Q All right. And just to make sure everything is
3 clear, there was one picture you referred to, State's
4 Exhibit 7 that is associated with latent lift number 21
5 and 22. Is that in fact what that appears to be?

6 A Yes, this is 21 and 22 on the rear glass of the
7 driver's rear door, the glass. That's card 21 and 22,
8 which is State's Exhibit 8.

9 Q And was that one indicated on the diagram?

10 A Yes, sir, it is.

11 Q And all of these pictures, Lieutenant Asbell, are
12 they accurate pictures of your processing the white Toyota
13 Sequoia?

14 A That's correct. They were taken inside the garage
15 before we lifted the latents off the vehicle.

16 MR. HILTON: Okay. Your Honor, at this time the
17 State would offer Exhibits 7, 9, 8, 5, 6, 10, 11, 12.

18 THE COURT: Any objection? Have you seen them
19 all?

20 MR. HILTON: There's going to be more.

21 MS. ROGERS: Your Honor, I have seen them all.

22 THE COURT: Let's go over them once more because
23 I want to be sure I've written them down correctly.

24 MR. HILTON: Okay.

25 THE COURT: Seven and 9, 8, 5, 6, 10, 11, 12 are

1 in evidence without objection.

2 MS. ROGERS: Yes, Your Honor.

3 (WHEREUPON, State's Exhibits Nos.

4 5, 6, 7, 8, 9, 10, 11, 12 were admitted into evidence.)

5 THE COURT: Now, keep on keeping on.

6 MR. HILTON: Did you read No. 5?

7 THE COURT: I did.

8 MR. HILTON: Okay.

9 THE COURT: Seven, 9, 8, 5, 6, 10, 11, 12.

10 MR. HILTON: And we also have 13, 14, 21, 22,
11 15, 19, 20, 18, 17.

12 THE COURT: Hold on right there. Have you seen
13 these exhibits?

14 MS. ROGERS: Yes, Your Honor.

15 THE COURT: Very well. You are admitting them
16 into evidence?

17 MR. HILTON: I am.

18 THE COURT: 13, 22, 14, 15, 21, 19, 20, and 18
19 are in evidence without objection.

20 (WHEREUPON, State's Exhibits Nos.

21 13, 14, 15, 18, 19, 20, 21, 22 were admitted into evidence.)

22 THE COURT: The last one you gave me was 18.
23 You went from 20 to 18. Tell me what you've got.

24 MR. HILTON: There should be 18 and then 17 and
25 16.

1 THE COURT: Any objection?

2 MS. ROGERS: No, Your Honor.

3 THE COURT: In evidence without objection,
4 Exhibits 17 and 16.

5 (WHEREUPON, State's Exhibits Nos. 16-17 were
6 admitted into evidence.)

7 THE COURT: Okay.

8 BY MR. HILTON:

9 Q Lieutenant Asbell --

10 MR. HILTON: Your Honor, at this time we would
11 also offer State's Exhibit 26 into evidence. That would
12 be the diagram of the vehicle that Mr. Asbell labeled.

13 THE COURT: Any objection?

14 MS. ROGERS: No objection, Your Honor.

15 THE COURT: Very well. That is 26 did you say?

16 MR. HILTON: That's correct.

17 THE COURT: Exhibit 26 is in evidence without
18 objection. This is a diagram.

19 (WHEREUPON, State's Exhibit No. 26 was admitted
20 into evidence.)

21 BY MR. HILTON:

22 Q Detective Asbell, later on in the course of the
23 investigation, were you asked to secure a DNA sample from
24 the defendant, Mr. Trevee Gethers?

25 A Yes, sir, I was.

1 Q Did you in fact do that?

2 A Yes, sir, I did. We took a Buccal swab -- excuse me
3 just a second.

4 Pursuant to a search warrant, we took a Buccal
5 swab on September 2nd at 2:15 p.m. that afternoon when
6 we got back to the office, filled out the SLED paperwork,
7 put it in the vault in the SLED bin, and Buster Edwards
8 transported it to SLED on September 3rd and delivered it
9 at 8:40 a.m. that morning.

10 Q Detective Asbell, you've got a stack of stuff over
11 here. If it's all right with the Court, I'm going to ask
12 you to come down and locate the Buccal swab that was
13 actually taken from the defendant.

14 A I believe SLED still has that. Let me check real
15 quick.

16 I don't show a laboratory evidence release form
17 showing the Buccal swab coming back. I'm not saying it
18 didn't, but I believe the DNA is over with them.

19 Q All right. We'll take care of that.

20 Do you remember taking that DNA swab from Mr.
21 Gethers?

22 A Yes, sir, I did. I took that from him -- yeah, I
23 took it from him September 2nd at 2:15 p.m. in the
24 afternoon and then on the following morning, September the
25 3rd, Buster Edwards delivered at 8:40 a.m.

1 Q And what year was that?

2 A 2010.

3 Q 2010?

4 A Yes, sir.

5 Q And a Buccal swab, what is that?

6 A It's where we stick a swab and swab the inside cheeks
7 and gum area on the inside of the mouth to pick up the
8 skin cells and then it's sent to SLED and that's what they
9 do the DNA from. They prefer to do that than the blood
10 nowadays.

11 Q And is this from Mr. Gethers you took that Buccal
12 swab from?

13 A Yes, it is.

14 MR. HILTON: Please answer any questions
15 Ms. Rogers may have for you.

16 THE COURT: I believe that will occur in the
17 morning at 9:30.

18 MS. ROGERS: Yes, Your Honor.

19 THE COURT: Very well. Ladies and gentlemen,
20 that is going to conclude the work that we're going to do
21 for this afternoon. I do need to review a little bit with
22 you.

23 You are going to be going home and no doubt
24 there's going to be someone curious about what you have
25 been up to today. It's perfectly fine to say that you did

1 respond to your juror summons, you have been selected to
2 serve on a jury, and this is a criminal matter as opposed
3 to a civil matter. But beyond that you must not discuss
4 this matter or allow anyone to discuss it with you.

5 Now, if whoever is curious gets upset, you put
6 it on the judge. Don't you take any upset. And I will
7 tell you that when you have been discharged from your
8 service on this jury by me, and there will be no question
9 in your mind when that time has come, you will be at
10 liberty to talk about this case if you wish. However,
11 until that time has come, you must not discuss this matter
12 or allow anyone to discuss it with you.

13 Let me be candid with you and tell you that I do
14 not know whether or not there will be any publicity about
15 this matter. I don't know. I simply do not know.
16 Typically when there are cameras in the courtroom, and
17 there must of course be an application made for that, but
18 in terms of any sort of media reporting or whatever, this
19 is a public place and there certainly may be those folks
20 who are present.

21 I simply mention that to you because I would
22 tell you that I'm not aware that there will be any press
23 regarding this case, but there could be.

24 And I wanted to mention that to you because I
25 wanted to remind you not to listen to anything, not to

1 read anything about this matter, and that of course is
2 radio, television, the Internet or newspapers. You must
3 receive all of the information from which you will make up
4 your mind here in court while court is in session.

5 The admonition with regards to no Colombo, no
6 research, no going to the Internet to answer those burning
7 questions, no, no, you must receive all of the information
8 here in court while court is in session.

9 Let me tell you what will happen with your
10 notes. You will leave those in your seats this evening.
11 They will be picked up momentarily and they will be
12 secured over the evening. They will then be replaced in
13 your seats or handed to you as you enter the courtroom in
14 the morning. So we do take them and we secure them over
15 the balance of the evening.

16 Now, nobody's going to work, right? Sister's
17 agreed to do the lingerie shower. Tell her I said thank
18 you so much. And you can arrange to have someone else
19 lead the services this evening. Thank you again for that.
20 I need to have the jury rested so that you will be fresh
21 in the morning when we gather at 9:30.

22 Remember what I told you when you were a part of
23 our larger jury panel, that please, ladies and gentlemen,
24 remember to have a bowl of Wheaties because Ms. Salisbury
25 will be having something delicious in the morning I am

1 certain.

2 Have a wonderful evening and I so look forward
3 to seeing you in the morning at 9:30.

4 Did I say do not discuss this matter or allow
5 anyone to discuss it with you about 45 different ways?
6 Good.

7 Leave your notes there. Don't take your notes.

8 (The jury left open court at approximately 4:58
9 p.m.)

10 THE COURT: And you know not to discuss your
11 testimony, you know that?

12 THE WITNESS: Yes, Your Honor.

13 THE COURT: All right. Anything from the State
14 before we take our leave this evening?

15 MR. HILTON: There is, Your Honor.

16 THE COURT: Okay.

17 MR. HILTON: I talked to Ms. Rogers and she's
18 indicated that they may be willing to stipulate to a lot
19 of the chain of custody witnesses involving the DNA on the
20 swab and the Bluetooth and the gunshot residue kit would
21 be the two things that the chain of custody would be an
22 issue. It's my understanding they are willing to
23 stipulate to if not all, part of that chain of custody.

24 THE COURT: Would you do for me either this
25 morning or this evening, I need you to put that or give me

1 something to go by tomorrow because I will need to discuss
2 that with counsel.

3 MR. HILTON: Well, part of my concern with
4 bringing it up this afternoon is that my witnesses would
5 otherwise be here tomorrow from Columbia.

6 THE COURT: I don't mind staying a little late
7 if you give me a list. Because you're going to be leaving
8 me when I do this.

9 MR. HILTON: You mean a list of the chain
10 witnesses?

11 THE COURT: The stipulation.

12 MR. HILTON: Oh, sure, if I can just have ten
13 seconds to do that.

14 THE COURT: Absolutely. Thank you for doing
15 that for me.

16 (A bench conference was held with the judge and
17 attorneys.)

18 THE COURT: The stipulation, as I understand it
19 is this: The State and the Defendant agree that from the
20 time the GSR, gunshot residue kit, was collected from
21 the --

22 MR. HILTON: The victim.

23 THE COURT: Well, from the victim or scene,
24 there is no break in the chain of custody between
25 collection and analysis.

1 Also, the DNA on the Buccal swab and the
2 Bluetooth headset --

3 MR. HILTON: Your Honor, if I may clarify just a
4 little bit.

5 THE COURT: Sure.

6 MR. HILTON: First of all, I learned to write
7 from Harrison Bell and --

8 MR. BELL: I didn't write that.

9 THE COURT: I'm so sorry. You could have.

10 MR. HILTON: What that means, and we'll clear
11 this up a little bit for tomorrow, but for purposes of
12 chain of custody between the time of either collection
13 from the victim or collection at the scene as would apply
14 to the Bluetooth headset, there is no break in the chain
15 of custody from the time those items were either collected
16 or gathered, or whatever verb you want to use, until the
17 time that they were analyzed by the appropriate analyst.

18 THE COURT: And I see "defendant" in here. Is
19 it the victim, the scene and the defendant, or just the
20 victim and the scene?

21 MS. ROGERS: Just the victim and the scene in
22 relation to the gunshot residue. Buccal swab is just the
23 defendant.

24 THE COURT: Got you. It makes perfect sense.

25 Very well. Anything further from the State?

1 MR. HILTON: Nothing further.

2 THE COURT: All right. What I'm going to ask
3 you all to do, then, is again I need to have an ex parte
4 hearing. We'll be on the record, so I need everyone to
5 leave, if you would be so kind, and you all can go on
6 about your business and I will see you in the morning
7 about 9:45.

8 Now, one of the things I felt like -- and if
9 you'll just stay for just a second -- and Mr. Gethers'
10 parents are asked to leave, and I want you to -- I want to
11 explain to you why I asked you to leave so you'll
12 understand fully because that's got to feel real, real
13 funny.

14 What happens is that the reason that I'm having
15 this hearing as I am and asking everyone to leave is that
16 I am preserving for Mr. Gethers his attorney/client
17 privilege. And I'm very mindful that I don't want to do
18 anything that would disturb his attorney/client privilege.
19 If I include anyone outside of Mr. Gethers and his
20 attorney, and of course the court people that I must have
21 to run court, then I have waived his attorney/client
22 privilege. That is the last thing I want to do. The
23 whole purpose is to preserve it. That is exactly what I'm
24 doing now.

25 His attorney/client privilege belongs to him.

1 It's not for me to do anything other than preserve it.
2 And if he chooses to share, that's his situation. You
3 know what I'm saying? But I am obligated to do that which
4 I can to preserve it.

5 There's communications I need to have, but in
6 doing so, I must protect his attorney/client privilege.
7 That's the reason.

8 My mother would probably roll over because she
9 would think I'm being so rude, but that's the reason that
10 I do that.

11 Do you want to speak a moment with Ms. Rogers?

12 I tell you what, can we do this? Can we just do
13 this real quick? It will take me five seconds and then
14 she will be right to you.

15 (A break was taken.)

16 THE COURT: All right. Let me just observe that
17 the people who are in the courtroom are my security
18 detail, bailiffs, court reporter, clerk and my law clerk.
19 And of course Mr. Gethers is here with his attorney.

20 Now, first of all, Mr. Gethers, and of course
21 you continue to be under oath from this morning when you
22 were placed under oath hours and hours ago, remember?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Okay. Let me ask you this question:
25 Do you understand the stipulation?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Okay. Couple of things I want to
3 say.

4 A stipulation is an agreement of counsel that
5 the jury should take the stipulation as being fact so that
6 there's no other proof that is necessary to prove that
7 fact.

8 Now, let's talk about what I understand that
9 fact is.

10 This is a term that I learned in judge school
11 called reflective listening. So that way Ms. Rogers can
12 know what's in my head, and she can correct me, okay? So
13 listen carefully.

14 It is my understanding that you, Mr. Gethers,
15 are stipulating or agreeing, of course through counsel,
16 Ms. Rogers, that from the time that the gunshot residue
17 test kit was collected from the victim at the scene --
18 from the time that the gunshot residue kit was collected
19 from the victim at the scene, as I understand, and any
20 other evidence that was collected at the scene, that
21 there's no break in the chain of custody between the
22 collection of the items at the scene and the analysis --
23 probably most of it at SLED, I think perhaps some of it at
24 the sheriff's department, but the majority at SLED -- so
25 that the agreement is, is that there is no break in the

1 chain of custody.

2 Do you know what I mean by the chain of custody?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Okay. And there is another little
5 piece of the stipulation, but that's what I understand the
6 majority of the stipulation is.

7 Am I right, Ms. Rogers?

8 MS. ROGERS: Yes, sir, Your Honor.

9 THE COURT: I haven't gotten to him.

10 MS. ROGERS: I think, however, it only applies
11 to the gunshot residue test. I don't think it applies to
12 cigarette butts or any of the other items collected at the
13 scene. That was my understanding, that it was just the
14 evidence --

15 THE COURT: Well, we're not going to go beyond
16 that. It's just the gunshot residue.

17 I will leave it to you to speak to Mr. Hilton
18 and let me know before you all leave because I don't want
19 to have a witness problem tomorrow if you think it's more
20 than that. I don't know.

21 MS. ROGERS: Yes, Your Honor.

22 THE COURT: But the gunshot residue test only at
23 this point.

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Okay. And also, also, the DNA

1 Buccal swabs that -- and those obviously were done -- you
2 would know if they were done because they were taken of
3 you -- and that there's no break in the chain of custody
4 between the time that those swabs were taken and the time
5 they were analyzed.

6 Is that your understanding?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Is that right?

9 MS. ROGERS: Yes, ma'am.

10 THE COURT: And that there is no break in the
11 chain of custody between the time that the Bluetooth
12 headset was collected at the scene and then taken and
13 analyzed, that there is no break in that chain of custody.
14 Do you understand that? Is that right?

15 MS. ROGERS: Yes, Your Honor.

16 THE COURT: Because that would be in addition to
17 the gunshot residue, wouldn't it?

18 MS. ROGERS: Yes, Your Honor.

19 THE COURT: Okay. Very well. So we're talking
20 Buccal swabs of you and we're talking the Bluetooth that
21 was collected at the scene and then the gunshot residue
22 that was collected at the scene as I understand it.

23 MS. ROGERS: Yes, ma'am.

24 THE COURT: The stipulation is that there is no
25 break in the chain of custody between collection and

1 analysis.

2 Is that your understanding?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Is that your understanding?

5 MS. ROGERS: Yes, Your Honor.

6 THE COURT: I think we have it straight. I
7 think I understand it now.

8 You understand that stipulation now,
9 Mr. Gethers, that is a waiver of your Fifth Amendment
10 rights. Now you understand that?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: But it's no more than that, you
13 understand that, too?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: In other words, Ms. Rogers has
16 stipulated that any analysis, what it means, just that it
17 was collected and it got to the analysis point without a
18 break in the chain of custody.

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Very well. All right. I think --
21 and you understand that even though we just -- I don't
22 want to say we just talked about chain of custody, I'm not
23 going to say that. Even though we're talking about the
24 chain of custody, the stipulation is still a waiver of
25 your Fifth Amendment right as to that issue.

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Okay. Are there any other questions
3 I need to ask on that?

4 MS. ROGERS: No, Your Honor.

5 THE COURT: Ms. Rogers, thank you very much.

6 Have a good evening. See you in the morning.

7 But I am going to ask Ms. Rogers to just check with
8 Russell. I think that's right. I think that is straight,
9 but just be sure we're talking gunshot residue, Buccal
10 swab, and headset only. Just to be sure that we don't
11 get -- we have got the witnesses coming that are supposed
12 to be coming.

13 MS. ROGERS: I will.

14 THE COURT: Then I will see you guys in the
15 morning.

16 MS. ROGERS: Thank you.

17 THE COURT: Thank you.

18 (The proceedings were concluded for the day and
19 reconvened on November 17, 2010.)

20 VOLUME 1 OF 3

21

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23

24

25

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
 COUNTY OF DORCHESTER _) 2007-GS-18-1755

STATE OF SOUTH CAROLINA)
)
) vs.) TRANSCRIPT OF RECORD
)
 TREVEE GETHERS _) VOLUME 2
) DEFENDANT _)

November 17, 2010
 St. George, South Carolina

B E F O R E:

THE HONORABLE DIANE SCHAFER GOODSTEIN, JUDGE;
 and a jury.

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

RUSSELL D. HILTON, ASSISTANT SOLICITOR
 HARRISON BELL, JR., ASSISTANT SOLICITOR
 Attorneys for the State

SARA JAYNE ROGERS, ASSISTANT PUBLIC DEFENDER
 Attorney for the Defendant

BONNIE H. KELLY
 Official Court Reporter

TRANSCRIBED BY:
 CAROL M. THUEME, RPR

1 MR. HILTON: If you'd mark these, please.

2 (WHEREUPON, State's Exhibits Nos. 29-30 were
3 marked for identification only.)

4 THE COURT: All right. Anything from the State
5 before we bring the jury out?

6 MR. HILTON: Nothing from the State, Your Honor.

7 THE COURT: From the Defense?

8 MS. ROGERS: No, Your Honor.

9 THE COURT: Very well. Let's have the jury,
10 please.

11 (The jury came into open court at approximately
12 9:52 a.m.)

13 THE COURT: All right. Good morning, ladies and
14 gentlemen. I'm sorry we had to keep you a little bit
15 longer in your jury room this morning. Apparently there
16 were some folks caught on Highway 78 and they wanted to
17 build the whole highway before anyone moved.

18 Have you ever noticed that you never catch it
19 when the traffic is like moving through? You always get
20 stopped with the flagmen. You know, maybe you just forget
21 when you get to move through. Maybe we've just been
22 lucky.

23 In any event, at this point we are prepared to
24 continue. We are continuing with the State's case and now
25 the cross-examination of Mr. Asbell.

1 Yes, ma'am.

2 MS. ROGERS: Thank you, Your Honor.

3 THE COURT: Yes.

4 EARL ASBELL, having previously been duly sworn,
5 testified as follows:

6 CROSS-EXAMINATION

7 BY MS. ROGERS:

8 Q Detective Asbell, when you mentioned yesterday that
9 you all found some cigarette butts, why did you not pursue
10 those or send those off for any type of testing?

11 A When we arrived on the crime scene there was
12 actually -- it was one large crime scene but it was
13 divided down into -- we broke it down into three series.
14 We had the vehicle, we had the parking lot where the
15 vehicle was located at that time, and then three spaces
16 down.

17 The cigarette butts that were on the scene were
18 behind his truck. One was off the back driver's side of
19 it. I think that was number three, photo placard number
20 three in the photos.

21 Eight and nine were in the grass above the
22 sidewalk a great distance from the vehicle.

23 And then number seven, photo placard number
24 seven was located by the shell casing which was on the
25 road just before you come around the curve where the

1 vehicle was located, so it was 40 to 50 feet away. From
2 what I understand, the vehicle ended up there.

3 So sometime during the night we were informed
4 that the vehicle was not originally there, it was further
5 down in a different parking space. So we moved down there
6 and we collected three items from that area. That was the
7 buttons, the ear post, and a piece of paper.

8 But the cigarette butts we thought were part of
9 the main crime scene when we first got there, but we
10 learned that that's just where the car ended up.

11 Q Was Mr. Robinson known to be a smoker as far as you
12 know?

13 A I have no idea.

14 Q And you were the one who collected the Bluetooth; is
15 that correct?

16 A I photographed them. Sergeant Zensen is the one who
17 actually collected -- she collected all the evidence for
18 me that night.

19 Q When you were photographing the Bluetooth, did you
20 notice any blood evidence or anything like that on it?

21 A None on or around the car. Inside the car there was
22 blood evidence, but there was no blood on the roadway
23 anywhere around either one of the parking spaces.

24 Q And what about on the Bluetooth in particular, were
25 there any -- was there any that you could see?

1 A I did not examine the Bluetooth. I photographed it.
2 It was placed in a bag and sent directly to SLED. We
3 never handled it after that.

4 Q Okay. And you mentioned --

5 MS. ROGERS: One moment, Your Honor.

6 THE COURT: Sure.

7 MS. ROGERS: May I approach, Your Honor?

8 THE COURT: You may.

9 BY MS. ROGERS:

10 Q Yesterday Mr. Hilton had you draw this picture of the
11 car.

12 A Yes.

13 Q And you discussed finding fingerprints in these
14 various places.

15 A That's correct.

16 Q Can you please tell us if fingerprints in these
17 places were solely my client's or were they other people's
18 prints?

19 A There was three people identified according to the
20 fingerprint report --

21 Q Okay.

22 A -- on the vehicle.

23 Q Were there any that were unidentified?

24 A There were three latents that were unidentified and
25 there was probably -- I would have to add it up --

1 somewhere around 30 latents -- anywhere from 20 to 30
2 latents that lacked sufficient detail to effect
3 identification.

4 Q What about inside the car, were there any prints from
5 my client inside the car?

6 A No.

7 Q Was there any DNA or other type of physical evidence
8 of my client inside the vehicle?

9 A No, there wasn't.

10 MS. ROGERS: No further questions, Your Honor.

11 THE COURT: Very well. Redirect?

12 MR. HILTON: Thank you, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. HILTON:

15 Q Detective Asbell, Ms. Rogers asked you about DNA
16 inside the vehicle. If somebody sits in a car, does that
17 necessarily mean that they're going to leave their DNA in
18 the vehicle?

19 A Not necessarily. We did three DNA swabs and
20 Mr. Robinson's DNA was not even found on any one of those
21 swabs.

22 Q All right. And we know he was in the vehicle.

23 A We know he was in the vehicle.

24 Q Now, those weren't swabs of his blood, was it?

25 A No. They were swabs taken on the armrests.

1 Q Okay. And so is it safe to say that you tried but
2 just didn't come up with anything?

3 A That's correct. There was three swabs taken, two on
4 the armrests, and then on the inside of the passenger's
5 window it looked like somebody had touched the window and
6 we swabbed that area, but it came back no DNA.

7 Q Let me show you what's been marked for identification
8 as State's Exhibit 29 and ask if you recognize this item.

9 A State's Exhibit 29 is photo placard number one. This
10 was the .40 caliber shell casing that was found.

11 As you're coming into the apartment complex, the
12 road goes around. We were going to the right. And it was
13 found before we even went around the curve, right pretty
14 close to the curve, probably 50 or 60 feet away from the
15 vehicle.

16 Q And did it appear to have been run over?

17 A Yes. Yes, it does. It had been crushed. Besides,
18 it was a .40 caliber.

19 Q And being a .40 caliber, what did that mean to you at
20 the time?

21 A It didn't mean anything at the time. We didn't know
22 what we were dealing with until after the firearm
23 examination and then we found out that the projectile was
24 a .38 or either a .357 and not a .40 caliber, so this
25 would not have had anything to do with the bullet that

1 struck Mr. Robinson.

2 MR. HILTON: All right. Your Honor, at this
3 time we would offer State's Exhibit 29 into evidence.

4 THE COURT: Any objection?

5 MS. ROGERS: My only objection, Your Honor,
6 would be to relevancy. Detective Asbell has testified it
7 had nothing to do with the case.

8 THE COURT: Let me see it.

9 MR. HILTON: I don't mind withdrawing it if
10 that's the agreement or if that's the objection.

11 THE COURT: If that's the objection?

12 MR. HILTON: Yes.

13 THE COURT: All right. In other words, you
14 would concur with defense counsel if that's the position
15 as to relevance?

16 MR. HILTON: Had nothing to do with the case.

17 THE COURT: Very well.

18 MS. ROGERS: Thank you, Your Honor.

19 THE COURT: Yes.

20 (WHEREUPON, State's Exhibit No. 29 was withdrawn
21 from evidence.)

22 BY MR. HILTON:

23 Q Detective Asbell, you mentioned on cross-examination
24 and during the direct testimony yesterday that you
25 recovered what's now been entered into evidence as State's

1 Exhibit 27, the Bluetooth earpiece.

2 A That's correct.

3 Q Do you remember where that was recovered?

4 A That was just inside the first crime scene tape that
5 was stretched across the road. It was actually in front
6 of [REDACTED] It was not located anywhere around the
7 vehicle. It was between [REDACTED] and [REDACTED] the
8 apartment complex to the right. It was in that area on
9 the road as you came in.

10 Q Would it have been in the direction of travel if
11 someone was leaving the crime scene and headed back
12 towards [REDACTED] Apartments, would it have been in that
13 line of travel?

14 MS. ROGERS: Objection, Your Honor.
15 Speculation.

16 THE COURT: Rephrase the question. Sustained.

17 BY MR. HILTON:

18 Q Let me show you what's been marked as State's Exhibit
19 1. I tell you what, I'm going to put it up on the board.

20 A Thank you.

21 THE COURT: I've also turned the annotator on as
22 well, Mr. Hilton.

23 MR. HILTON: What was that, Your Honor?

24 THE COURT: I've turned the annotator on just in
25 the event that anything needs to be pointed to on the map,

1 for the benefit of the jury.

2 MR. HILTON: Okay.

3 BY MR. HILTON:

4 Q Detective Asbell, if you would, Apartment Building F
5 there has been circled. If you could indicate just by
6 touching the screen up here, your screen right here, if
7 you could indicate where [REDACTED] is located.

8 A [REDACTED] is located right here. This was

9 [REDACTED]

10 THE COURT: I tell you what, see your pen? You
11 just picked up your pen.

12 THE WITNESS: Oh, okay.

13 This is [REDACTED] This is [REDACTED] over
14 here.

15 Can you erase with this? I've never used this
16 before.

17 THE COURT: We can do it like that.

18 BY MR. HILTON:

19 Q And about where was the Bluetooth located?

20 A The Bluetooth was located on the road coming in,
21 approximately right here in this position. It was right
22 over in front of [REDACTED] We had crime scene tape
23 coming across the road right behind where the pistol was
24 sitting.

25 Q And where would the white Toyota Sequoia have been

1 located?

2 A It would have been located right over here.

3 Q And that little -- it looks like an open area between
4 the two apartment complexes, [REDACTED] and [REDACTED]
5 what is that?

6 A There is a path that goes between the two apartment
7 complexes, right in this area, and the Bluetooth was found
8 here. The shell casing was found on this curve right
9 here, and the path from here across the corner lot here
10 and straight across into [REDACTED]

11 Q Now, you have indicated it on the annotator. I'm
12 just going to ask you to just jot down on the map where
13 the Bluetooth was found, where the car was, and where
14 [REDACTED] is.

15 THE COURT: You all come look at this.

16 THE WITNESS: This would be hard to see, the
17 writing on the vehicle.

18 THE COURT: Can you see it, Ms. Rogers?

19 MS. ROGERS: Yes, Your Honor.

20 THE COURT: Okay.

21 BY MR. HILTON:

22 Q If you could put AP over where [REDACTED] is.

23 A (Witness complies.)

24 MR. HILTON: No further questions, Your Honor.

25 THE COURT: Cross-examination,

1 recross-examination?

2 MS. ROGERS: No, Your Honor.

3 THE COURT: Very well. Is this witness free to
4 leave?

5 MR. HILTON: He is.

6 THE COURT: Any objection?

7 MS. ROGERS: No, Your Honor.

8 THE COURT: You are free to go.

9 THE WITNESS: Thank you.

10 THE COURT: All right. Call your next witness,
11 please.

12 MR. HILTON: The State would call Mr. Marcus
13 Brothers.

14 THE COURT: Good morning.

15 THE CLERK: Please raise your right hand and
16 state your full name for the record.

17 THE WITNESS: Marcus Yaphet Brothers.

18 THE CLERK: And could you spell your first and
19 last name, please, and middle name.

20 THE WITNESS: M-A-R-C-U-S Y-A-P-H-E-T
21 B-R-O-T-H-E-R-S.

22 MARCUS BROTHERS, after being duly sworn,
23 testified as follows:

24 THE CLERK: Thank you. You may have a seat.

25 THE COURT: And, Mr. Brothers, I'm going to get

1 you to state your full name. It's really a sound check.

2 That was perfect. You put it right where it
3 needed to be. Just state your name for the record.

4 THE WITNESS: Marcus Brothers.

5 THE COURT: Your witness.

6 DIRECT EXAMINATION

7 BY MR. HILTON:

8 Q Thank you, Mr. Brothers. Where do you live now?

9 A [REDACTED]. That's in Walterboro.

10 Q How long have you lived there?

11 A About seven years.

12 Q And you were living there obviously back on
13 September 17th, 2007?

14 A Yes, sir.

15 Q And do you know the victim in this case, Robert Earl
16 Robinson?

17 A Yes, I do.

18 Q How do you know him?

19 A He's my father.

20 Q All right. Do you recall the last time you spoke to
21 your father?

22 A Yes, I do.

23 Q When was that?

24 A I guess it was the night of the incident.

25 Q The night of the incident?

1 A Uh-huh.

2 Q Do you recall the night of the incident?

3 A Yes, I do.

4 Q Do you recall the events that led up to the last time
5 you saw your father?

6 A Yes, I do.

7 Q All right. Tell the jury a little bit about that.

8 A You mean just about that day, pretty much from the
9 phone call?

10 Q Yes.

11 A I mean I basically -- he called me about 8:30 and
12 asked me did I have any change on me, any money on me, and
13 I told him yeah. And he said he needed it, so I said no
14 problem, just come on by and get it, and he told me he'd
15 give me a call back.

16 So about like I guess around 9:30 -- I'm not
17 quite sure of the time -- he called me and told me he was
18 going away, so I met him at the Horizon Gas Station that's
19 located right there in front of my house.

20 He came in there. We, you know, spoke in the
21 store for a couple of minutes. I gave him money, you
22 know. I didn't ask any questions, I just gave him the
23 money. He told me he had to make a little run or
24 whatever, and that was basically it, you know. We joked
25 for a couple of minutes and he left, and that's the last

1 time I spoke to him.

2 Q All right. Let me ask you some questions about that.

3 Do you remember what your dad's cell phone
4 number was at the time?

5 A Yes, sir.

6 Q What was it?

7 A ([REDACTED] [REDACTED]

8 Q And how much money did you loan him that night?

9 A Two hundred dollars.

10 Q Did you notice if he bought anything in the store?

11 A Yes, sir.

12 Q What did he buy?

13 A He bought a fountain drink.

14 Q Mr. Robinson (sic), I'm going to show you what's been
15 marked as State's Exhibit 30. It's a disc labeled "Store
16 Video, Robert Earl Robinson." Have you seen the contents
17 of that video?

18 A Yes, sir.

19 Q And is that an accurate recording of the surveillance
20 of the Horizon Gas Station that night?

21 A Yes, sir.

22 Q And that's the night you're referring to in your
23 testimony?

24 A Yes, sir.

25 MR. HILTON: Your Honor, at this time we would

1 offer State's Exhibit 30 into evidence.

2 THE COURT: Any objection?

3 MS. ROGERS: No, Your Honor.

4 THE COURT: Very well. State's Exhibit 30 in
5 evidence without objection. It is a videotape.

6 (WHEREUPON, State's Exhibit No. 30 was admitted
7 into evidence.)

8 BY MR. HILTON:

9 Q Mr. Robinson (sic), I'm going to play this on the
10 video. There's no sound associated with it. And if
11 you'll just kind of tell us what's going on, you know, as
12 you see things coming up on the screen.

13 A Okay.

14 (Video is played but not transcribed.)

15 THE WITNESS: Do you want me to explain to you
16 what I'm seeing right now?

17 BY MR. HILTON:

18 Q Yes, sir.

19 A This is pretty much the inside of the store. The
20 upper left-hand corner, that's the cash register. The
21 bottom left-hand corner, that's pretty much the aisles.

22 The bottom right-hand corner, that's a camera
23 shooting outside the store that shows the front of the
24 store which is pointing towards like Reid's Gas Station
25 and everything right across the street. You can see right

1 across the street there.

2 And the upper right-hand corner, that's pretty
3 much another shot of the store. That's a camera in the
4 back of the store that's aimed toward the front.

5 And the lady right there, that's my friend Dee
6 that was -- she works in the store. She was there and she
7 spoke to him that night, too.

8 THE COURT REPORTER: Dee you said?

9 THE WITNESS: Yes, ma'am, Dee.

10 Okay. That's my pop's truck rolling up right
11 there that just came in the bottom right-hand corner
12 there. He was in the parking spot about to get out the
13 truck.

14 Okay. That's me right there and that's him
15 right there by me.

16 I went to take out some trash right there and he
17 was paying for his fountain drink that he just purchased
18 right there at the fountain, at the thing right there.

19 Okay. That's when I asked him, you know, and he
20 was telling me that he had to just make a quick run or
21 whatever and all this talk, just cutting four wheels, and
22 asked me why I was drinking cocoa and it was about 90
23 degrees outside. And we was just, you know, joking for a
24 couple of seconds and I just told him to be safe on the
25 road, and that was it.

1 BY MR. HILTON:

2 Q That's him standing at the door?

3 A Yes, sir.

4 Q At the top right?

5 A Yes, sir.

6 And in the bottom right-hand corner, that's the
7 truck leaving out, headed out towards Reid's and he's
8 going to bust right to the light and headed straight to
9 Summerville. And I think the accident happened as soon as
10 he got there.

11 Q The time on the video said about 10, 10:05, 10:06.
12 Was that about the appropriate time?

13 A Yes, sir. And he got to Summerville about ten
14 minutes to 11 or something like that, 11 o'clock,
15 somewhere around there.

16 Q Do you know the defendant in this case?

17 A No, sir.

18 Q Have you ever seen him before, other than court
19 proceedings?

20 A No, sir.

21 Q Have you ever heard of him? Did you know your dad to
22 have dealt with him?

23 A No, sir.

24 MR. HILTON: Please answer any questions
25 Ms. Rogers may have for you.

1 THE COURT: Cross-examination.

2 MS. ROGERS: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MS. ROGERS:

5 Q Mr. Brothers, did you have any idea what the money
6 your father had asked for was going to be used for?

7 A No, ma'am.

8 Q Had he borrowed money from you in the past?

9 A We helped each other out. We'll borrow money, you
10 know, just if I need it he would give it to me, if he
11 needed it I will give it to him. So it's just something
12 we always do.

13 Q When you say he had to go on a run, what do you mean
14 by that?

15 A He had to go somewhere. He had to go somewhere.

16 Q So you don't know what he was going for, you just
17 know he needed to go somewhere and he needed money from
18 you to get there?

19 A Yes, ma'am.

20 Q Do you know if your father often helped people out?

21 A Yeah, all the time.

22 Q So he's the kind of man that would give you the shirt
23 off his back?

24 A And his shoes.

25 MS. ROGERS: No further questions, Your Honor.

1 THE COURT: Very well. Any redirect?

2 MR. HILTON: None, Your Honor.

3 THE COURT: You may come down. Take your water
4 with you, if you'd like.

5 Very well. Call your next witness, please.

6 MR. HILTON: The State would call Ms. Jestine
7 Robinson.

8 THE CLERK: Please raise your right hand and
9 state your full name for the record.

10 THE WITNESS: Jestine S. Robinson.

11 THE CLERK: Could you spell your first and last
12 name.

13 THE WITNESS: J-E-S-T-I-N-E R-O-B-I-N-S-O-N.

14 JESTINE ROBINSON, after being duly sworn,
15 testified as follows:

16 THE COURT: Good morning. I'm going to ask you
17 to lower that just a tiny bit. You're not quite as tall.
18 There you go. And state your full name for the record.

19 THE WITNESS: Jestine S. Robinson.

20 THE COURT: What we have here is good volume.

21 All right. Your witness.

22 DIRECT EXAMINATION

23 BY MR. HILTON:

24 Q Thank you, Ms. Robinson. Where do you live now?

25 A I live at [REDACTED], Walterboro.

1 Q All right. And how long have you lived on [REDACTED]

2 [REDACTED]

3 A About 20, more than 20 years.

4 Q All right. And how do you know the victim in this
5 case?

6 A That's my husband.

7 Q All right. And how long were you all married?

8 A At the time he got killed 23 years.

9 Q Let me turn your attention back to Monday,
10 September 17th, 2007, the day your husband was murdered.
11 Do you remember that day?

12 A Yes.

13 Q Do you remember your husband telling you he was going
14 anywhere?

15 A Yes.

16 Q And do you remember whose car he took?

17 A Mine.

18 Q Why did he take your car?

19 A There's a driveway between my house and my
20 neighbor's, and my driveway lead all the way into the
21 backyard. And I used to park my car in front and he would
22 be parked behind me. And if one of us had to go, if we
23 had to go, then my car would be in front, so he told me,
24 "Well, instead of getting my car out and moving yours,
25 I'll just drive your car."

1 Q Was it common for him to take your car?

2 A Not often.

3 Q Okay. About just roughly estimate how many times you
4 would say he took your car before.

5 A Most of the time that he took my car the family was
6 in it or he just was running to the store or, you know,
7 and didn't want to move his car out the back.

8 Q All right. And how long have you had that car?

9 A We bought it in July.

10 Q And we're talking about a car. Let me show you
11 what's been marked as State's Exhibit 4 and ask if this is
12 your car.

13 A That's it.

14 Q And that's the 2005 white Toyota Sequoia?

15 A 2001 Toyota Sequoia.

16 Q What was the year?

17 A 2001.

18 Q 2001?

19 A Right.

20 Q How long have you had that car?

21 A I bought it that July.

22 Q July back in '07?

23 A Uh-huh.

24 THE COURT: You have to say yes.

25 THE WITNESS: Yes.

1 BY MR. HILTON:

2 Q So although it wasn't a new car, I guess it was a new
3 car to you?

4 A New to us, yes.

5 Q And did you keep it pretty clean?

6 A Yes.

7 Q September 17th was a Monday. Do you recall where
8 you all went that prior weekend?

9 A Yes. We left that Thursday and went to visit my
10 niece in Atlanta.

11 Q Do you remember cleaning your car prior to your trip
12 to Atlanta?

13 A He cleaned it that Wednesday night because he always
14 cleaned it and washed it before we go.

15 Q And what do you mean by "cleaned"?

16 A He washed it.

17 Q Outside?

18 A Yes.

19 Q When I say "outside," he washed the outside of the
20 car?

21 A Yes, he washed the outside of the car.

22 Q Do you know Mr. Gethers, the defendant?

23 A No.

24 Q Never seen him before?

25 A Not until the court proceedings started.

1 Q Was there any reason that you knew of for him to be
2 around your car?

3 A No.

4 Q Did you all run into Mr. Gethers while you were in
5 Atlanta?

6 A No.

7 Q Let me ask you, at some point in time after your
8 husband was murdered, do you remember receiving some
9 property back, some money back from the coroner's office?

10 A Yes.

11 Q How much money was that?

12 A It was \$199 and a little bit of change.

13 Q And that was money that was taken off of your
14 husband?

15 A Yes.

16 Q Now, Marcus that just testified, what relationship is
17 he to you?

18 A That's my stepson.

19 Q Okay. And he gave a cell phone number of your
20 husband. Do you remember his cell phone number also?

21 A I remember it now after he said it.

22 Q Is that the number?

23 A Yes.

24 Q Do you remember what -- can you say it again?

25 A It's ([REDACTED] [REDACTED] something [REDACTED] I don't remember back

1 then.

2 Q Do you remember if it was [REDACTED]

3 A Yes.

4 Q Does that sound right to you?

5 A Yes.

6 MR. HILTON: Okay. Please answer any questions
7 Ms. Rogers may have for you.

8 THE COURT: Cross-examination.

9 MS. ROGERS: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MS. ROGERS:

12 Q Ms. Robinson, you heard your stepson say that your
13 husband often helped people out. Would that be an
14 accurate statement?

15 A Yes.

16 Q Would it be an accurate statement to say he also
17 helped young ladies and families and those types of
18 people?

19 A I'm not sure about whether young ladies or what
20 family, but I do know he would help people out. It didn't
21 matter.

22 Q And you said that you all had the car cleaned on
23 Wednesday?

24 A Wednesday. He cleaned it on Wednesday.

25 Q He cleaned it on Wednesday?

1 A Yes.

2 MS. ROGERS: No further questions, Your Honor.

3 THE COURT: Very well. Any redirect?

4 MR. HILTON: No redirect, Your Honor.

5 THE COURT: Thank you. You may come down. You
6 may take your water with you, too, if that's something you
7 want.

8 Very well. Call your next witness, please.

9 MR. HILTON: May I step out just a second to see
10 who all is here?

11 THE COURT: You may.

12 MR. HILTON: Your Honor, at this time the State
13 would call Brandee Kiefer.

14 THE COURT: All right.

15 MR. HILTON: Your Honor, she has a small child,
16 probably in the five to six-year-old range.

17 THE COURT: Let me see you all.

18 (A bench conference was held with the judge and
19 attorneys in the presence of the jury but out of the
20 hearing of the jury.)

21 THE COURT: All right. We're going to take our
22 morning break, ladies and gentlemen. We'll take 15
23 minutes.

24 Please do not discuss this matter or allow
25 anyone to discuss it with you. You may leave your

1 notebooks in your seat.

2 If we have any smokers, certainly we'll afford
3 for you to smoke. Just let Ms. Simmons know. She'll be
4 the smoking guard.

5 Very well. Thank you all. We'll take 15
6 minutes.

7 (The jury left open court at approximately 10:26
8 a.m.)

9 THE COURT: All right. Now I'm going to just
10 ask you all to see if you can confer and find out if
11 there's someone that can tend to the child. Hopefully
12 there will be someone that knows the child that is
13 comfortable doing that. If not, you all come back and let
14 me know and I'll figure out what we're going to do.

15 Thank you.

16 And what I'm not telling you all very clearly is
17 that I don't want the child in the courtroom. This is not
18 an appropriate place for a little one with these matters
19 ongoing.

20 Thank you.

21 (A break was taken.)

22 THE COURT: Thank you so much. And please be
23 seated, everyone.

24 All right. Anything from the State before we
25 bring the jury out?

1 Did we find a suitable babysitter?

2 MR. HILTON: We did find a babysitter, Your
3 Honor.

4 On a different note, it looks like I'm having
5 witness problems with an individual named Maggie Reid.
6 She was subpoenaed in this case.

7 THE COURT: Sure.

8 MR. HILTON: Our investigator, Kenny Kensy, is
9 down at her address as we speak, and if you see me texting
10 in the courtroom, that's what I'm texting about. He has
11 made an effort of trying to find her, and at this time
12 we'd ask for a bench warrant to be issued for her so that
13 she can be brought about --

14 THE COURT: Do you have evidence that the
15 subpoena was served?

16 MR. HILTON: Kenny Kensy would be the one to
17 testify that he served her and obviously he's down there
18 now; he can't come. She was served several times, this
19 time in particular for this term of court.

20 I've had contact with her, I've talked to her on
21 the phone. I think it's just a matter of she -- you know,
22 she hasn't been told specifically to come on this day.
23 The subpoena was for --

24 THE COURT: For the term, for the week.

25 MR. HILTON: And she's not been in contact with

1 us, and so we'd ask for a bench warrant.

2 THE COURT: Someone just walked in the
3 courtroom. That wouldn't happen to be --

4 MR. HILTON: That is not her.

5 THE COURT: I will not issue -- I will issue a
6 bench warrant but not without adequate proof. If you've
7 got an affidavit of service, I will do it on an affidavit
8 of service. I will do it on testimony of service. I'm
9 not going to put you in a position of making that
10 representation. I think I'm better served by making a
11 record. And I absolutely will issue a bench warrant now
12 if you can -- I know he's down in -- he is wherever he is.
13 So if you all would get an affidavit of service down there
14 to him, then certainly we would have to issue a bench
15 warrant.

16 Yes, ma'am.

17 MS. ROGERS: May we approach, Your Honor?

18 THE COURT: Yes, you may.

19 (A bench conference was held.)

20 THE COURT: Let's have the jury, please.

21 (The jury came into open court at approximately
22 10:49 a.m.)

23 THE COURT: Ladies and gentlemen, at this time
24 we will continue with the State's case.

25 Call your next witness, please, sir.

1 MR. HILTON: The State would call Brandee
2 Kiefer.

3 THE COURT: Come on around.

4 THE CLERK: Please raise your right hand and
5 state your full name for the record.

6 THE WITNESS: Brandee Kiefer.

7 THE CLERK: And spell your first and last name.

8 THE WITNESS: B-R-A-N-D-E-E K-I-E-F-E-R.

9 BRANDEE KIEFER, after being duly sworn,
10 testified as follows:

11 THE CLERK: Thank you. You may have a seat.

12 THE COURT: Your witness.

13 MR. HILTON: Thank you, Your Honor.

14 DIRECT EXAMINATION

15 BY MR. HILTON:

16 Q Ms. Kiefer, where are you currently living now?

17 A In North Charleston.

18 Q And how do you know the defendant, Mr. Trevee
19 Gethers?

20 A He is the father of my son.

21 Q Do you know if he goes by any nicknames?

22 A Now or --

23 Q At any time.

24 A Awhile ago he went by City.

25 Q City?

1 A Uh-huh.

2 Q Let me turn your attention back to around September
3 17th, September 18th or 19th back in 2007. Do you recall
4 back on -- during that time where you were working?

5 A Yes.

6 Q Where was that?

7 A At Book Surge. It's now CreateSpace.

8 Q What was it again?

9 A Book Surge.

10 Q Book Surge?

11 A Uh-huh.

12 Q And what does that place do?

13 A It's a print-on-demand company. We publish books for
14 amazon.com and for local authors.

15 Q Are you still working there?

16 A No.

17 Q You said it was something now?

18 A They call it CreateSpace now.

19 Q But you don't work there anymore?

20 A No.

21 Q Okay. Where is that business located?

22 A It's located off of Investment Drive in North
23 Charleston.

24 Q Back during that time, did you have a relationship
25 with the defendant?

1 A Yes.

2 Q What type of relationship was that?

3 A Intimate.

4 Q Did you all see each other on a regular basis?

5 A Most of the time.

6 Q And by "see," I mean like physically see him. I'm
7 not referring to any type of physical relationship.

8 A I mean I work a lot, so he was gone a lot.

9 Q Do you recall him -- do you recall who dropped you
10 off at work on September 18th, 2007?

11 A I don't remember if I got dropped off or if I drove
12 and left.

13 Q Do you recall him coming to work with you or coming
14 to your place of business sometime on September 18th,
15 2007?

16 A Is that a Tuesday or a Monday?

17 Q That was Tuesday.

18 A I don't remember if I saw him. I really don't
19 remember.

20 Q Well, let me ask you about getting off of work that
21 night, that Tuesday.

22 When you got off of work that night, did you go
23 out to the parking lot?

24 A Yes.

25 Q Whose car was in the parking lot?

1 A It was -- we switched cars -- well, his car.

2 Q What car was that?

3 A A Lincoln.

4 Q Was the Lincoln the one in the parking lot?

5 A Yes.

6 Q Okay. And when you say you switched cars, what does
7 that mean?

8 A Well, we switched cars -- like, that wasn't the first
9 time we'd done it, so it was okay. He drove mine and I
10 drove that one.

11 Q So on September 18th, that Tuesday, he had your car?

12 A Not the whole day.

13 Q What time did he have your car?

14 A I don't remember what time he got my car. I just
15 know I had the Lincoln when I got off work that night.

16 Q What time would you have gotten off of work?

17 A At midnight.

18 Q Midnight?

19 A Uh-huh.

20 THE COURT: That's a yes?

21 THE WITNESS: Yes.

22 BY MR. HILTON:

23 Q What kind of car did you have at the time?

24 A A Kia Spectra.

25

1 (WHEREUPON, State's Exhibit No. 31 was marked
2 for identification only.)

3 BY MR. HILTON:

4 Q Let me show you what's been marked for identification
5 as State's Exhibit 31 and ask if you recognize that.

6 A Yes, that was my car.

7 Q That's your car?

8 A Uh-huh.

9 MR. HILTON: Your Honor, at this time we'd offer
10 State's Exhibit 31 into evidence.

11 THE COURT: Any objection?

12 MS. ROGERS: No, Your Honor.

13 THE COURT: Very well. State's Exhibit 31 in
14 evidence without objection.

15 (WHEREUPON, State's Exhibit No. 31 was admitted
16 into evidence.)

17 BY MR. HILTON:

18 Q And maybe you said, maybe you didn't, but what kind
19 of car is it?

20 A It was a 2006 Kia Spectra.

21 Q Did you speak to Mr. Gethers at any time after he had
22 taken your car that night?

23 A That night? I don't remember if I spoke to him that
24 night.

25 Q Do you recall speaking to him the next day?

1 A I don't -- I can't remember.

2 Q All right. Well, let me ask you this. Do you recall
3 giving a statement back to -- giving a statement to
4 Detective Garrison and Detective Morelli back on September
5 20th of 2007?

6 A Yes, that would have been whenever they -- yeah.

7 (WHEREUPON, State's Exhibit No. 32 was marked
8 for identification only.)

9 BY MR. HILTON:

10 Q Ms. Kiefer, let me show you what's been marked for
11 identification as State's Exhibit 32 and ask if you
12 recognize that.

13 A That was the statement they took.

14 Q All right. Is that your signature down on the
15 bottom?

16 A Yes, that's my signature.

17 Q Okay. And is this statement reflective of what you
18 told the deputies -- the detectives?

19 A As far as I know.

20 Q Do you recall telling the detectives that the
21 defendant, Mr. Gethers, dropped you off after work, after
22 your lunch break, which was 8 p.m., and that he was in
23 your Kia?

24 A No, I don't recall -- I don't recall how it happened
25 that night.

1 Q Do you dispute that information?

2 A I'm not disputing it, but I don't remember it.

3 Q Okay. Do you recall telling the detectives that "I
4 kept calling him back but got no answer"?

5 A Yes.

6 Q Okay. Do you recall telling the detectives that you
7 finally got in touch with him and that he kept saying that
8 he'd be back in four more hours or be back in a few more
9 minutes?

10 A Yes.

11 Q And did he ever come back?

12 A No.

13 Q Do you recall telling detectives that "when I spoke
14 to Trevee, he said not to tell anyone that they were in
15 Virginia"?

16 A No.

17 Q You don't recall that?

18 A I don't recall that at all.

19 Q Okay. Do you dispute that information?

20 A I don't ever remember saying that.

21 Q But this is your signature at the bottom of the
22 statement, right?

23 A That's my signature.

24 Q Ms. Kiefer, let me show you what's been marked for
25 identification as State's Exhibit 32 and just ask you to

1 read that last line in the statement.

2 THE COURT: Just a second. This is a document
3 that is not in evidence. You cannot publish a document
4 that is not in evidence.

5 MR. HILTON: May we approach?

6 THE COURT: You may.

7 (A bench conference was held with the judge and
8 attorneys in the presence of the jury but out of the
9 hearing of the jury.)

10 THE COURT: Okay.

11 BY MR. HILTON:

12 Q Ms. Kiefer, let me just ask you, do you remember
13 telling the police, "When I spoke to Trevee, he said not
14 to tell anyone that I was in -- that they were in
15 Virginia?"

16 A I'm not saying I didn't say it, I don't remember it.

17 Q Did you ever get your car back?

18 A Yes.

19 MR. HILTON: Please answer any questions Ms.
20 Rogers may have for you.

21 THE COURT: Cross-examination.

22 MS. ROGERS: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MS. ROGERS:

25 Q Ms. Kiefer, how long had you known Trevee before this

1 incident?

2 A About a year and a half.

3 Q And did you live together at any point?

4 A Yes.

5 Q And you lived together at his parents' house?

6 A Yes.

7 Q Is that correct?

8 A Yes.

9 Q And was it common for him not to come home?

10 A Yes.

11 Q So it wasn't all that unusual to you that he didn't
12 come home that night?

13 A No.

14 Q Do you remember seeing him at all on Monday, the 17th
15 of September?

16 A Yes.

17 Q When do you remember seeing him?

18 A We had switched cars on Monday also. I believe it
19 was before I went to work, and I had to be at work at 4.
20 So it was either before -- I think it was right before I
21 went to work on Monday.

22 Q And when you say "switched cars," you mean you took
23 his and --

24 A Yes.

25 Q And that was usual for you all to do, too?

1 A Yes, because I didn't drive very far, so --

2 Q Do you remember seeing him that night at all?

3 A Monday night?

4 Q Yes.

5 A No. I -- well -- no, I just went and picked up my
6 car Monday night.

7 MS. ROGERS: May I have a moment, Your Honor?

8 THE COURT: You may.

9 MS. ROGERS: No further questions, Your Honor.

10 THE COURT: All right. Recross. Oh, excuse me,
11 redirect. I'm sorry.

12 MR. HILTON: Just briefly, Your Honor.

13 THE COURT: All right.

14 REDIRECT EXAMINATION

15 BY MR. HILTON:

16 Q Ms. Kiefer, let me get it straight now. When he got
17 your car on Monday night, when did you see your car again?

18 A Monday night at midnight.

19 Q All right. After midnight when did you see your car?

20 A Well, I'm sorry, that would have been Tuesday morning
21 midnight, or Tuesday morning 12 a.m.

22 Q Would that have been the early morning hours --

23 A Yes.

24 Q -- or the late night hours? Are you talking about
25 the early morning Tuesday?

1 A I went to work at 4 p.m. Monday and got off midnight
2 that night and I got my car back that night.

3 Q Okay. When did he take your car again?

4 A Tuesday.

5 Q When did you see your car after that?

6 A When I went and picked it up from -- when I went and
7 picked it up.

8 Q From?

9 A Virginia.

10 MR. HILTON: No further questions, Your Honor.

11 THE COURT: All right. Counsel, let me see you
12 for just a second.

13 (A bench conference was held with the judge and
14 attorneys in the presence of the jury but out of the
15 hearing of the jury.)

16 THE COURT: Thank you both so much.

17 All right. And you're finished with the
18 redirect/recross?

19 MS. ROGERS: Yes, Your Honor.

20 THE COURT: Very well. No recross?

21 MS. ROGERS: No, Your Honor.

22 THE COURT: Is this witness free to leave?

23 MR. HILTON: She is, Your Honor.

24 THE COURT: Any objection?

25 MS. ROGERS: No, Your Honor.

1 THE COURT: You are free to go. Thank you.

2 Call your next witness, please.

3 MR. HILTON: Your Honor, at this time the State
4 would call Veronica Kitt.

5 THE COURT: All right.

6 THE CLERK: Please raise your right hand and
7 state your full name for the record.

8 THE WITNESS: Veronica Kitt.

9 THE CLERK: And spell your first and last name.

10 THE WITNESS: V-E-R-O-N-I-C-A K-I-T-T.

11 VERONICA KITT, after being duly sworn, testified
12 as follows:

13 THE COURT: Can you pull that microphone down
14 just a little bit more? Oh, be aggressive and pull that
15 thing down. There you go. And state your full name for
16 the record again.

17 THE WITNESS: Veronica Kitt.

18 THE COURT: And spell your last name.

19 THE WITNESS: K-I-T-T.

20 THE COURT: All right. You may proceed.

21 DIRECT EXAMINATION

22 BY MR. HILTON:

23 Q Ms. Kitt, how old are you?

24 A Seventeen.

25 Q All right. Do you know the defendant, Mr. Gethers,

1 in this case?

2 A Yes, I do.

3 Q I want to ask you a few questions about back on
4 September 17th of 2007 and around that time, all right?

5 Do you know a guy named Robert Earl Robinson?

6 A Yes, I do.

7 Q What did he go by?

8 A Earl.

9 Q You called him Mr. Earl?

10 A After a period of time I called him Earl.

11 Q How do you know Mr. Robinson?

12 A First he was a friend to the family and then I guess
13 he started to want and become my personal friend.

14 Q Do you remember talking to him back on September
15 17th, 2007?

16 A Yes, I do.

17 Q Was that the day that he got killed?

18 A I don't recall the exact actual date or day.

19 Q Okay. Do you remember what you were talking to him
20 about?

21 A Yes.

22 Q What was that?

23 A Bringing me money.

24 Q Okay. How were you talking to him?

25 A On the phone.

1 Q Whose phone were you using?

2 A Maggie's.

3 Q And just tell the jury who Maggie is.

4 A Maggie was a friend of mine.

5 Q Do you remember her last name?

6 A Reid.

7 Q How did you know her?

8 A She was my friend.

9 Q Did she live near you?

10 A Yes.

11 Q Where did she live?

12 A Upstairs.

13 Q All right. Let's talk a little bit about the
14 conversation you had with Mr. Robinson on the 17th.

15 You said you were asking him for money. And
16 what did he tell you about that?

17 A I called him earlier that day and asked him for
18 money, but I was around my mother. He told me he had
19 money, but he didn't want my momma to know he was going to
20 give me money, so he told me he know he had money and call
21 him back later on that night because he was planning to
22 have sex with me later on that night.

23 Q All right. And is that what you all had talked about
24 during the phone conversations?

25 A Yes.

1 Q Did you tell him to meet you somewhere?

2 A He didn't want my momma to know that he was coming to
3 bring the money that night, so he wanted me to meet him
4 for it.

5 Q And where did you end up telling him to meet you?

6 A I told him to come to [REDACTED] but call me before
7 he get here so I can know to leave out the house.

8 Q Where did he think he was going?

9 A He knew we was going to meet at [REDACTED]

10 Q Did he ever remember thinking he was going to a motel
11 or something like that?

12 A I don't know where he wanted to go to have sex with
13 me. We never got down to that point.

14 Q Where did you live at the time?

15 A I lived in [REDACTED] [REDACTED]

16 Q And where is that in relationship to [REDACTED] [REDACTED]

17 A Right there.

18 Q Right next door?

19 A Yes.

20 Q Do you remember about how many times you made calls
21 back and forth to Mr. Robinson?

22 A Yes. I made numerous calls to Mr. Robinson.

23 Q Did he know how to get to [REDACTED]

24 A Not that I know of, no. I never got a chance to give
25 him the directions. He was supposed to call me when he

1 get close on that side. He know how to get to [REDACTED]

2 [REDACTED] but I didn't -- wasn't familiar with [REDACTED]

3 Q Did you give him directions that night?

4 A I never got a chance to.

5 Q What do you mean you didn't get a chance to?

6 A Because the times that I was calling him numerous
7 times, he stopped picking up the phone, so I just thought
8 he was lying about bringing me the money, so I just left
9 it alone.

10 Q Okay. You say you knew the defendant, Mr. Gethers.

11 Did he go by any nicknames?

12 A Yes.

13 Q What was that?

14 A City.

15 Q Is that what you called him?

16 A Yes.

17 Q Is that what other people called him, too?

18 A Yes.

19 Q And did you talk to him on September 17th, 2007?

20 A Yes, I did.

21 Q What were you all talking about?

22 A What you mean, what we were talking about?

23 Q Do you remember talking to him about Mr. Earl, Mr.

24 Robinson?

25 A Yes.

1 Q And what was the conversation regarding Mr. Robinson?

2 A I told him I needed him to go pick up money for me,
3 but he told me he was going to have to call me back
4 because he wasn't sure if he was going to do that.

5 Q Why did you tell him to go pick up the money?

6 A Because I didn't want to have sex with him.

7 Q So you were going to send Mr. Gethers in your place?

8 A Yeah, I was going to check and make sure it was all
9 right for Mr. Earl, so I'm saying my momma wouldn't let me
10 out the house so I was going to send my friend over there.

11 Q Did City know Mr. Earl?

12 A Not as I know of.

13 Q You never knew him to have any contact with him?

14 A Not as I know of.

15 Q Did you know what Mr. Earl was driving that night?

16 A No, I never seen him or asked him what he was
17 driving. I always know him to drive a white Explorer.

18 Q A white Explorer?

19 A Yes.

20 Q Did you tell City that?

21 A No.

22 Q You said you told City to go get the money from Mr.
23 Earl. How did he know where to go?

24 A I never told him where to go or nothing. I asked him
25 would he go get the money from Mr. Earl. He never let me

1 get to the point of telling him where to go or what
2 because he told me he was busy right now, so I just left
3 it like that.

4 Q Do you remember how many times you talked to City
5 that night on the phone?

6 A No, I can't remember that.

7 Q Was it multiple times?

8 A I can't recall.

9 Q Okay. Do you recall talking to him at all on the
10 phone?

11 A Yes, I just said I talked to him on the phone.

12 Q Okay. After Mr. Robinson was shot, when did you talk
13 to City again?

14 A I didn't even know Mr. Earl was shot.

15 (WHEREUPON, State's Exhibit No. 33 was marked
16 for identification only.)

17 BY MR. HILTON:

18 Q Okay. Ms. Kitt, do you remember talking to Detective
19 Garrison and Detective Morelli back on March 9th of 2009?

20 A Yes, I do.

21 Q Do you remember giving them a statement?

22 A Yes, I do.

23 Q Did you tell them the truth?

24 A Yes, I do.

25 Q Let me show you what's been marked as State's Exhibit

1 33 and ask you to take a look at that. Do you recognize
2 that?

3 A That looks like my statement, yeah.

4 Q Is that your signature down at the bottom?

5 A Yes, it is.

6 MR. HILTON: May I have just a moment, Your
7 Honor?

8 THE COURT: You may.

9 BY MR. HILTON:

10 Q Ms. Kitt, I'm going to hand you this statement and
11 ask you to just read over it to yourself, okay? And then
12 I'm going to ask you if that refreshes your memory of what
13 you told the police that day. Just read it to yourself.

14 Are you finished?

15 A Yes.

16 Q Do you now remember what you told police back on
17 March 9th, 2009?

18 A I don't recall all that.

19 Q Do you remember telling the police that you called
20 Mr. Earl for some money and he said he would bring you the
21 money, but he wasn't going to keep bringing you the money
22 without getting some?

23 A Yes, I do remember that.

24 Q Do you remember telling the police that "he thought
25 we were going to a motel," referring to Mr. Robinson?

1 A No, I didn't say that. I said he thought we was
2 going to have sex.

3 Q Do you remember telling the police that "I told
4 Trevee that Mr. Earl was in a white Sequoia because that's
5 what Mr. Earl told me he was driving"?

6 A No, I didn't say that.

7 Q Do you remember telling the police, "I didn't tell
8 Trevee to shoot Mr. Earl, I just told him to get the
9 money"?

10 A No, I didn't say that.

11 Q You don't remember that?

12 A No.

13 Q Do you remember telling police, "I called Trevee
14 after to see if he got the money and he said no. Trevee
15 said that Mr. Earl wouldn't give him the money;" do you
16 remember telling the police that?

17 A No, I didn't because I never even told the police --
18 I never even got to tell them the whole thing, so I don't
19 remember saying any of that.

20 Q Do you remember telling the police, "I didn't see
21 Trevee until the next day and he said we had to go because
22 he got into some stuff"?

23 A No.

24 Q Do you remember telling police, "I knew we were
25 running from something"?

- 1 A Yes.
- 2 Q You do remember that?
- 3 A Yes.
- 4 Q Where did you all go?
- 5 A We went to Virginia.
- 6 Q How about after that?
- 7 A New York.
- 8 Q How did you get to Virginia?
- 9 A The car, the Kia.
- 10 Q The Kia. Do you remember whose Kia it was?
- 11 A Brandee's.
- 12 Q Brandee's car?
- 13 A Yes.
- 14 Q I'm going to show you what's been marked as State's
- 15 Exhibit 31. Is that Brandee's car you're talking about?
- 16 A Yes.
- 17 Q What did you all do with the car when you got to
- 18 Virginia?
- 19 A What did we do with it?
- 20 Q Uh-huh.
- 21 A Somebody -- we left it parked somewhere. I don't
- 22 remember where.
- 23 Q You just left it?
- 24 A Yes.
- 25 Q And then you said you went to New York. How did you

1 get to New York?

2 A Bus.

3 Q When you got to New York, do you remember having
4 Tambora Ravenel's ID?

5 A Yes.

6 Q Why did you have that?

7 A I always used her ID, or had it. I always had it.

8 Q Do you remember Mr. Gethers using Dante Hubbard's ID?

9 A No.

10 Q You don't remember that?

11 A After we got up there he told me that somebody made
12 it, but I didn't know it.

13 Q So you knew he had a fake ID?

14 A No, I did not know it.

15 Q You learned that he had a fake ID?

16 A Yes.

17 (WHEREUPON, State's Exhibit No. 34 was marked
18 for identification only.)

19 BY MR. HILTON:

20 Q Let me show you what's been marked for identification
21 as State's Exhibit 34. It's two IDs. I'd just ask if you
22 recognize those.

23 A Yes.

24 Q Are those the IDs you all had up in New York?

25 A Yes.

1 MR. HILTON: Your Honor, at this time we'd offer
2 State's Exhibit 34 into evidence.

3 MS. ROGERS: Without objection, Your Honor.

4 THE COURT: Very well.

5 (WHEREUPON, State's Exhibit No. 34 was admitted
6 into evidence.)

7 BY MR. HILTON:

8 Q Who is Tambora Ravenel?

9 A One of my friends.

10 Q Who is Dante Hubbard?

11 A Somebody I know.

12 Q Did Mr. Gethers know him?

13 A I believe so, yes.

14 Q What kind of relationship did you have with Mr.
15 Gethers?

16 A He was my friend.

17 Q Did you all have any intimate relationship?

18 A I don't know what that means.

19 Q Did you all ever have sex?

20 A No.

21 Q When you say he was your friend, what kind of friend
22 was he?

23 A My friend.

24 Q Pretty close friend?

25 A Yes.

1 Q Do you remember up when you were in the Department of
2 Juvenile Justice, in the detention facility up there, do
3 you remember writing a letter to Mr. Dante Hubbard?

4 A No.

5 Q You don't remember that, back on Sunday, March 30th,
6 2008?

7 A I never had Dante address for anything.

8 (WHEREUPON, State's Exhibit No. 35 was marked
9 for identification only.)

10 BY MR. HILTON:

11 Q Ms. Kitt, let me show you what's been marked as
12 State's Exhibit 35 for identification. I ask you if you
13 recognize that.

14 THE COURT: You need to speak a little closer to
15 the microphone.

16 THE WITNESS: I never had his address.

17 BY MR. HILTON:

18 Q Whose address is on the top up here?

19 A DJJ.

20 Q All right. Whose name is on the top?

21 A That's my name.

22 Q What does it say?

23 A Veronica Kitt.

24 Q And whose address is in the middle?

25 A I never had his address so I don't know what address

1 it is.

2 Q Whose name is on it?

3 A Dante.

4 Q Have you ever been to Dante's house before?

5 A No.

6 Q Let me show you what's been entered into evidence as
7 State's Exhibit 34. I'd ask you to look at Mr. Dante
8 Hubbard's address. What address is that?

9 A It's [REDACTED].

10 Q Now, Ms. Kitt, what address does it say on your
11 letter, State's Exhibit 35?

12 A [REDACTED].

13 Q Do you disagree with me that this is your letter?

14 A That is not my letter.

15 Q It's not your letter.

16 The person talking in here about City and all
17 the goings-on that happened on September 17th of 2007,
18 that's not you?

19 A No.

20 Q So if I called Mr. --

21 MS. ROGERS: Objection, Your Honor.

22 THE COURT: Counsel, let me see you.

23 (A bench conference was held with the judge and
24 attorneys in the presence of the jury but out of the
25 hearing of the jury.)

1 THE COURT: Ladies and gentlemen, I'm going to
2 ask you to please step to your jury room. There's a
3 matter that I must take up outside your presence.

4 Please do not discuss this matter or allow
5 anyone to discuss it with you. And please leave your
6 notebooks in your seat.

7 (The jury left open court at approximately 11:29
8 a.m.)

9 THE COURT: All right. Counsel, let me frame
10 the issue as I see it.

11 You have shown her a writing, and this witness
12 denies that it is her writing. And there's an objection
13 that is interposed to your publishing -- you showed it to
14 her to try -- with honesty, with an intention towards
15 refreshing her recollection, which she denies that she has
16 any recollection that could be refreshed, that wasn't
17 refreshed.

18 So where we are is, is that we have a statement
19 and she is denying that it is her statement. And there's
20 an objection to you publishing this particular writing.

21 Yes, ma'am.

22 MS. ROGERS: There's also an objection --

23 THE COURT: You've got to speak up a little bit
24 for me.

25 MS. ROGERS: Sorry, Your Honor.

1 There's also an objection as to relevance.

2 THE COURT: Let me see it.

3 First of all, I think that you want to -- it's
4 not in evidence at this point, so I don't know that the
5 relevance objection -- unless you want to argue the matter
6 if it's admissible or inadmissible because it isn't
7 relevant, I'll look at it from that perspective.

8 Thank you.

9 (A pause was taken while The Court reads the
10 document.)

11 THE COURT: It's relevant. I mean, it's real
12 relevant.

13 Now, let's talk about admissibility. It's
14 hearsay because I gather -- you've read it?

15 MS. ROGERS: Yes, Your Honor.

16 THE COURT: What would you say -- what is
17 relevant evidence is evidence which tends to make a fact
18 which is of consequence to the litigation more probable or
19 less probable. That clearly does that.

20 MS. ROGERS: My argument as to relevance would
21 be that the letter is in regards to Mr. Hubbard.

22 THE COURT: Okay.

23 MS. ROGERS: And there's no way to know that
24 that letter ever reached my client or it ever had an
25 effect on my client. So that's my argument --

1 THE COURT: Right.

2 MS. ROGERS: -- as to relevance.

3 THE COURT: It's relevant.

4 Now let's talk about admissibility.

5 You can help me with that because you object to
6 hearsay, right?

7 MS. ROGERS: Yes, Your Honor, and that it would
8 be unduly prejudicial.

9 THE COURT: To your client. Okay. Very well.
10 Thank you.

11 Admissibility.

12 MR. HILTON: Your Honor, looking over the rule
13 or looking over the cases, as long as she's given the
14 opportunity to admit or deny making the statement after
15 being informed of the time, place, and to whom the
16 statement was made -- she's denied making the statement.
17 I've asked her about the time, the place, who the
18 statement was made to and she said --

19 THE COURT: You can't authenticate it. That's
20 your problem.

21 Do you have a handwriting expert?

22 MR. HILTON: I do not have a handwriting expert.

23 THE COURT: Then how are you going to get it in?

24 MR. HILTON: Well, I mean, if you look at the
25 rule, it says once she's given the opportunity to do that,

1 that's good --

2 THE COURT: Here's what it says. It's 613(b)?

3 MR. HILTON: Yes.

4 THE COURT: All right.

5 "Extrinsic evidence of a prior inconsistent
6 statement by a witness is not admissible unless the
7 witness is afforded an opportunity to explain or deny the
8 same and the opposite party is afforded an opportunity to
9 interrogate the witness, or in the interest of justice
10 otherwise require" -- the provision does not apply to
11 admissions of a party-opponent.

12 I don't believe you maintain that she's a
13 party-opponent in this action?

14 MR. HILTON: No, Your Honor.

15 THE COURT: But I'll hear you if you want to
16 argue that.

17 Here's where you are. If you can authenticate
18 this document, this statement, it can come in as extrinsic
19 evidence, but you've got to authenticate it. And I don't
20 -- she says she didn't write it, it's not her handwriting,
21 she doesn't know where it came from, she doesn't know who
22 put her address on there. But if you can authenticate
23 this, I think that this as an extrinsic statement can come
24 in.

25 In other words, as you know, there can be many

1 different objections to a particular piece of evidence.
2 It's hearsay, it's obviously double hearsay, and you've
3 got to have it be admissible under all of the rules.

4 It's double hearsay. I think that you
5 potentially could satisfy 613(b), but it's got to be
6 authenticated.

7 In other words, you've asked her, Did you make
8 this statement? She said, No, I don't know anything about
9 it, I didn't write it, I don't know anything about it. So
10 she's had an opportunity to explain or deny it.

11 She's denied it, that she made this statement.
12 You've given her an opportunity to refresh her
13 recollection and she doesn't know anything about it.
14 Didn't write it, didn't do it, doesn't know anything about
15 it. That sets it up for admissibility under 613(b). But
16 it is a written statement, therefore it is hearsay and it
17 must be authenticated. And if you can authenticate it, it
18 can come in.

19 MR. HILTON: At this point I do not maintain
20 that I can authenticate it in any other fashion, and I
21 don't intend to mislead the Court in that respect.

22 THE COURT: Okay.

23 MR. HILTON: However, while the jury is out, we
24 have referred to her statement that she made to police
25 back on March 9th, 2009. That statement can be

1 authenticated. She has --

2 THE COURT: Yes.

3 MR. HILTON: There's multiple times throughout
4 the course of that statement that she said, Nope, I didn't
5 make that; no, I didn't say that; no, I didn't say that.
6 And we would propose to offer that statement into evidence
7 with some redactions. There's some information in the
8 statement talking about the defendant striking her with a
9 gun. I don't maintain that's relevant at this point and
10 we would offer at the outset to redact that portion of the
11 statement.

12 THE COURT: I understand. I'm with you
13 completely.

14 MR. HILTON: I can pass that up to the Court, if
15 you'd like.

16 THE COURT: I'm sure you will have law
17 enforcement do that when you put them up and call them as
18 witnesses.

19 Let me see all three of you.

20 (A bench conference was held with the judge and
21 attorneys.)

22 THE COURT: Anything further before we bring the
23 jury out?

24 MS. ROGERS: No, Your Honor.

25 MR. HILTON: Nothing from the State.

1 THE COURT: Thank you. Let's have the jury.

2 (The jury came into open court at approximately
3 11:54 a.m.

4 THE COURT: All right. Thank you all so much.
5 You may proceed.

6 MR. HILTON: Thank you.

7 THE COURT: Yes.

8 BY MR. HILTON:

9 Q Ms. Kitt, how long have you known Mr. Gethers?

10 A About three years.

11 Q Three years?

12 THE COURT: You need to speak up a little bit,
13 please, ma'am.

14 THE WITNESS: Yes.

15 BY MR. HILTON:

16 Q And you said you were pretty good friends with him,
17 right?

18 A Yes.

19 Q And you don't want to see anything happen to him, do
20 you?

21 A No.

22 MR. HILTON: Thank you. Please answer any
23 questions Ms. Rogers may have for you.

24 THE COURT: All right. Cross-examination.

25 MS. ROGERS: Thank you, Your Honor.

1 CROSS-EXAMINATION

2 BY MS. ROGERS:

3 Q Ms. Kitt, how long had you known Mr. Robinson?

4 A About three years.

5 Q And when you say he took a particular interest in
6 you, what do you mean by that?

7 A He started liking me, wanting to have sex with me.

8 Q Did you ever have sex with Mr. Robinson?

9 A No.

10 Q Do you know if this was something that he did with
11 other girls your age?

12 A Yes.

13 Q And you would have been 14 at that time; is that --

14 A Yes. Yes, ma'am, 14.

15 Q Do you know if Mr. Robinson had any children?

16 A Yes.

17 Q And can you tell me about those children?

18 MR. HILTON: Your Honor, I'm going to object to
19 that, Your Honor.20 THE COURT: I understand. What is the
21 relevance?

22 MS. ROGERS: May I approach, Your Honor?

23 THE COURT: Yes, of course. Of course.

24 (A bench conference was held with the judge and
25 attorneys in the presence of the jury but out of the

1 hearing of the jury.)

2 THE COURT: Sustained.

3 MS. ROGERS: Thank you, Your Honor.

4 THE COURT: Yes.

5 BY MS. ROGERS:

6 Q Ms. Kitt, do you remember making a statement to the
7 police?

8 A Yes.

9 Q And did you write that statement or did you tell them
10 the story and they wrote it down for you?

11 A I told them and they wrote it down.

12 Q Was it a common occurrence for you and Mr. Gethers to
13 take trips together?

14 A Yes.

15 Q Had you taken trips out of state even before?

16 A Yes.

17 MS. ROGERS: Can I have a moment, Your Honor?

18 THE COURT: Sure.

19 MS. ROGERS: No further questions, Your Honor.

20 THE COURT: Very well. Redirect?

21 REDIRECT EXAMINATION

22 BY MR. HILTON:

23 Q When you all took these trips out of state, you
24 always use fake IDs?

25 A I did. I would always take Tambora ID anywhere I go

1 to.

2 Q Everywhere you go?

3 A Yes.

4 MR. HILTON: No further questions, Your Honor.

5 THE COURT: Re-cross?

6 MS. ROGERS: Yes, Your Honor.

7 RECROSS-EXAMINATION

8 BY MS. ROGERS:

9 Q Ms. Kitt, why would you use Tambora's ID?

10 A Because I used to smoke.

11 Q And you would have been 14 at the time?

12 A Yes.

13 Q So you used it to buy cigarettes?

14 A Yes.

15 MS. ROGERS: No further questions, Your Honor.

16 THE COURT: Very well. Thank you.

17 Is this witness free to leave?

18 MR. HILTON: She is, Your Honor.

19 THE COURT: Any objection?

20 MS. ROGERS: No, Your Honor.

21 THE COURT: Very well. You are free to go.

22 Call your next witness, please.

23 MR. HILTON: Your Honor, may we approach?

24 THE COURT: You may.

25

1 (A bench conference was held with the judge and
2 attorneys in the presence of the jury but out of the
3 hearing of the jury.)

4 THE COURT: All right. Ladies and gentlemen,
5 we're going to shift our lunch a little bit and we're
6 going to take an earlier lunch.

7 The trying of a case is a little bit like
8 putting on a live show, sometimes there needs to be some
9 flexibility, and we talked a little bit about that. But I
10 think it makes good sense for you to go ahead and take
11 your lunch even though it's a little bit earlier.

12 We're going to start back at 1:30. And I'm
13 going to ask you be in your jury assembly room downstairs
14 at 1:30, and of course you'll be escorted up.

15 Please be mindful not to discuss this matter or
16 allow anyone to discuss it with you. Don't chat, tweet,
17 blog. Don't talk about this matter, don't do any
18 research. You must receive all of the information from
19 which you will make up your mind here in court while court
20 is in session.

21 Have a very pleasant lunch. See you at 1:30.

22 (The jury left open court at approximately 12:06
23 p.m.)

24 THE COURT: All right. Have you been able to
25 get an affidavit of service?

1 MR. HILTON: I have, Your Honor.

2 THE COURT: Very well. Have you shown it to Ms.
3 Rogers?

4 MR. HILTON: I have not.

5 THE COURT: All right.

6 MR. HILTON: At this time we offer this as a
7 Court's exhibit and ask for a bench warrant for Ms. Maggie
8 Reid. She was served at 9 o'clock, Thursday, September
9 30th by our investigator, Mr. Kenny Kensy.

10 THE COURT: And do you have a copy of the
11 subpoena?

12 MR. HILTON: I can get a copy of that, Your
13 Honor, and include it as an attachment to this.

14 THE COURT: All right. I tell you what I'll do.
15 Go ahead and see if you can -- we'll just be at ease and
16 go ahead and see if you can get that now. I think I've
17 got to have a copy of the subpoena also. We'll just be at
18 ease.

19 (WHEREUPON, The Court's Exhibit No. 4 was marked
20 for purposes of the record.)

21 (A break was taken.)

22 THE COURT: Yes.

23 MR. HILTON: May it please the Court, Your
24 Honor.

25 THE COURT: Yes.

1 MR. HILTON: I have attached a copy of a
2 subpoena to Maggie Reid to what's been marked as Court's
3 Exhibit 4, which is the affidavit of service. The
4 subpoena is for Maggie Reid, for her to be on telephone
5 standby from November 8th, 2010 to November 19th, 2010.

6 We had some contact with her indicating to me
7 that we had correct information. That information was an
8 email address which she responded back to our
9 investigator, Mr. Kensy.

10 THE COURT: But she was personally served with
11 the subpoena?

12 MR. HILTON: Personally served with the subpoena
13 and she is not here and we'd ask that a bench warrant be
14 issued.

15 MS. ROGERS: No objection, Your Honor.

16 THE COURT: Very well. I will issue the bench
17 warrant.

18 MR. HILTON: Thank you, Your Honor.

19 THE COURT: Yes.

20 (A lunch break was taken.)

21 THE COURT: All right. Yes, sir, Mr. Hilton.

22 MR. HILTON: Your Honor, first of all, we do
23 have --- yesterday afternoon we talked about some
24 stipulations and we gave you kind of a rough draft of
25 those stipulations. We have typed that up in a little bit

1 more professional form and we'd offer those to the Court.
2 It's been signed by Ms. Rogers and myself. And I'm just
3 going to fill in an exhibit number, No. 3, and we would
4 offer these to the Court.

5 MS. ROGERS: Your Honor, there is one
6 stipulation on there that we did not cover yesterday in
7 our ex parte communication. So if we could do that this
8 afternoon, we're fine with not doing it right this minute.

9 THE COURT: I understand. Let me ask you this
10 question. Is this going to be -- do you propose that that
11 one is going to be presented to the jury? Do you all
12 contemplate that? Is that a Court's exhibit or is it a
13 joint exhibit?

14 MR. HILTON: It will be a Court's exhibit and if
15 you will just read it to the jury is fine by me.

16 THE COURT: I will just read it to the jury.

17 I would like, if you are comfortable -- if
18 you're not comfortable, do not have him do that, but if
19 Mr. Gethers concurs, I would like for him to sign it, if
20 he's comfortable doing that and if you think that's
21 appropriate.

22 Now, if you all need time to discuss it, I want
23 you to go ahead and do that, okay?

24 MS. ROGERS: Do you want him just to sign right
25 next to --

1 THE COURT: Certainly you have time right now,
2 but if you need some more, I want you not to be rushed.

3 MS. ROGERS: It's something we had talked about.
4 It just wasn't in writing.

5 THE COURT: Well, and this is a little
6 different. You know, you learn as you go along. Me, too.

7 MR. HILTON: We'd mark this as a Court's
8 exhibit, Your Honor.

9 (WHEREUPON, The Court's Exhibit No. 5 was marked
10 for purposes of the record.)

11 THE COURT: All right. Now, how are we
12 percolating on our witness?

13 MR. HILTON: She should be about ten minutes
14 away.

15 THE COURT: Okay. So she is enroute?

16 MR. HILTON: Right. I haven't passed up a
17 warrant because right after the hearing Mr. Kensy
18 indicated that he had her and was on the way up here and
19 so we just await her arrival.

20 THE COURT: Okay. Do you have anything for me?

21 MS. ROGERS: No, Your Honor.

22 THE COURT: I think what we'll do is, is there a
23 witness that you -- is there a less lengthy witness that
24 you can call and then call her when she arrives?

25 MR. HILTON: Well, I'm prepared to call

1 Detective Garrison at this point under the conditional
2 relevance of Ms. Maggie Reid testifying.

3 THE COURT: I understand why we're waiting. Why
4 don't we wait ten minutes, okay? And with your permission
5 I'm going to simply tell the jury that we are delayed for
6 about ten minutes, but as soon as the witness arrives we
7 will begin.

8 Any objection to that on behalf of either of
9 you?

10 MS. ROGERS: No, Your Honor.

11 MR. HILTON: None from the State.

12 THE COURT: If you'll just tell the jury about
13 ten minutes and then we'll be beginning.

14 MR. HILTON: Thank you, Your Honor.

15 THE COURT: Thank you all.

16 And you all be at ease.

17 (A break was taken.)

18 THE COURT: All right. If you'll bring the jury
19 in.

20 (The jury came into open court at approximately
21 1:47 p.m.)

22 THE COURT: All right. Ladies and gentlemen, I
23 hope that you all had a very good lunch. And at this time
24 we will continue with the State's case.

25 If you'd call your next witness.

1 MR. HILTON: The State would call Detective John
2 Garrison.

3 THE COURT: All right. Yes, sir.

4 THE CLERK: Please raise your right hand and
5 state your full name for the record, please.

6 THE WITNESS: John Byron Garrison.

7 THE CLERK: And spell your last name.

8 THE WITNESS: G-A-R-R-I-S-O-N.

9 JOHN GARRISON, after being duly sworn, testified
10 as follows:

11 THE CLERK: Thank you. You may have a seat.

12 THE COURT: Your witness.

13 MR. HILTON: Thank you, Your Honor.

14 DIRECT EXAMINATION

15 BY MR. HILTON:

16 Q Detective Garrison, where are you employed now?

17 A Currently I'm employed at the Dorchester County
18 Sheriff's Office.

19 Q And how long have you been working there?

20 A I've been employed there just a little over five
21 years.

22 Q Before that where were you employed?

23 A I started my career at the Charleston County Police
24 Department and from there I worked until approximately
25 1991. At that time I went to SLED, the State Law

1 Enforcement Division, and I stayed there until I retired
2 some six years ago.

3 Q And is that when you came to the sheriff's office?

4 A No, sir. I took a small sabbatical and then I came
5 on with the sheriff's office.

6 Q All right. And were you working with the Dorchester
7 County Sheriff's Office back in September of 2007?

8 A Yes, sir, I was.

9 Q And what was your position at the sheriff's office at
10 that time?

11 A I was an investigator.

12 Q Let me turn your attention to September 17th, 2007.

13 Did you respond to a call out at the [REDACTED]
14 apartment complex near the F Building?

15 A Yes, I did.

16 Q And what type of call was that?

17 A I was called by Captain Marshall to respond and it
18 was a -- apparently there had been a man shot inside a
19 vehicle, and that's what I responded to.

20 Q And did you receive an assignment in this case?

21 A Yes. In cases like this I was assigned as the lead
22 investigator. The lead investigator not only takes the
23 lead in the investigation, but it's also where the
24 information comes back to because there's usually several
25 people that are assigned different assignments and the

1 lead investigator's kind of where this stuff comes back
2 to.

3 Q All right.

4 A It's just the central location for all the
5 information.

6 Q Let me ask you, as the lead investigator, were you
7 able to figure out what time these calls started, the 911
8 calls started coming in?

9 A Yes, sir. We got the first call at right about 10
10 minutes or five minutes to 11. The call was dispatched at
11 22:57, which is 10:57 p.m. and our first unit arrived on
12 the scene less than three minutes later.

13 Q And based on that, were you able to determine an
14 approximate time of death?

15 A From interviewing the witnesses, there was a couple
16 of calls that came in. The calls were almost immediate
17 from the time of the shooting, so the shooting time of
18 death would have been right around the same time, between
19 five and three minutes 'til 11 p.m.

20 Q And just one quick question. The [REDACTED]
21 community or subdivision, is that within Dorchester
22 County?

23 A Yes, sir, it's off of Orangeburg Road just before you
24 get to Central and it's inside Dorchester County.

25 Q At the time you arrived on the scene, did you all

1 have a suspect at that point?

2 A No, sir, we did not have an identifiable suspect at
3 that point. There were several people there when I
4 arrived and we attempted to interview several people, but
5 we did not have a suspect at that point.

6 Q How did you all go about developing a suspect in this
7 case?

8 A Well, in cases such as this, when you have a homicide
9 or major crime and you do not have a suspect that is still
10 there, you tend to go to the known areas. You go to the
11 family, friends, acquaintances, place of employment. In
12 this case, we had the identification of who our victim
13 was, so myself, Detective Morelli, and one of our victim
14 advocates went to Walterboro to speak with the family of
15 the victim to try to get some information there for why he
16 was in Summerville or try to give us a real starting point
17 on the investigation.

18 Q Were you all able to do anything with the telephone
19 found on the victim?

20 A Yes, sir. Another investigator, and we have several
21 out there, we were able to look at the phone and see which
22 numbers had been called in the last hour or so that would
23 have been relevant to the case.

24 Q Did you end up subpoenaing those phone records?

25 A Yes, sir, we did.

1 Q And what were some of the calls on his phone that
2 caught your attention?

3 A There was calls to a [REDACTED] [REDACTED]

4 Q What's that number again?

5 A [REDACTED] [REDACTED] And that was determined to be to his
6 son, Marcus Brothers, and that had been earlier in the
7 evening.

8 Q Okay.

9 A And then there was a call to (843) -- or several
10 calls back and forth from [REDACTED] [REDACTED] Now, we didn't
11 know at that particular time who that was registered to.
12 We did find out at a later time that that was registered
13 to a Maggie Reid is who that phone came back to.

14 Q How did you all find out that information?

15 A We subpoenaed the subscriber information for the
16 telephone.

17 Q Okay.

18 A And Mr. Brothers, like I said, when we went to
19 Walterboro and spoke with the family, we were able to
20 determine at that point that that was his phone number
21 after we spoke with him.

22 Q Did you come across any other numbers that had called
23 near the time of death?

24 A Yes, sir, there was some other numbers. There was a
25 number that came to St. George. It was [REDACTED] [REDACTED]

1 that had been called. Not in that exact time frame, but
2 some times earlier that day. And that had come back to a
3 number here in St. George and it was in the possession of
4 a Shawn Huger up here in St. George.

5 Q Okay. Were you all able to eliminate her as any kind
6 of suspect?

7 A Yes, sir, we did come up and talk to her and she was
8 able to provide credible information on why she spoke to
9 him.

10 Q Based on this number that came back from Maggie Reid,
11 where did that lead your investigation?

12 A After we had gone to Walterboro, we spoke with the
13 wife of the victim and she told us that he had received a
14 phone call earlier, which turned out to be one of these
15 phone numbers I spoke about, and that she had called -- or
16 he had called his son Marcus and he went to see Marcus.

17 So after we left the wife we went to see Marcus,
18 and he had in fact indeed spoke to his father, and his
19 father said he needed some money, he couldn't get into his
20 account until after midnight, and that he would meet him.
21 And I believe that they did meet at the E-Z Stop in
22 Walterboro.

23 Q And, in fact, is that what Marcus testified to
24 earlier?

25 A Yes, it was. And I believe you had the in-store

1 video.

2 Q How did you get to the co-defendant, Veronica Kitt?

3 A Well, it wasn't immediate.

4 Again, once we left Walterboro, Marcus did not
5 know who his father was going to see. So after we left
6 there later on in the morning, because by then it was 3 or
7 4 or 5 o'clock in the morning, our next avenue was to go
8 to the place of employment, which was the South Carolina
9 State College where he worked. And from there we talked
10 to his employer, his co-workers, several people that knew
11 him.

12 Q When you say "his" and "him," who are you referring
13 to?

14 A I'm talking about Mr. Robinson, our victim here.

15 And they didn't have any information of real
16 relevance other than information about who he was, the
17 kind of person he was.

18 But as we were completing that interview, we
19 learned or we got a phone call that some of these
20 fingerprints that had been collected that night from the
21 vehicle, or earlier that morning from the vehicle, had
22 been taken and had developed a potential suspect at that
23 point, which again, as the phone records were coming in,
24 all this is kind of coming together, as you have different
25 people doing different assignments and information comes

1 in.

2 We also learned that the subscriber information
3 was to this Ms. Maggie Reid, so we went to locate Ms.
4 Reid. We eventually found her living in the [REDACTED]
5 Apartments, which you've heard here in testimony is almost
6 adjacent to the [REDACTED] Apartments. So myself and
7 Detective Morelli was able to locate Ms. Reid and then
8 conducted an interview of her. And she told us that that
9 night, that Veronica Kitt was in possession of her
10 telephone, and that's where the numbers were coming back
11 to.

12 Q And did she verify her phone number?

13 A She did.

14 Q And that was the [REDACTED]?

15 A [REDACTED] yes, sir.

16 Q During the course of your investigation, based on
17 that -- based on what you had at that point, did you
18 obtain phone records belonging to the defendant?

19 A Yes, we did. Once we obtained the fingerprint
20 information and the information that Ms. Kitt was in
21 possession of Maggie Reid's telephone, then we were able
22 to locate the cell number that was in the possession of
23 the defendant.

24 Q What was that cell number?

25 A That cell number was [REDACTED]

1 Q [REDACTED]

2 A Yes.

3 Q And that was the phone number that the defendant had
4 been using?

5 A Yes, that was the number we had for the defendant.

6 Now, once we located Ms. Reid and we were able
7 to verify that her phone number was the one that we'd been
8 looking at, we were also able to subpoena records from her
9 phone to see which numbers had been called from that phone
10 during this period of time we're speaking about.

11 Q Detective Garrison, did you ever find the murder
12 weapon in this case?

13 A No, sir, we have not found the murder weapon.

14 The night that we responded, the crime scene
15 units, the investigators, we looked for the weapon.
16 There's a large drainage ditch that runs behind this
17 apartment complex. We looked in there the best we could
18 because it was dark. And then we went back on several
19 occasions and tried to locate if it has been thrown away.

20 Plus, there's also a path leading from the
21 apartment complex to Azalez Park apartment complex, and
22 that was walked -- several times I walked it personally --
23 looking to see if we could locate the weapon.

24 As a matter of fact, we're still looking for the
25 weapon. The ballistics information that was obtained --

1 there's what's called an IBIS. It's ballistics, kind of
2 like a fingerprint system where people put in their
3 fingerprints, and we're currently looking for the weapon
4 to this day, and it has not been located.

5 Q Do you know just roughly how that IBIS system works?

6 A It works on the same basis, and again from my
7 information, it takes information from either the primer
8 strike or from the projectile itself, each one is -- it's
9 like a fingerprint; each one is particular to that
10 compression.

11 Now, when that impression -- and they have a
12 numerical way of entering this information -- that is
13 entered into a nationwide system of a ballistic
14 information system and if another incident occurs where
15 that particular projectile or that particular primer
16 impression is entered into the computer, then it will show
17 up that that's already been entered as either an inquiry
18 or a weapon that's been turned in or is in custody.

19 Q And whoever recovers it would notify you?

20 A Yes, they would.

21 Q And in this case, are you using the projectile or the
22 shell casing?

23 A The projectile. We never located the shell casing.

24 Q Is there a dumpster located kind of at the rear
25 corner of the [REDACTED] apartment complex?

1 A Yes, sir. As you heard people testify, they came in
2 from the right. If you're coming in from Orangeburg Road,
3 the road circles around the apartments. Most people would
4 come in to the right, yet the dumpster would be more --
5 still in the back of the complex, but it's to the left and
6 back corner of the complex. We did search in that also
7 that night.

8 Q Did you execute any search warrants in this case?

9 A We did. After we obtained the information on
10 Veronica Kitt and on Mr. Gethers, we executed two separate
11 search warrants; executed one on the residence of Mr.
12 Gethers and then we executed one on the apartment of
13 Veronica Kitt.

14 Q Were you able to find any weapon there?

15 A No, sir.

16 Q In neither one of the locations?

17 A No, sir, we found nothing of evidentiary value.

18 Q At what point in time did you all issue a warrant for
19 Mr. Gethers?

20 A I'm going to go with the warrant issued at
21 approximately 10 o'clock in the morning on the morning of
22 the 19th of September, 2007.

23 Q And that warrant was based on what?

24 A That warrant was based on the information -- the
25 association between Ms. Kitt and our defendant and the

1 fact that there had been numerous phone calls back and
2 forth.

3 After we had interviewed the witnesses involved
4 in this, we were able to verify communication that Ms.
5 Kitt had spoken to the victim on apparently several
6 occasions during that period and requested a sum of money
7 for whatever reason. He contacted his son to obtain the
8 money, making that statement that he had to take -- or
9 that he had something to do with it or somewhere to carry
10 it.

11 The association between Ms. Kitt and the
12 defendant, there were numerous calls between them around
13 this same period. We were also able to verify that they
14 did have a relationship, that they were in close contact
15 during this period, and also the fact that the latent
16 prints that had been located on the passenger side of the
17 Sequoia came back to the defendant.

18 Now, again, once we found out that the
19 fingerprints had been identified, one of the first thing
20 we did was contact the college, contact the family, to see
21 if there's any association, a known association between
22 the defendant and the vehicle or why his prints would have
23 been there for a legitimate reason, and we could establish
24 no reason, either work-related or personally, that would
25 have allowed his prints to be on this vehicle at that

1 particular time.

2 Q Did you all end up submitting other fingerprints for
3 comparison?

4 A Yes, we did. Again, at the time of the incident, we
5 didn't know who this was. It was what we call a
6 "whodunit," and so we submitted prints of some of the
7 people in the area that were known, not savory people I
8 guess you could say.

9 Q Under what theory?

10 A Elimination. It's people we knew that were in the
11 area and it was a starting place. It was an area that we
12 would submit prints of people we knew that may have a
13 violent tendency that live in that area that we would have
14 submitted.

15 Q And ultimately, was there any evidence tie-in, any
16 physical evidence tying those people to the scene?

17 A No. We were able to -- there's no witnesses, no
18 physical evidence to tie them to the scene whatsoever.

19 Q When the warrants were issued, did you know where the
20 defendant and Ms. Kitt was at that time?

21 A No, we had no information at that particular time
22 where they were. We hadn't received information that they
23 may have fled, so the warrants -- there was warrants for
24 murder on both, both subjects.

25 And also the vehicle information, which we had

1 obtained from Ms. Kiefer, that they had taken --
2 apparently had taken her Kia or Mr. Gethers had come and
3 gotten her Kia, and we had that information.

4 The warrant information and the vehicle
5 information was entered into the NCIC system, which is
6 National Crime Information Center, and this is a
7 nationwide database where you can put information on
8 wanted persons, vehicles, weapons, anything with a serial
9 number or a name or Social Security number can be put into
10 this system. So say we put in information in Summerville
11 and somebody turns up a weapon or a vehicle in New Mexico.
12 When they run that vehicle, it will show that it's wanted
13 or that person or that vehicle is wanted in South
14 Carolina.

15 Q And is that what you did here?

16 A Yes, sir, that's exactly what we did here.

17 Q And when were you notified that the car had been
18 found?

19 A On the morning of September 22nd of 2007 -- I'm
20 sorry. The vehicle was located on, I believe, the 20th of
21 September. We received a call from New Kent, Virginia,
22 that the car had been located at a rural gas station or
23 truck stop right off the interstate.

24 Q Were the defendants anywhere near the car?

25 A No, there was nobody with the car. The car had been

1 vandalized.

2 Q And then ultimately when were the defendant and Ms.
3 Kitt apprehended?

4 A September 22nd of 2007, we received a call from the
5 New York City Police Department that they had in custody
6 -- they said Ms. Kitt and they also had -- and in with her
7 was a black male who was going by the -- had an ID of
8 Dante Hubbard.

9 Apparently Ms. Kitt had a fake ID that they were
10 able to ascertain fairly early that that was not her
11 photograph and not her identification. So what they
12 requested from us was that when they ran Ms. Kitt, they
13 found out that she was wanted in South Carolina and
14 probably in the accompaniment of the defendant. So when
15 they contacted us, we submitted information, photographs
16 from the driver's license or Highway Department IDs and we
17 sent that to New York so that they could confirm that the
18 person they had in custody was indeed Mr. Gethers and Ms.
19 Kitt.

20 Q And I guess ultimately did the Dorchester County
21 Sheriff's Office go and pick up Ms. Kitt and Mr. Gethers?

22 A Yes. But Ms. Kitt being a juvenile, her procedure
23 was a little bit different, but eventually they both were
24 returned to South Carolina.

25 Q And when Mr. Gethers was returned, did you have an

1 opportunity just to see him?

2 A When he was immediately returned, I don't think I
3 even saw him when he came back. I was not one of the ones
4 that went up and transported him back.

5 Q Who did go and get him?

6 A Detective Morelli and I believe Officer Smith.

7 Q Let me ask you, you were present when Ms. Veronica
8 Kitt was testifying a few moments earlier, right before
9 lunch. Do you recall meeting with Ms. Kitt back on --
10 well, I will just ask you, do you remember when that
11 meeting took place?

12 A The meeting I was in on was March the 9th of 2009.

13 Q March the 9th, 2009?

14 A Yes, sir.

15 Q And --

16 A At approximately 10 a.m. in the morning.

17 Q And do you remember her -- well, let me ask you,
18 where did that meeting take place?

19 A The actual interview took place at the Dorchester
20 County Sheriff's Office, detective office.

21 We have an interview room which was attached to
22 the main office. The interview room is separate. It's
23 not a soundproof room, but it's a fairly solid room. It's
24 approximately five-by-seven. It has tables and chairs and
25 a two-way mirror, and that's where we usually conduct our

1 interviews.

2 Q And Ms. Kitt was charged with murder in this case,
3 right?

4 A Yes, sir, she was.

5 Q Is charged with murder in this case?

6 A She's currently charged with murder.

7 Q Did Ms. Kitt ultimately give you a statement that
8 day?

9 A She did.

10 Q Let me show you what's been marked for identification
11 as State's Exhibit 33 and ask if you recognize that.

12 A Yes, I do.

13 Q Is that the statement that Ms. Kitt gave on that
14 occasion?

15 A Yes, sir, this is a copy of the statement that was
16 given by Veronica Kitt on the 9th of March, 2009, at
17 approximately -- the statement was taken at approximately
18 12:12. It's witnessed by myself and Detective Steve
19 Morelli.

20 Q And was she advised of her Miranda rights at the
21 time?

22 A She was.

23 Q And what are the Miranda rights?

24 A We have a form that we use, and normally what we'll
25 do is we'll read them off the form. And what it is, we

1 have five that we go through. And in this particular
2 case, she was in the presence of her attorney. This
3 was -- the meeting had taken place and so her attorney was
4 present during the meeting.

5 And we advised, one, that she has the right to
6 remain silent. She acknowledged.

7 She has the right to have an attorney, which at
8 that time she did and he was present. That the attorney
9 can be present during any questioning, which again at this
10 time he was.

11 And the fourth one is that if you cannot afford
12 to hire an attorney, that one will be provided for you,
13 but since he was obviously in the room, that didn't really
14 much apply to her.

15 And that any time during the questioning, that
16 she has the absolute right to invoke her rights and to
17 remain silent. She doesn't have to continue speaking just
18 because she started.

19 Q Did you all threaten her to make a statement?

20 A No, we did not.

21 Q And is that her signature at the bottom of the
22 statement?

23 A Yes, it is.

24 Q Did you witness her signing that?

25 A I did.

1 Q And the person we're talking about, is that Veronica
2 Kitt that was up here testifying right before the lunch
3 break?

4 A Yes, the young lady that was testifying just prior to
5 the break.

6 MR. HILTON: May we approach, Your Honor?

7 THE COURT: You may.

8 (A bench conference was held with the judge and
9 attorneys in the presence of the jury but out of the
10 hearing of the jury.)

11 THE COURT: Ladies and gentlemen, there is a
12 matter that I must take up outside your presence. I'm
13 going to ask you to step to your jury room.

14 Do not discuss this matter or allow anyone to
15 discuss it with you.

16 (The jury left open court at approximately 2:15
17 p.m.)

18 THE COURT: All right. I think it has been that
19 indeed the statement has been appropriately authenticated.
20 I anticipate an objection from Defense with regards to the
21 admissibility of the statement, and I will hear from you
22 about that.

23 MS. ROGERS: Your Honor, first and foremost, the
24 statement is highly prejudicial to my client. Secondly,
25 Ms. Kitt did testify that or seemed to imply that that

1 might not have been what she said and did not ever admit
2 to actually writing the statement but signed the statement
3 certainly. So we would just object on the basis that
4 there is the possibility that some of her words might have
5 been changed or somehow interpreted in another manner.

6 THE COURT: I understand that. And, of course,
7 as we talked earlier, under the Rules of Evidence,
8 extrinsic evidence of a prior inconsistent statement of
9 course are admissible so long as the individual is given
10 an opportunity to either deny or explain the statement.

11 She chose not to explain the statement. She did
12 choose to deny the statement, which under the rules makes
13 the statement admissible. And, therefore, based on the
14 authentication by Major Garrison, I think that the hearsay
15 is handled and it's authenticated. So the writing -- it's
16 admissible in that regard.

17 And in terms of the content of it, given that it
18 is no doubt moved in as we talked earlier pursuant to the
19 extrinsic evidence of a prior inconsistent statement, it's
20 admissible in that regard. It is my understanding from
21 Mr. Hilton, though, that there are matters that he
22 concedes are not relevant to these proceedings and he
23 would proceed to redact those.

24 What I need for you to do is understanding that
25 I believe it's admissible but for the -- there may be

1 portions in it, though, that are irrelevant or otherwise
2 objectionable, so he'll take a look at that from that
3 perspective, and I'll hear from you in that regard.

4 MR. HILTON: Your Honor, just before we go any
5 further, I would offer as a Court's exhibit a unredacted
6 statement and --

7 THE COURT: An unredacted --

8 MR. HILTON: Just a copy of it.

9 THE COURT: All right.

10 MR. HILTON: And that would be an unredacted
11 statement of what has now been marked as State's Exhibit
12 33 at this point for identification.

13 THE COURT: Got it.

14 (WHEREUPON, The Court's Exhibit No. 6 was marked
15 for purposes of the record.)

16 MR. HILTON: Your Honor, at this time I would
17 just publish for the Court the portion that I propose to
18 redact.

19 THE COURT: Okay.

20 MR. HILTON: There is a portion in the statement
21 that's fortunately grouped together.

22 It says, "I have seen Trevee with a gun before.
23 Trevee said he had to carry a gun. Trevee has even hit me
24 with a gun before, but I hit him back."

25 At that point we would stop the redaction. The

1 statement continues on about their travel to Virginia and
2 some stuff about Mr. Earl.

3 And then from the second page of the statement I
4 would begin the redaction again with, "The gun I have seen
5 Trevee Gethers, quote, 'City,' with was a pink
6 pearl-handled and silver gun, the kind of gun that you
7 have to put a clip in, not a revolver."

8 Redact those portions of the statement.

9 THE COURT: All right. Any additional portions
10 that Defense would seek to have redacted?

11 MS. ROGERS: For the record, Your Honor, we
12 would seek to have a portion redacted where she states, "I
13 did not tell Trevee to shoot him. I just told him to get
14 the money."

15 THE COURT: Very well. Overruled.

16 MS. ROGERS: Thank you, Your Honor.

17 MR. HILTON: At this time I will strike those
18 portions.

19 Your Honor, we would just ask if the Clerk could
20 copy this for us and that way I don't think you'd be able
21 to read through the marks.

22 THE COURT: I think you're right. And let me
23 just see you all for just a second.

24 (A bench conference was held with the judge and
25 attorneys.)

1 THE COURT: Ready?

2 MR. HILTON: We're ready, Your Honor.

3 THE COURT: All right.

4 (The jury came into open court at approximately
5 2:26 p.m.)

6 THE COURT: All right. Ladies and gentlemen, at
7 this time we will continue with the State's case in the
8 direct examination of Major Garrison.

9 Yes, sir, Mr. Hilton.

10 MR. HILTON: Thank you, Your Honor.

11 THE COURT: Yes.

12 MR. HILTON: Your Honor, at this time the State
13 would offer the redacted version of State's Exhibit 33
14 into evidence.

15 THE COURT: Over the objection of the Defense,
16 so admitted.

17 (WHEREUPON, State's Exhibit No. 33 was admitted
18 into evidence.)

19 BY MR. HILTON:

20 Q Detective Garrison, the statement that Ms. Kitt gave
21 that day, will you publish that to the jury?

22 A Yes, sir, I will.

23 THE COURT: You'll have to read slow so our
24 court reporter can get down what you're saying.

25 THE WITNESS: Thank you.

1 THE COURT: Thank you.

2 THE WITNESS: This is on our regular Dorchester
3 County Sheriff's Office statement form. And as you look
4 at the top, the first thing you'll see is the case number,
5 which is how we keep track of our cases. And then it has
6 the statement of Veronica Kitt, home address of [REDACTED]
7 [REDACTED]. She's a
8 student. Date of birth of [REDACTED]. It has her
9 Social Security number.

10 It was taken at 212 Deming Way, Summerville,
11 South Carolina, which is the address of the sheriff's
12 office in Summerville.

13 The statement reads: "I called Mr. Earl for
14 some money. He said he would bring the money, but he
15 wasn't going to bring me money without getting some. He
16 wanted some in the past, but I kept tricking him.

17 I told him to go to the [REDACTED] because I
18 didn't want my momma to know about Mr. Earl bringing me
19 the money. Mr. Earl was bringing me more than \$50 because
20 I asked him for some money. He thought we were going to a
21 motel.

22 I told Trevee Gethers, 'City,' to get the money
23 because I didn't want to mess with Mr. Earl. I told
24 Trevee that Mr. Earl was in a white Sequoia because that's
25 what Mr. Earl told me he was driving.

1 I didn't tell Trevee to shoot Mr. Earl, I just
2 told Trevee to get the money. I didn't know Trevee shot
3 Mr. Earl.

4 I called Trevee after to see if he got the
5 money, and he said no. Trevee said that Mr. Earl wouldn't
6 give him the money.

7 I didn't see Trevee until the next day and he
8 said we had to go because he got in some stuff. I knew we
9 were running from something.

10 We went to a lady's house in Virginia on the air
11 base. We went to Dro mama's house. Dro and Kim followed
12 us to Virginia, then we took the bus to New York.

13 I have gotten money from Mr. Earl before and
14 that's how I knew I could call him for money.

15 Question: Has Mr. Earl ever been to [REDACTED]
16 before?

17 Answer: Yes, he has brought me money there
18 behind Bi-Lo, but I still had to give him directions."

19 BY MR. HILTON:

20 Q Thank you.

21 A That's the conclusion of the statement. It's signed
22 at the bottom of both pages by Detective Steve Morelli,
23 myself, and Veronica Kitt.

24 Q And there's one more little portion down towards the
25 bottom of the statement just before the signature. What

1 does that portion say?

2 A It's says, "I have read the foregoing statement, or
3 have had it read to me, and it is true and correct to the
4 best of my knowledge. I have given this statement freely
5 and voluntarily and have been provided a copy of my
6 statement."

7 Q Now, is this statement in Ms. Veronica Kitt's
8 handwriting?

9 A No, it is not.

10 Q Okay. Why is that?

11 A Detective Morelli was the scribe on the statement,
12 and I don't recall at that time if she asked him to do it.
13 A lot of people prefer not to write the statement, a lot
14 of investigators prefer to write the statement, so it was
15 written by one of the investigators with Steve Morelli.

16 Q Do some defendants just prefer to have you all write
17 the statement and they sign it?

18 A They do.

19 Q And the statement that you all write, is that
20 something that you make up or is that gathered from
21 information they give you?

22 A It's gathered from information that we get from the
23 person giving the statement, whether it be a victim
24 statement, a witness statement, or a defendant's
25 statement.

1 Generally what we do is we'll sit and conduct an
2 interview and we take notes at the statement or notes of
3 what they're saying. We reduce that to writing. The
4 statement is gone over with the person providing the
5 statement, and if there's any corrections, then the
6 corrections will be made and normally they will be
7 initialed by the investigator and by the person giving the
8 statement. And in this statement, I don't think there was
9 any initialed corrections.

10 Q Did Mr. Loy have the opportunity to review this
11 statement? And Mr. Loy being Ms. Kitt's attorney.

12 A Yes, Ms. Kitt's attorney was in the room for the
13 interview. This was a -- it took some time to conduct
14 this interview and her attorney was present for the
15 interview. Her attorney was able to review the statement
16 with her, and then he and she both were provided a copy of
17 the statement after it was signed by the investigators and
18 by Ms. Kitt.

19 Q And is this common practice of the sheriff's office?

20 A Yes, it is.

21 Q Any law enforcement?

22 A Yes, sir.

23 MR. HILTON: Please answer any questions
24 Ms. Rogers may have for you.

25 THE WITNESS: Yes, sir.

1 THE COURT: Cross-examination.

2 MS. ROGERS: May I have just a moment, Your
3 Honor?

4 THE COURT: You may.

5 MS. ROGERS: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MS. ROGERS:

8 Q When you got the phone call that fingerprints had
9 been found, were there any other fingerprints identified
10 on or in the vehicle?

11 A I don't recall if Lieutenant Asbell told me there was
12 other prints identified. I know that he did tell me, and
13 I noted, that the latents that had been retrieved from the
14 passenger's side of the vehicle had been identified.

15 Q And if there would have been any other prints not
16 belonging to my client, would you have followed the same
17 procedure that you did and called the family to see if
18 they knew this person or had a reason to be around the
19 car?

20 A Yes, ma'am, we would have tried to identify why the
21 prints were on the vehicle. I say that with the caveat
22 that according to what or where we are in an
23 investigation, that might have happened sometime later.

24 Q Do you remember doing that at all, with the exception
25 of my client?

1 A I don't recall.

2 Q And Mr. Hilton asked you about the weapon a little
3 bit. Can you tell us what type of weapon was used in this
4 crime?

5 A It was a .38 or .357-caliber revolver. We could tell
6 that from the projectile when it was recovered by
7 measuring the base of the recovered projectile.

8 Your standard calibers, your bullet diameters,
9 you know, they have spoken of a .40-caliber shell casing.
10 That .40 caliber is -- basically that is .40 or .40-inch
11 projectile.

12 The projectile that was recovered measured
13 approximately the size of a .38, which a .38-caliber is
14 not .38. A .38-caliber projectile is approximately a .357
15 round since this was a jacketed bullet.

16 The calibers are a little bit misleading because
17 like a nine-millimeter is also close to a .38 caliber;
18 it's a .355 caliber. So what you're looking at is the
19 diameter plus the type of bullet.

20 A semi-automatic weapon uses a somewhat
21 different projectile than what you would find in a
22 revolver round, which in this case a .357 or a .38 caliber
23 is generally known as a revolver round.

24 There are some semi-automatics that fire that
25 round, but again we did not find a shell casing, so the

1 belief or the evidence led us to believe that it was
2 probably shot from a revolver.

3 Q And you also said that you searched the dumpster and
4 you searched the dumpster that night?

5 A Yes.

6 Q So there wouldn't have been time for it to be emptied
7 or anything like that?

8 A No. Once the officers got there, the dumpster was
9 actually on the outer perimeter of the crime scene and
10 there was no access to that whatsoever.

11 Q And when you searched Mr. Gethers' home, you didn't
12 find any weapons, anything like that in the home?

13 A We conducted simultaneous search warrants. There is
14 a separate team that actually went to Mr. Gethers' house.
15 I was at the search warrant that was conducted at the
16 [REDACTED] Apartments. And from the personnel that
17 actually conducted the search warrant at his house, there
18 was nothing recovered, weapon, ammunition, nothing.

19 Q Had Ms. Kitt been promised anything for her statement
20 that day?

21 A Not that I know of, no, ma'am.

22 Q Are you aware that she was released that day after
23 giving her statement to you all?

24 A I knew she was released at some point thereafter. I
25 did not know it was that day.

1 MS. ROGERS: No further questions, Your Honor.

2 THE COURT: All right. Redirect?

3 MR. HILTON: No redirect, Your Honor.

4 THE COURT: Very well. You may come down.

5 THE WITNESS: Thank you.

6 THE COURT: Yes. Call your next witness,
7 please.

8 MR. HILTON: The State would call Dr. Presnell.

9 THE CLERK: Please raise your right hand and
10 state your first and last name for the record.

11 THE WITNESS: Susan Erin Presnell.

12 THE CLERK: And spell your last name, please.

13 THE WITNESS: P-R-E-S-N-E-L-L.

14 DR. ERIN PRESNELL, after being duly sworn,
15 testified as follows:

16 THE COURT: Counsel, let me see you a second,
17 please.

18 (A bench conference was held with the judge and
19 attorneys in the presence of the jury but out of the
20 hearing of the jury.)

21 THE COURT: You may proceed.

22 MR. HILTON: Thank you, Your Honor. May it
23 please the Court.

24 THE COURT: Yes.

25 DIRECT EXAMINATION

1 BY MR. HILTON:

2 Q You're Dr. Erin Presnell?

3 A Yes, sir.

4 Q And, Dr. Presnell, where do you work?

5 A I work at the Medical University of South Carolina
6 down the road in Charleston.

7 Q How long have you been there?

8 A Seems like forever. I went there for medical school
9 in 1989 and then I was hired on as faculty when I finished
10 all my training in 1999, so about 10-11 years as faculty.

11 Q And at the medical university, what position do you
12 hold?

13 A I'm an associate professor and forensic pathologist
14 at MUSC.

15 Q Tell the jury what type of educational background you
16 have.

17 A Well, I can kind of do that and combine that with
18 what pathology and forensic pathology are.

19 A pathologist is a physician. Until you get to
20 that point, you first go to college and get your degree
21 there. I went to Clemson and majored in microbiology. I
22 then went to med school, that's four years.

23 After you finish your four years of medical
24 school you get your MD degree and at that point you pick
25 your specialty, whether you pick pediatrics, surgery. I

1 chose pathology, which at the time was a five-year
2 training program.

3 Q And, Dr. Presnell, let me stop you. I know our court
4 reporter is gnawing at the bit to tell you to slow down a
5 little bit, so I'll tell you that, but go ahead.

6 A All right. So five years in pathology residency
7 training. At that point I'm trained as a general
8 pathologist.

9 And a general pathologist -- pathology is the
10 study of disease, and a general pathologist typically
11 looks at tissue and diagnoses disease. So, say, for
12 example, you go to your family doctor and they do a biopsy
13 or they run pap smears or a breast biopsy. That tissue is
14 sent to the pathologist. They would get it and diagnose
15 is it cancer or not, is it infectious or not. That's your
16 general anatomic pathologist.

17 So I finished that and then did an additional
18 year of sub-specialty training in forensic pathology.

19 And everybody thinks they're more familiar with
20 forensic pathology. And, of course, this is where we're
21 not just looking at a piece of tissue taken off by another
22 physician, but we're looking at a whole entire body of a
23 deceased person. We are looking for diseases because a
24 lot of people pass from diseases as well unexpectedly, but
25 we're also evaluating for trauma. We evaluate the trauma

1 and ultimately we do this through the process called
2 autopsy, and ultimately we generate an autopsy report with
3 the conclusion of the cause and manner of death.

4 So in summary, college, medical school,
5 pathology training, then sub-specialty training and on
6 that practice you take the board exam, the national board
7 exam. And so I'm board certified in general pathology and
8 forensic pathology.

9 Q How long have you been doing this type of work,
10 including your school and residency and so forth?

11 A Well, I started medical school in 1989. I started
12 doing forensic autopsies during my training process in
13 1995, and then again, like I said, I started as faculty in
14 1999.

15 Q As faculty at the medical university, do you ever
16 publish any articles or participate in the publication of
17 any articles?

18 A Yes.

19 Q Can you -- do you know about how many you've done?

20 A Well, there's all types of different articles.
21 There's website articles and peer review journal articles
22 and academic exercises. I've done more academic. I'd
23 probably say it was 10-15.

24 Q About how many autopsies have you performed?

25 A I would estimate approximately 2,000.

1 Q And have you ever been qualified as an expert in the
2 field of forensic pathology?

3 A Yes.

4 Q How many times?

5 A Another estimate, approximately 80-85.

6 Q And is that in state and federal courts?

7 A Yes.

8 MR. HILTON: Your Honor, at this time the State
9 would offer Dr. Erin Presnell as an expert in forensic
10 pathology.

11 THE COURT: Any voir dire or objection?

12 MS. ROGERS: No, Your Honor.

13 THE COURT: So qualified.

14 Let me take just a moment to explain it to the
15 jury.

16 Ladies and gentlemen, under our rules of
17 evidence, ordinarily individuals are not allowed to
18 testify with regards to their opinion or their reasons for
19 the opinion. However, here is an exception to this rule,
20 and that is, when by virtue of someone's knowledge,
21 training, education, profession, experience they have
22 become an expert in one or more fields; and that is, that
23 once that person has been declared to be an expert, they
24 can testify with regards to the opinions that they hold
25 within their profession or their expertise. And I'll give

1 you some additional instructions in this regard when I
2 give you the final and concluding instructions.

3 And Mr. Hilton has moved that this witness be
4 determined to be an expert. I so find that she is an
5 expert, and she will be allowed to testify regarding her
6 opinions and the reasons for those opinions within her
7 expertise.

8 Thank you very much.

9 Any objection on behalf of the State?

10 MR. HILTON: None, Your Honor.

11 THE COURT: The Defense?

12 MS. ROGERS: No, Your Honor.

13 THE COURT: Thank you. You may proceed.

14 MR. HILTON: Thank you.

15 BY MR. HILTON:

16 Q Dr. Presnell, did you have the opportunity to conduct
17 a forensic autopsy on the victim that's the subject of
18 this case, Mr. Robert Earl Robinson?

19 A Yes, we did a full autopsy on September 18th, 2007.

20 Q And when you received the deceased corpse of Mr.
21 Robinson, what sort of condition was his body in?

22 A Well, usually there are coroner's statements and the
23 coroners will decide who they'll refer which cases that
24 they'll refer to us and they'll put them in body bags and
25 they come to our institution, and that's how he was. He

1 was partially clothed because EMS had tried to cut off
2 some of the clothing to administer care, and otherwise he
3 was in good condition.

4 Q Were there any sort of injuries on Mr. Robinson?

5 A I guess I wasn't sure exactly what you're asking.

6 Yes. Like I said, we did a full autopsy on Mr.
7 Robinson, and he has one major injury. He has a single
8 gunshot wound. It actually enters in his right arm. It
9 goes through his right arm just through the soft tissue,
10 exits the right arm and goes into the right chest. It
11 hits the right lung. It goes through the heart as well as
12 the aorta, which is the main blood vessel taking blood to
13 the rest of your body. It goes through the left lung and
14 also hits the left rib and partially exits. So you
15 actually have a hole in the skin where the bullet's
16 exiting, where the bullet's still there and hanging on
17 right there. So this is a partial exit gunshot wound.

18 The direction of the bullet, it's pretty much
19 straight across. It's actually going backwards on him a
20 little bit, like through about -- I'll stand up for just a
21 second -- kind of in this direction, right across the
22 chest. Again, right lung, heart, left lung, partially
23 out.

24 The other defining characteristic about this
25 injury, this gunshot wound, is what we call stippling

1 marks. I don't know if you've heard some of that in the
2 previous testimony or not, but when forensic pathologists
3 are evaluating gunshot wounds, one of the things we try to
4 do is estimate what is the range of fire, how far away was
5 the gun from the victim. And the way we do that, we will
6 generalize them into three categories: Either the gunshot
7 wound for us is a contact gunshot wound, a close-range
8 gunshot wound, or a distant gunshot wound.

9 The way that we try to evaluate that, or the way
10 we do evaluate it is to think about what comes out the end
11 of the gun, the muzzle of the gun. Not only does the
12 bullet come out, but you also get some sooty material from
13 the gun powder ignition.

14 You also get little gun powder particles.
15 Little gun powder particles are what actually ignites to
16 produce the pressure to propel the bullet down the barrel.

17 If the gun is actually against the skin and
18 somebody's shot and you take the gun away, then you'll see
19 a hole with a rim of soot, black sooty substance. If you
20 start to take -- if you pull the gun away and it's still
21 kind of a close-range area, the soot may or may not make
22 it to the skin, but the little tiny gun powder particles
23 do and they actually strike the skin and cause little
24 scratches. You can't wipe them away. These little
25 pinpoint scratches all around the hole is called

1 stippling, stippling marks.

2 Once you go back even further with the gun, then
3 that soot is not going to reach the skin, nor are the gun
4 powder particles, and you'll just have a plain hole with
5 no soot around it, no stippling marks.

6 In Mr. Robinson's case, he had a fairly
7 concentrated amount of stippling marks around the entrance
8 wound on his arm. So this leads us to conclude that this
9 is a close-range gunshot wound to his arm and chest.

10 For us to narrow it down more, the specific
11 weapon and the ammunition would have to be test fired to
12 kind of reproduce the pattern of stippling, how far away
13 exactly it was, but for us in general, a close-range
14 gunshot wound means within, and in this case, within a
15 yard, a gunshot within a yard, within a yard or less from
16 him.

17 Q Dr. Presnell, did you recover the projectile from the
18 body of Mr. Robinson?

19 A Yes, sir.

20 (WHEREUPON, State's Exhibits Nos. 36, 37, 38, 39
21 were marked for identification only.)

22 BY MR. HILTON:

23 Q Let me show you what's been marked as State's Exhibit
24 37 for identification at this point and just ask you if
25 you recognize that.

1 A This is a photograph of the projectile, a bullet with
2 our autopsy label, so it was taken at the time of autopsy.

3 Q Okay. Let me show you what's been marked as State's
4 Exhibit 36 for identification and ask if you recognize
5 that..

6 A This is one of our containers from autopsy with the
7 autopsy sticker on it with the deceased person's name
8 labeled "projectile," and I'm seeing it contains a
9 projectile.

10 Q And where again was that projectile recovered?

11 A Right at the exit wound, right hanging on the left
12 side of the chest.

13 Q Was it partially exposed?

14 A Yes.

15 MR. HILTON: Your Honor, at this time we'd offer
16 State's Exhibit 37 and 36 into evidence.

17 THE COURT: Any objection?

18 MS. ROGERS: No, Your Honor.

19 THE COURT: Very well.

20 (WHEREUPON, State's Exhibits Nos. 36-37 were
21 admitted into evidence.)

22 BY MR. HILTON:

23 Q Let me also show you what's been marked for
24 identification as State's Exhibit 39 and ask if you
25 recognize that.

1 A It appears to be a photograph taken by someone other
2 than myself because it does not have the autopsy label on
3 it, but the appearance is that this is a picture of a
4 gunshot wound. It appears to be the entrance wound on the
5 arm.

6 Q And the markings near where it's written on the arm
7 the letter A, the markings around that, is that the
8 stippling you're referring to?

9 A Yes, sir.

10 Q Is this picture an accurate picture of the condition
11 of Mr. Robinson at the time of autopsy?

12 A It's an accurate representation of the entrance
13 gunshot wound.

14 MR. HILTON: Your Honor, at this time we'd offer
15 State's Exhibit 39 into evidence.

16 MS. ROGERS: No objection, Your Honor.

17 THE COURT: Very well.

18 (WHEREUPON, State's Exhibit No. 39 was admitted
19 into evidence.)

20 BY MR. HILTON:

21 Q Let me show you what's been marked for identification
22 as State's Exhibit 38 and just ask if you recognize that
23 picture.

24 A Yes.

25 Q What is that?

1 A This is a picture of the side of Mr. Robinson's body.
2 You can see the entrance and exit right through the front
3 of the arm here and then the re-entrance in the side of
4 the left -- the side of the right chest.

5 Q And is that an accurate picture of Mr. Robinson's
6 condition?

7 A Yes.

8 Q Just a picture taken a little further away than
9 State's Exhibit 39?

10 A Yes. The first picture you can only see the arm
11 gunshot wound but you see the stippling really well. The
12 second picture you can see the whole in and out of the arm
13 and back into the chest.

14 MR. HILTON: Your Honor, I'm going to attempt to
15 display State's Exhibit 39.

16 THE COURT: Okay.

17 BY MR. HILTON:

18 Q Is that the stippling you were referring to?

19 A Yes. All these little punctate little dots, red
20 dots, are stippling. The "A" was the entrance and "B" is
21 exit at the -- on the arm. It's real close so it's hard
22 to get oriented, but that's the front of the arm.

23 MR. HILTON: Your Honor, I don't think I did
24 this, but at this time I'd move State's Exhibit 38 into
25 evidence.

1 THE COURT: Any objection?

2 MS. ROGERS: No, Your Honor.

3 THE COURT: All right.

4 (WHEREUPON, State's Exhibit No. 38 was admitted
5 into evidence.)

6 BY MR. HILTON:

7 Q This is the one that you said was a little further
8 away?

9 A Yes.

10 Q What can you tell, Dr. Presnell, from aligning the
11 wound A, B, and C, as the bullet would have gone in, what
12 angle would the arm have had to be at?

13 A I mean, you can kind of see it from right here. If
14 you lift the arm -- obviously he's laying down, so when I
15 say "lift the arm up," I mean pull it forward a little
16 bit. If you put his arm forward, then the A and B line up
17 directly with C.

18 Q Would that have been consistent with somebody putting
19 their arm up in kind of a defensive position?

20 A Well, because it's with his arm up, whether it's on
21 the steering wheel or it's a defensive gesture.

22 Q Okay. Dr. Presnell, in your expert opinion as a
23 forensic pathologist, what caused the death of
24 Mr. Robinson?

25 A The gunshot wound that went through both the lungs

1 and the heart and the aorta.

2 MR. HILTON: Thank you. Please answer any
3 questions Ms. Rogers may have for you.

4 THE COURT: All right. Cross-examination.

5 MS. ROGERS: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MS. ROGERS:

8 Q Dr. Presnell, you testified that the gun would have
9 had to have been within a yard or less; is that accurate?

10 A Yes. That's 90-some-odd percent of handguns, once
11 they're a yard to a yard and six inches, so 36 to 42
12 inches away, the stipple or gun powder particles won't
13 reach the skin anymore.

14 His were pretty concentrated, and I don't know
15 if you know but he also had clothing on, so it was
16 probably a little bit closer, in that range but on the far
17 end of that range.

18 Q In your expert opinion, would that kind of shot cause
19 blood spatter?

20 A I don't know. I mean it doesn't necessarily have to.
21 Again, it goes through a pretty superficial track through
22 the arm before it goes into the chest. And remember, he's
23 also got clothing on as well, which is somewhat
24 protective, so I don't know the answer.

25 Q How quickly would death occur with this kind of

1 wound?

2 A Well, he had a pretty devastating injury. I wouldn't
3 be surprised if he lost consciousness immediately.

4 However, we have had examples of people that have had a
5 gunshot wound through the heart who actually functioned
6 for seconds to minutes afterwards.

7 The general literature says if you cut out the
8 blood going to your head, like both carotid arteries, that
9 you lose consciousness within ten to 15 seconds. So
10 certainly if you put a hole through the heart, aorta, I
11 can't imagine him being conscious over the seconds range.

12 Q Is there anything you can tell about the direction or
13 the angle that the bullet would have come from? Would it
14 have been a straight-on shot? Would somebody have had to
15 have been taller, shorter?

16 A Well, if you were trying to do trajectories or
17 direction of the bullet, I can do direction of the bullet
18 through the body, but trajectory and the positioning of
19 the body, when you're looking at it just at autopsy it's
20 difficult because actually we're looking at somebody
21 laying on the table.

22 You know, if we use my pencil as the direction
23 of the bullet and say -- remember, it's going downward --
24 excuse me, it's going back a little and pretty much
25 straight across, so the bullet is coming from this

1 direction.

2 Now, if he's sitting there, then that puts the
3 bullet coming like this, you know, from right over here.
4 But if you move him, the deceased person at all, and you
5 have him leaning this way, then the gun is coming from up
6 there. If you have him leaning back, then the gun's --
7 the direction is coming from up there.

8 So it really -- I can tell you the direction
9 through the body, but it depends on his position as to
10 exactly where the bullet, the gun was positioned.

11 Does that make sense?

12 Q Yes. Did you happen to do any of that type of
13 thing --

14 A We're not involved in the crime scene reconstruction
15 portion of it.

16 MS. ROGERS: No further questions, Your Honor.

17 THE COURT: Redirect?

18 MR. HILTON: Just briefly, Your Honor.

19 THE COURT: All right.

20 REDIRECT EXAMINATION

21 BY MR. HILTON:

22 Q Dr. Presnell, we're talking about the angle of the
23 bullet and the direction.

24 If Mr. Robinson was sitting in a front driver's
25 seat of a vehicle, would the bullet have been coming from

1 the passenger's side or the driver's side?

2 A Well, it's on his right side. So if he's in the
3 driver's side of the vehicle, then the gun would be on the
4 passenger's side.

5 MR. HILTON: Thank you. No further questions,
6 Your Honor.

7 THE COURT: Recross?

8 MS. ROGERS: No, Your Honor.

9 THE COURT: Very well. Is this witness free to
10 leave?

11 MR. HILTON: She is, and we thank her for
12 coming.

13 THE COURT: Without objection, very well, you're
14 free to go.

15 Call your next witness, please.

16 MR. HILTON: The State would call Mr. Javon
17 Wright.

18 THE CLERK: Please raise your right hand and
19 state your full name, please.

20 THE WITNESS: Javon Wright.

21 THE CLERK: And spell your first and last name.

22 THE WITNESS: J-A-V-O-N W-R-I-G-H-T.

23 JAVON WRIGHT, after being duly sworn, testified
24 as follows:

25 THE CLERK: Thank you. Have a seat.

1 THE COURT: Your witness.

2 MR. HILTON: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 BY MR. HILTON:

5 Q Thank you, Mr. Wright. Where are you employed?

6 A At the Charleston County Detention Center.

7 Q How long have you been working there?

8 A Seven years.

9 Q You said seven years?

10 A Seven years, yes.

11 Q And is part of your job at the detention center
12 taking fingerprints from individuals?

13 A Yes, it is.

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

16 BY MR. HILTON:

17 Q Let me show you what's been marked for identification
18 as State's Exhibit 40 and ask if you recognize this.

19 A Yes..

20 Q What is that?

21 A A set of fingerprints taken by myself of Mr. Gethers.

22 Q All right. How do you know that these fingerprints
23 are ones that you took?

24 A I'm logged in the system. It has my name and all my
25 information from the facility.

1 Q All right. And these would have been prints of both
2 hands and the palms?

3 A Yes.

4 Q Is this what is known as major case prints?

5 A Yes.

6 Q Why do they call them that?

7 A Because it's both hands, all your fingers. It's
8 three-dimensional prints of both hands.

9 Q Does it necessarily have anything to do with the type
10 of case?

11 A Not necessarily.

12 Q All right. How do you know that these prints came
13 from Mr. Gethers?

14 A He signed for them.

15 Q At the time of booking do you take a photograph of
16 the individual that you take the prints from?

17 A Yes.

18 Q Did you do that on this occasion?

19 A I did.

20 Q Do you have a copy of that photograph?

21 A I do.

22 Q Can I see that?

23 A (Witness complies.)

24 (WHEREUPON, State's Exhibit No. 41 was marked
25 for identification only.)

1 BY MR. HILTON:

2 Q You've handed me what's now been marked as State's
3 Exhibit 41 for identification purposes. Tell the jury
4 what that is.

5 A It's a mugshot photo of Trevee Gethers, booking date
6 5-11-07.

7 Q And does that appear to be the individual seated at
8 the defense table?

9 A Yes.

10 MR. HILTON: Thank you, Your Honor. At this
11 time we would offer State's Exhibit 41 into evidence.

12 THE COURT: Any objection?

13 MS. ROGERS: No, Your Honor.

14 THE COURT: Very well. It's in evidence.

15 (WHEREUPON, State's Exhibit No. 41 was admitted
16 into evidence.)

17 MR. HILTON: And may we approach about State's
18 Exhibit 40?

19 THE COURT: Sure.

20 (A bench conference was held with the judge and
21 attorneys in the presence of the jury but out of the
22 hearing of the jury.)

23 MR. HILTON: Your Honor, at this time with the
24 condition we would offer State's Exhibit 40 into evidence.

25 THE COURT: With the condition in place is there

1 any objection?

2 MS. ROGERS: No, Your Honor.

3 THE COURT: Without the condition in place there
4 is an objection?

5 MS. ROGERS: Yes, Your Honor.

6 THE COURT: Which would be sustained.

7 MS. ROGERS: Thank you, Your Honor.

8 THE COURT: You're welcome.

9 (WHEREUPON, State's Exhibit No. 40 was admitted
10 into evidence.)

11 MR. HILTON: Thank you, Mr. Wright. Please
12 answer any questions Ms. Rogers may have for you.

13 THE COURT: Cross-examination.

14 CROSS-EXAMINATION

15 BY MS. ROGERS:

16 Q That photo was taken of my client you said in 2007,
17 November of 2007?

18 A 5-11-07.

19 Q 5-11-07.

20 MS. ROGERS: No further questions, Your Honor.

21 THE COURT: Any redirect?

22 MR. HILTON: None, Your Honor.

23 THE COURT: Is this witness free to leave?

24 MR. HILTON: He is.

25 THE COURT: Any objection?

1 MS. ROGERS: No, Your Honor.

2 THE COURT: You are free to go.

3 Call your next witness.

4 MR. HILTON: May I have just a moment to see
5 who's here?

6 THE COURT: Yes.

7 MR. HILTON: Thank you, Your Honor.

8 At this time the State would call Maggie Reid.

9 THE COURT: All right. Yes, ma'am, if you would
10 come forward, please, and be sworn. Come right around
11 here. I know, we need to have little signs up.

12 THE CLERK: Please raise your right hand and
13 state your name for the record.

14 THE WITNESS: Maggie Reid.

15 THE CLERK: And spell your first and last name..

16 THE WITNESS: M-A-G-G-I-E R-E-I-D.

17 MAGGIE REID, after being duly sworn, testified
18 as follows:

19 THE CLERK: Thank you.

20 MR. HILTON: May it please the Court, Your
21 Honor.

22 THE COURT: Yes, sir.

23 DIRECT EXAMINATION

24 BY MR. HILTON:

25 Q Thank you, Ms. Reid. Where are you living now?

1 A Downtown.

2 Q Charleston?

3 A Yes, sir.

4 Q Where were you living back in September of 2007?

5 A In Summerville.

6 Q Where at specifically?

7 A I don't remember the name of the apartment complex.

8 I was in the Orangeburg area.

9 Q Were you living in [REDACTED] Apartments?

10 A Yes, sir.

11 Q And do you remember what apartment that was?

12 A No, sir.

13 Q All right. Do you remember a girl named Veronica
14 Kitt?

15 A Yes, sir.

16 Q Where did she live in relation to you?

17 A Underneath me.

18 Q Do you remember who she was dating at the time?

19 A It was a guy named City. I don't know his real name.

20 Q He went by City?

21 A Yes, sir.

22 Q Let me turn your attention back to September 17th,
23 2007, and ask you if you remember any portion of that day.

24 Do you remember where you were working back on

25 --

1 A McDonald's.

2 Q -- back on September 17th, 2007?

3 A McDonald's on Main Street.

4 Q That's Main Street in Summerville?

5 A Yes, sir.

6 Q Okay. Do you remember what time you got off that
7 day?

8 A It had to be between 4 and 6 I'd bet.

9 Q Do you remember who picked you up from work?

10 A From the detectives?

11 Q From where?

12 A From work that day?

13 Q Yeah, from work that day.

14 A Oh, no. Veronica's mother did.

15 Q Do you remember her name?

16 A No.

17 Q When Veronica's mother picked you up, do you remember
18 who all was in the car?

19 A It was me, her, her mother, I think a kid, and then
20 we went over to her sister's job because her sister was
21 working at Burger King.

22 Q Okay. Do you remember back on September 19th of
23 2007, giving a statement to Detective Garrison?

24 A Yes, sir.

25 Q Do you remember telling him that that was around

1 4:15 in the afternoon?

2 A Yes, sir.

3 Q Does that refresh your memory of what occurred?

4 A Uh-huh, yes, sir.

5 Q Now, when they picked you up around 4:15 that
6 afternoon from McDonald's, did anyone use your cell phone?

7 A At that point or before I got questioned?

8 Q No, when you were picked up from McDonald's --

9 A Uh-huh.

10 Q -- who was using your cell phone in the car on the
11 way back to your house?

12 A Veronica was.

13 Q Do you remember your cell phone number at the time?

14 A No.

15 Q Do you remember telling that to police on that same
16 day when you gave a statement back on the 19th of
17 September?

18 A Yes, sir.

19 Q If I showed you that statement, would that refresh
20 your memory as to what your telephone number was?

21 A Yes, sir.

22 MR. HILTON: May I approach, Your Honor?

23 THE COURT: Sure.

24 THE WITNESS: Yes, sir.

25 BY MR. HILTON:

1 Q Do you now remember what your telephone number was?

2 A Yes, sir.

3 Q What was it?

4 A [REDACTED]

5 Q Do you remember how long Veronica had your phone that
6 day?

7 A At that point she had it while I was in the car. She
8 walked in Burger King with it and was on the phone. I got
9 it back for a period of time again and then I know she got
10 it again overnight.

11 Q Okay. Did you ever go looking for your phone?

12 A I mean, I walked downstairs and knocked on their door
13 to ask for it and he said that she was gone, but she came
14 back that following morning and then I got the phone back.

15 Q When you went outside to look for your phone, do you
16 recall seeing who you called City outside?

17 A Yes, I do, in the parking lot. He was on the back of
18 his car talking to her.

19 Q Okay. And that was on the 17th?

20 A Yes, sir.

21 Q Now, at some point after that did you try to call
22 your cell phone number?

23 A Yes, sir.

24 Q Did you get any answer?

25 A No, sir.

1 Q When did you end up getting your phone back?

2 A If I'm not mistaken, that next following day I got it
3 back.

4 Q That would have been the morning of the 18th?

5 A Yes, sir.

6 MR. HILTON: Please answer any questions Ms.
7 Rogers may have for you.

8 THE COURT: Cross-examination.

9 MS. ROGERS: One moment, Your Honor.

10 THE COURT: Certainly.

11 MS. ROGERS: We have no questions for this
12 witness, Your Honor.

13 THE COURT: And is this witness free to leave?

14 MR. HILTON: She is, Your Honor.

15 THE COURT: Any objection?

16 MS. ROGERS: No, Your Honor.

17 THE COURT: You are free to go.

18 All right. Call your next -- well, I think
19 maybe we'll take a break. I know you guys have had a
20 break, but we haven't had a break and we need a little
21 break. We're going to take about 15 minutes.

22 Please do not discuss this matter or allow
23 anyone to discuss it with you. We'll take about 15 -- oh,
24 no, we're going to take about 17.

25

1 (The jury left open court at approximately 3:13
2 p.m.)

3 (A break was taken.)

4 THE COURT: Thank you all so much. Please be
5 seated.

6 Anything from the State?

7 MR. HILTON: Nothing from the State, Your Honor.

8 THE COURT: Anything from the Defense?

9 MS. ROGERS: No, Your Honor.

10 THE COURT: Let me have the jury.

11 (The jury came into open court at approximately
12 4:01 p.m.)

13 THE COURT: Ladies and gentlemen, at this time
14 we will continue with the State's case.

15 MR. HILTON: Thank you, Your Honor. The State
16 would call Sam Lancaster.

17 THE COURT: Come on around. Right around this
18 way. Thank you.

19 THE CLERK: Please raise your right hand and
20 state your name for the record.

21 THE WITNESS: Sam Lancaster.

22 THE CLERK: And spell your last name, please.

23 THE WITNESS: L-A-N-C-A-S-T-E-R.

24 SAM LANCASTER, after being duly sworn, testified
25 as follows:

1 THE CLERK: Thank you.

2 THE COURT: All right. Your witness.

3 MR. HILTON: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 BY MR. HILTON:

6 Q Thank you, Mr. Lancaster. Where are you working now?

7 A I work at Verizon Wireless.

8 Q And what position do you hold there?

9 A The store manager of the Rivers Avenue/North
10 Charleston location.

11 Q And that's right at the corner of Rivers Avenue, and
12 what is it, Ashley Phosphate?

13 A Yes, sir.

14 Q And how long have you been working at Verizon?

15 A A little over six years.

16 Q And Verizon, we're talking about the cell phone
17 company, right?

18 A Yes, sir.

19 Q Okay. At some point in time did Alltel and Verizon
20 merge?

21 A Yes, we purchased them.

22 Q Do you remember when that was?

23 A About two -- about a year and a half, two years ago.

24 Q Okay. So back in 2007 would Alltel have still been
25 in existence?

1 A Yes.

2 Q After the purchase of Alltel, who now keeps all the
3 business records and so forth?

4 A Verizon Wireless does.

5 Q That's the ones that Alltel maintained?

6 A Yes.

7 Q Now, does Verizon keep a record of all the incoming
8 and outgoing calls from subscribers?

9 A Yes.

10 Q So if I pull out my cell phone and make a call,
11 Verizon would have a record of that call; is that correct?

12 A They would.

13 Q And did Alltel do the same thing when they were in
14 existence?

15 A Yes, they did.

16 (WHEREUPON, State's Exhibits Nos. 42-43 were
17 marked for identification only.)

18 BY MR. HILTON:

19 Q Let me show you what's been marked as State's Exhibit
20 42 for identification and ask if you recognize that. What
21 does that appear to be?

22 A It's call records.

23 Q Does it indicate from which cell phone number those
24 records relate to?

25 A Yes. It's [REDACTED]

1 Q Okay. And those are the records that are kept in the
2 normal course of business from Verizon?

3 A Yes, they are.

4 Q Let me ask you about State's Exhibit 43 and ask you
5 if you recognize that.

6 A These are also call records for mobile number
7 [REDACTED]

8 Q And are those the records that are kept in the normal
9 course of business?

10 A They are.

11 Q What type of information is contained on those
12 records?

13 A Incoming calls, outgoing calls, and calls that would
14 go unanswered and straight to voice mail.

15 MR. HILTON: Your Honor, at this time we would
16 offer State's Exhibit 42 and 43 into evidence.

17 MS. ROGERS: No objection, Your Honor.

18 THE COURT: Very well.

19 (WHEREUPON, State's Exhibits Nos. 42-43 were
20 admitted into evidence.)

21 BY MR. HILTON:

22 Q Mr. Lancaster, at this time I'm just going to pick a
23 random first page of State's Exhibit 42 and display it on
24 the board. Can you describe to the jury what type of
25 information that is and how you read those records?

1 A Sure. If you look at the basic line where it says
2 DIR, MO is going to stand for outbound call; MT, if you
3 see that, it will be an incoming call; and MS is an
4 unanswered call that went to voice mail. If you run into
5 LLC and TR, that is just routing information, that is not
6 an actual call. And then you would have MM finally, which
7 is a mobile-to-mobile call.

8 Q And you're referring to this column right in here?

9 A Yes.

10 Q All right. And what about the MDN, what is that?

11 A MDN is going to be the actual number that the records
12 are for.

13 Q Okay. And where it says "called number," what is
14 that?

15 A For an outbound call, that's going to be the number
16 that the cell phone called.

17 Q What about on the inbound call?

18 A Inbound call is going to show the same number that
19 the call records are for. If you go one column over, CPN,
20 that's going to be the actual caller that's calling the
21 cell phone.

22 Q So, for example, if we look at, let's say, line
23 number four here, we have got a mobile-to-mobile call?

24 A Yes.

25 Q And that would be where?

1 A [REDACTED] called [REDACTED]

2 Q I think there's one more column over here, SZR. Do
3 you know what that is?

4 A That is the length of time.

5 MR. HILTON: Please answer any questions the
6 defense may have for you.

7 THE COURT: Cross-examination.

8 MS. ROGERS: Thank you, Your Honor.

9 THE COURT: Yes.

10 CROSS-EXAMINATION

11 BY MS. ROGERS:

12 Q Mr. Lancaster, he asked you about the length of time
13 calling. Is that denoted in minutes, seconds?

14 A Seconds.

15 MS. ROGERS: No further questions, Your Honor.

16 THE COURT: Redirect?

17 MR. HILTON: None, Your Honor.

18 THE COURT: Very well. All right. Is this
19 witness free to leave?

20 MR. HILTON: He is.

21 THE COURT: Any objection?

22 MS. ROGERS: No, Your Honor.

23 THE COURT: You're free to go.

24 THE WITNESS: Thank you.

25 THE COURT: Call your next witness.

1 MR. HILTON: The State would call Kalisha Gill.

2 THE CLERK: Please raise your right hand and
3 state your name for the record.

4 THE WITNESS: Kalisha Gill.

5 THE CLERK: And spell your first and last names.

6 THE WITNESS: Kalisha, K-A-L-I-S-H-A, and Gill,
7 G-I-L-L.

8 KALISHA GILL, after being duly sworn, testified
9 as follows:

10 THE CLERK: Thank you.

11 THE COURT: Your witness.

12 MR. HILTON: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY MR. HILTON:

15 Q Ms. Gill, where are you employed?

16 A I work for the Charleston Police Department in the
17 forensic division in our latent fingerprint division.

18 Q All right. How long have you been working there?

19 A It will be nine years this coming January.

20 Q And specifically what is your job title?

21 A I'm a latent fingerprint examiner.

22 Q Okay. And can you just sign up to be a latent print
23 examiner or is there some educational requirements that go
24 along with it?

25 A No, you need certain training.

1 Q And what type of training do you have?

2 A In May of 2000, I graduated from the University of
3 Arizona with a Bachelor's of Science degree. And after
4 that, I enrolled in a course through the Department of
5 Justice dealing with fingerprint pattern recognition and
6 classification of fingerprints.

7 Once I got hired at the police department, they
8 sent me to a basic fingerprint course at the South
9 Carolina Criminal Justice Academy.

10 I've also been to a ridgeology science workshop,
11 identifying palm print symposium, advanced forensic
12 fingerprint identification and testimony course, and a few
13 other courses.

14 I've also become a certified latent print
15 examiner through the International Association for
16 Identification as well as a certified crime scene
17 investigator.

18 Q All right. And over the course of your nine-year
19 career, how many fingerprints would you say you've looked
20 at?

21 A I would estimate 20,000 or more.

22 Q Is that what you do on a daily basis?

23 A It is, yes.

24 Q Have you ever been qualified as an expert witness
25 before?

1 A Yes, I have.

2 Q Is that in latent fingerprint identification?

3 A Yes.

4 Q And about how many times would you say?

5 A I've been qualified as an expert 19 times.

6 MR. HILTON: Your Honor, at this time we would
7 offer Ms. Gill as an expert latent fingerprint examiner.

8 THE COURT: All right. Any voir dire or
9 objection?

10 MS. ROGERS: No, Your Honor.

11 THE COURT: Very well. So qualified. She's
12 qualified as an expert in the field of latent fingerprint
13 identification and examination.

14 MR. HILTON: Thank you.

15 BY MR. HILTON:

16 Q Ms. Gill, what is a fingerprint?

17 A On the tips of your fingers, the palms of your hands,
18 and the soles of your feet you have raised ridges of skin
19 called friction ridges. A known fingerprint is a
20 recording of the friction ridges using either black ink or
21 electronic images or electronic enhancement -- sorry --
22 electronic devices, and a known fingerprint is a visible
23 image.

24 Q All right. And if I touch an item like this rail
25 here, do I necessarily leave a fingerprint?

1 A Not necessarily.

2 Q Okay. If I did leave a fingerprint, is that
3 something that could be lifted and examined?

4 A Yes, that would be called a latent fingerprint, which
5 is -- a latent fingerprint is a chance happening. Latent
6 means something that's hidden or not readily seen by the
7 naked eye. A latent fingerprint can be deposited on
8 certain surfaces and it's an invisible fingerprint.
9 Through the use of chemicals or powders the fingerprint
10 then becomes visible for comparison purposes.

11 Q And what about these fingerprints? Are they all
12 unique?

13 A Yes.

14 Q To every individual?

15 A Every individual as well as every finger on that
16 individual has a unique and permanent fingerprint.

17 Q And does it change over time?

18 A No, not unless you intentionally mutilate your
19 fingerprints for some reason, or scar.

20 Q And just in a regular case, how do you go about
21 comparing a latent lift, a fingerprint that is lifted, how
22 do you compare that to make an identification?

23 A Latent examiners use a methodology called ACE-V,
24 which stands for analysis, comparison, evaluation, and
25 verification.

1 The analysis phase deals with the latent
2 fingerprint. You analyze the latent to determine if it
3 has enough value, sufficient value to be identified.

4 The comparison phase of the ACE-V methodology
5 has three levels of detail, the first level being the most
6 general information and the third level being the most
7 specific.

8 Fingerprints can be classified into three
9 different pattern types. The first level of detail deals
10 with the pattern type. The three levels of pattern types
11 would be loops, arches, or whorls.

12 So in level one, you look at the latent
13 fingerprint and determine the pattern type. This can be
14 done without a magnifying glass in most cases.

15 Once you move on to level two, you need a
16 magnifier as well as pointers. And level two deals with
17 the minutiae or the points within that fingerprint.

18 I start in the latent fingerprint and look for a
19 target group, which is a cluster of points, and then you
20 move to the known fingerprint and look for that same
21 target group in the same relative position.

22 Level two is a continuous process of going back
23 and forth between the latent fingerprint and the known
24 fingerprint, counting ridges, looking for firm points that
25 are agreeable between the latent and the known print.

1 And while you look for level two detail, you
2 also look for level three detail, which I said is the most
3 specific amount of detail in the fingerprint. It includes
4 the shapes and sizes of the ridges, the distance between
5 the ridges, which is called the furrows, the locations of
6 pores on the ridges as well as incipient ridges, which are
7 ridges that are not fully formed, which the first, second,
8 and third level detail all comprise the comparison phase.

9 Once you have enough information that agrees
10 between the latent print and the known print, you can move
11 on to evaluation in the ACE-V methodology, and evaluation
12 is your determination of whether or not those two
13 fingerprints were made by the same finger.

14 Now, the entire ACE process -- analysis,
15 comparison, evaluation -- is given to a second latent
16 examiner and repeated by that examiner, which involves the
17 verification phase.

18 Q So not only are these prints looked at by you, but
19 they're verified by somebody else?

20 A Yes, that's correct.

21 Q Now, are fingerprints kind of like horseshoes,
22 whenever you get close you call it a match and be done
23 with it?

24 A No.

25 Q How specific is it?

1 A I mean, you have to have all three levels of detail.
2 You can't have any disagreement between the two prints
3 that is not explainable..

4 Q And what would be like an explainable disagreement?

5 A Explainable disagreements would be things like
6 distortion. Fingerprints are elastic, your skin is
7 elastic, and no two fingerprints are ever going to be the
8 same. There's always going to be pressure distortion,
9 there's distortion based on the type of surfaces, so all
10 that has to come into account.

11 Q Did you receive a set of latent prints from Detective
12 Earl Asbell regarding what was their case number 07009049?

13 A Yes, sir, I did.

14 Q When you first received those latent prints, what did
15 you end up doing?

16 A I would have to look at my notes.

17 Q Well, let me ask you this question. Do you remember
18 if you submitted these prints through AFIS?

19 A I believe I did.

20 Q Can you verify that in your notes?

21 A I can, yes.

22 The first time these prints were submitted, they
23 were run through AFIS, yes.

24 Q And what is AFIS, just briefly?

25 A AFIS stands for the Automated Fingerprint

1 Identification System and it is a database of
2 fingerprints.

3 Q And when you submitted these prints to AFIS, did you
4 get what is called a hit?

5 A Yes, I did.

6 Q Who did that hit come back to?

7 A It came back to the fingerprint card bearing the name
8 Trevee Gethers.

9 Q All right. And now when you get a hit through AFIS,
10 is that what you're calling a conclusive match?

11 A No.

12 Q What do you do once you receive a hit through AFIS?

13 A AFIS is a computer, so we cannot call a match based
14 on the computer. It is a tool that we use to narrow the
15 database.

16 If we get a hit through AFIS, we have to
17 manually compare the entire case with those known
18 fingerprints.

19 Q And is that what you ended up doing in this
20 particular case?

21 A Yes, it is.

22 Q Ms. Gill, let me show you what's been marked, or
23 actually entered into evidence, as State's Exhibit 20 and
24 ask if you recognize that.

25 A Yes, I do. This is a latent fingerprint in this

1 case.

2 Q Also let me show you what's been entered into
3 evidence as State's Exhibit 40 and ask if you recognize
4 this.

5 A Yes, I do.

6 Q And what is that?

7 A This is a known set of fingerprints which we call
8 major case prints. It includes all ten fingers as well as
9 the left palm and the right palm. And in this case, the
10 known prints are for a Mr. Trevee Gethers.

11 Q Were you able to make some identifications in this
12 case based on your comparison of the known prints to the
13 unknown?

14 A Yes, sir, I was.

15 Q Let me show you what has also been entered into
16 evidence as State's Exhibit 26.

17 And State's Exhibit 20, the latent print card
18 that I handed you a moment ago, which latent print card is
19 that?

20 A This is latent lift number ten.

21 Q Okay. And did you make an identification on that?

22 A Yes, I did. It was identified as the left palm of
23 the card bearing the name Trevee Gethers.

24 Q All right. And on that diagram that's in front of
25 you, which I think is entered into evidence as State's

1 Exhibit 26, if you would just find the associated latent
2 lift on there where it's labeled and then indicate whose
3 prints those belong to. And take a minute to look over it
4 and get oriented, if need be.

5 A This is latent lift number ten which was taken from
6 the passenger rear door to the center of the door. I
7 think this is number ten.

8 Q Yes, this is the front of the vehicle up here, so
9 that would be card number --

10 A It's card ten.

11 Q So if you could just indicate who that belonged to.

12 A That was Trevee Gethers.

13 Q And will you actually write that on State's Exhibit
14 26.

15 A (Witness complies.)

16 Q Let me show you what's been entered into evidence as
17 State's Exhibit 22 and ask if you recognize that.

18 A Yes, I do.

19 Q And is that also a latent lift card?

20 A Yes.

21 Q And were you able to effect an identification on that
22 card?

23 A I was. This was identified as the left index finger
24 of the card bearing the name Trevee Gethers.

25 Q And if you will note that on State's Exhibit 26.

1 A (Witness complies.)

2 Q And I just handed you State's Exhibit 16. Is that
3 also a latent lift card?

4 A Yes. This is latent lift number three.

5 Q And did you receive or did you make an identification
6 on that?

7 A I did. This was also identified as the left index
8 finger of the card bearing the name Trevee Gethers.

9 Q If you'll please indicate that on the diagram.

10 A (Witness complies.)

11 Q I show you State's Exhibit 18 and ask you the same
12 questions.

13 A This is latent lift number five which was identified
14 as the left index, the left middle fingers as well as the
15 left palm of the card bearing the name Trevee Gethers.

16 Mark it?

17 Q Yes, please.

18 A (Witness complies.)

19 You just want me to mark the name, not
20 necessarily the finger?

21 Q If you don't mind marking the finger. Do you need
22 the cards back?

23 A Yes.

24 Q Now I hand you State's Exhibit 17 and ask you same
25 questions.

1 A (Witness marks on diagram.) This is latent lift
2 number four, which was identified as the left thumb of the
3 card bearing the name Trevee Gethers.

4 Q And State's Exhibit 19?

5 A (Witness marks on diagram.) State's Exhibit 19 is
6 latent lift number 11, which was identified as also the
7 left thumb of the card bearing the name Trevee Gethers.

8 Q Did you also receive some known prints from a guy
9 named Michael Ritchey to be compared in this case?

10 A Yes, I did.

11 Q Let me show you what's been marked as State's Exhibit
12 12 and ask if you recognize this as a latent lift card.

13 A This is latent lift number 19 or -- I can't read
14 those labels. It's either 19 or 11.

15 Q All right.

16 A I'm not really sure. I could look through my report.

17 Q If you would verify it, it would be helpful.

18 A Okay. This is latent lift number 19, and it was
19 identified as the left middle and left ring fingers of the
20 card bearing the name Ritchey Amos, Jr.

21 Q Okay. Was there initial in that name as well?

22 A Ritchey M.

23 Q Okay.

24 A Do you want me to write this on there, too?

25 Q Please.

1 A (Witness complies.)

2 Q Let me show you State's Exhibit 9 and ask you the
3 same questions.

4 A (Witness marks on diagram.) This is latent lift
5 number 22, and it was identified as the right palm of the
6 card bearing the name Ritchey M Amos, Jr.

7 Q This is State's Exhibit 8.

8 A (Witness marks on diagram.) This is latent lift
9 number 21, and it was also identified as the left palm of
10 the card bearing the name Ritchey Amos, Jr.

11 Q And, Ms. Gill, did you create a report in reference
12 to these fingerprints?

13 A Yes, sir, I did.

14 Q All right. Will you look on that report and read the
15 name of the individual, full name of the individual that
16 you're referring to as Mr. Amos?

17 A I have written Ritchey Michael Amos, Jr.

18 Q Okay. Let me show you State's Exhibit 6 and first
19 ask you, did you receive any known prints from a Robert
20 Earl Robinson?

21 A Yes, we did.

22 Q Were you able to effect any identification on those
23 prints?

24 A Yes, sir.

25 Q Let me show you State's Exhibit 6.

1 A This was latent lift number 23, and it was identified
2 as the right middle and the right ring fingers of the card
3 bearing the name Robert Robert -- Robert Robinson.

4 Q What's the name again?

5 A I'm sorry, Robert Robinson.

6 Q All right. State's Exhibit 11.

7 A (Witness writes on diagram.) State's Exhibit 11 was
8 identified to two different people. This is latent lift
9 number 16. It was identified as the left middle finger of
10 the card bearing the name Robert Robinson as well as the
11 left palm of the card bearing the name Ritchey M. Amos,
12 Jr.

13 Q And finally State's Exhibit 14.

14 A This is latent lift number 12, and it was identified
15 as the left middle and left ring fingers of the card
16 bearing the name Robert Robinson.

17 Q If you would indicate that on the diagram.

18 A (Witness complies.)

19 Q On any of the latent lifts that you received from
20 Detective Asbell, did you have any that lacked the quality
21 to effect an identification?

22 A Yes, sir, there were some.

23 Q And what does that mean exactly?

24 A If you say it lacks the quality and quantity to
25 effect identification, that means it does not have

1 sufficient detail to be identified to anybody.

2 Q And that's you as an examiner or any other examiner?

3 A That's correct.

4 Q Did you find -- excuse me -- did you receive some
5 prints from Detective Asbell where you didn't make an
6 identification?

7 A That's correct, yes.

8 Q How many prints were those? Or how many prints were
9 there that you didn't make an identification?

10 A I would have to count in my report.

11 There were four latents that possessed the
12 quality but did not -- were not identified.

13 Q Did you receive some other known prints from
14 Detective Asbell or anyone at the sheriff's office to try
15 to make a comparison to those prints?

16 A Yes, sir, I did.

17 Q Do you remember whose or do you have any indication
18 of whose prints you received?

19 A I compared Mr. Trevee Gethers, Quintavious Dominique
20 Davis, Robert Robinson, Veronica Kitt, and Ritchey Michael
21 Amos, Jr.

22 Q Is there anybody else?

23 A I don't believe so.

24 Q Do you have a copy of your report in front of you?

25 A Yes, I do.

1 Q Is the name Donsurvi Chisholm on there?

2 A Yes, I'm sorry.

3 Q So you did receive his prints?

4 A Yes.

5 Q And we know that you made an identification on Trevee
6 Gethers, Michael Ritchey -- or you have him listed as Amos
7 Ritchey?

8 A Yes.

9 Q And the victim Robert Robinson.

10 Of those other individuals, Veronica Kitt,
11 Donsurvi Chisholm, and Quintavious Davis, did any of the
12 prints on the vehicle match those individuals?

13 A No, nothing else matched.

14 Q Did you ever receive any prints from Jestine
15 Robinson, any known prints from Jestine Robinson?

16 A No, sir.

17 Q Okay. How about Marcus Robinson, or Marcus Brothers?

18 A No.

19 Q Have we labeled all of the lift cards from the
20 diagram?

21 A Yes.

22 MR. HILTON: Please answer any questions
23 Ms. Rogers may have for you.

24 THE COURT: Cross-examination.

25 MS. ROGERS: Thank you, Your Honor.

1 THE COURT: Uh-huh.

2 CROSS-EXAMINATION

3 BY MS. ROGERS:

4 Q Ms. Gill, how long can fingerprints stay on an item?

5 A It depends on the surroundings with that fingerprint.
6 It depends on the surface, the weather, things like that.

7 Q So a beer bottle, for instance.

8 A There is no way to really determine. It just depends
9 on how much that beer bottle was touched or whether it's
10 left outside in the elements or whether it's in an
11 enclosed room.

12 Fingerprints are very fragile. They're made up
13 of 99 percent water. So extreme heat can dry up a
14 fingerprint, moisture can ruin a fingerprint. It all
15 depends on the circumstances surrounding where that
16 fingerprint is located.

17 Q Is there any way to tell how long a fingerprint has
18 been somewhere?

19 A No, that can't be determined, no.

20 MS. ROGERS: Permission to approach, Your Honor.

21 THE COURT: Yes.

22 BY MS. ROGERS:

23 Q Ms. Gill, the Solicitor has asked you to identify
24 some places on this card where you could identify the
25 prints. And what I'm going to ask you to do right now is

1 if you'll refer to your report with me.

2 As marked, I believe it was latent lift number
3 -- we'll start with number two, "The passenger front
4 outside door handle lacks the quality to identify."

5 A Right.

6 Q If you could just mark on there where that would be
7 and put -- let me see if I can get you a different color
8 pen.

9 MS. ROGERS: Do we have a red pen, Your Honor?

10 THE COURT: We have two right there.

11 BY MS. ROGERS:

12 Q If you'll just take that Sharpie right there.

13 A I'm only -- when I marked these, I was only going off
14 of what the cards -- where it said the cards were. But I
15 don't see where the passenger front outside door handle
16 would be on here. So I don't know exactly where the lift
17 came from because I didn't lift it.

18 Q Okay. Can we just put it in this area toward the
19 passenger front?

20 A Do you want me to just write number two, latent lift
21 number two?

22 Q And an X, yes, ma'am.

23 A (Witness complies.)

24 Q And then I believe latent lift number nine was the
25 front seat of the passenger door, which would be inside of

1 the vehicle, was unable to be identified. So if you could
2 just mark an X on number nine.

3 A (Witness complies.)

4 Q Lift number 28 and 30 were the rear of the vehicle,
5 the rear door handle. So if you could just put back in
6 this area number 28 and 30 with an X.

7 A (Witness complies.)

8 Q And then latent lift number 33 was passenger's inside
9 window along the frame of the door. So if you could just
10 put kind of right in there number 33 and an X.

11 A (Witness complies.)

12 Q And finally, number 34 was the passenger's inside
13 door handle that was unable to be identified, so you can
14 put that in that area right there.

15 A (Witness complies.)

16 Q I've also noticed that on some of these, it states
17 that they possessed the quality and quantity to effect
18 identification as opposed to lacking it?

19 A That's right.

20 Q Were any of those, aside from the people that Mr.
21 Hilton has identified, were any of those ever able to be
22 matched or identified in any way?

23 A No, they were not.

24 MS. ROGERS: No further questions, Your Honor.

25 THE COURT: Redirect.

1 REDIRECT EXAMINATION

2 BY MR. HILTON:

3 Q Do you know if those prints were ran through AFIS?

4 A I don't know which ones. I would have to look at the
5 specific card again, the latent lift.6 Q Of the -- are you talking about the ones that
7 possessed the quantity and quality to be identified?

8 A That's what you're asking me, right?

9 Q Yes. Were those ran through AFIS?

10 A I don't know. I would have to look at the card. I
11 mark the latent lift as being AFIS quality and we don't
12 reflect it on our reports, so I'd have to actually look at
13 the latent lift.14 Q Do you remember if you ran any other prints through
15 AFIS in this case?16 A I don't know which ones were run and which ones
17 weren't..18 Q All right. Ms. Rogers was asking you about how long
19 prints can stay somewhere and I think you responded that
20 prints are very fragile. Is the outside of a vehicle, is
21 that conducive to long-lasting fingerprints?22 A Again, it depends on the weather surrounding the
23 vehicle. I would think that inside the vehicle would be a
24 safer area than outside because the outside is exposed to
25 the weather and elements.

1 Q Well, is the weather a factor that would eliminate a
2 print?

3 A Yes, it can be.

4 Q If somebody was to wash the outside of a car, would
5 that be destructive to fingerprints?

6 A Most likely, yes.

7 MR. HILTON: Just a moment, Your Honor.

8 THE COURT: Very well.

9 BY MR. HILTON:

10 Q Ms. Gill, referring to your report, I think you said
11 that there were four prints that were submitted to you but
12 not identified; is that correct?

13 A Yes, sir, that's correct.

14 Q And I asked if you had submitted those to AFIS and
15 you said you wouldn't know without looking at the card?

16 A Right.

17 Q Which ones possess the quality and quantity to be
18 identified but were unidentified?

19 A Latent lift number 14, latent lift number 25, 26 and
20 27.

21 (WHEREUPON, State's Exhibits Nos. 44-47 were
22 marked for identification only.)

23 BY MR. HILTON:

24 Q Let me show you what's been marked for identification
25 as State's Exhibits 44, 45, 46, and 47, and just ask you

1 if you recognize those.

2 A Yes, I do.

3 Q Are those the print cards we're talking about?

4 A Yes, sir, these are latent lifts number 14, 25, 26
5 and 27.

6 Q Are you able to tell from those cards if you
7 submitted them to AFIS or not?

8 A Yes. Two out of the four were submitted to AFIS.
9 Latent lift number 14 and latent lift number 26 were both
10 palm prints that were run through AFIS.

11 Q And still were unable to get an identification?

12 A That's correct.

13 MR. HILTON: Thank you. Please answer any other
14 questions -- excuse me just a minute.

15 Please answer any questions Ms. Rogers may have.

16 THE COURT: All right. Cross-examination,
17 recross.

18 MS. ROGERS: Thank you, Your Honor.

19 THE COURT: Uh-huh.

20 RE CROSS-EXAMINATION

21 BY MS. ROGERS:

22 Q Latent lift number 19, the edge of the driver's door
23 next to the door handle, and latent lift number 21, on the
24 rear driver window closest to the door frame, both say
25 they possess the quality and quantity to effect

1 identification. Were those ever identified as being
2 anyone's prints?

3 A On my report, the last report on this case, latent
4 lift number 19 and latent lift number 21 were both
5 identified to Mr. Ritchey Michael Amos, Jr.

6 Q Okay. And would it be reasonable -- we'll use the
7 car as the environment -- for prints to last a day or two,
8 is that a reasonable length of time, without the car being
9 washed or weather being a factor?

10 A Most likely, yes.

11 MS. ROGERS: No further questions, Your Honor.

12 THE COURT: Very well. Is this witness free to
13 leave?

14 MR. HILTON: She is, Your Honor.

15 THE COURT: All right. Any objection?

16 MS. ROGERS: No, Your Honor.

17 THE COURT: You are free to go.

18 Ladies and gentlemen, that will conclude the
19 work we're going to do today.

20 As you go home this evening, you do realize --
21 thank you for that consideration -- you can know that the
22 curiosity is going to be heightened. Remember, you must
23 not discuss this matter or allow anyone to discuss it with
24 you. But remember, put it on the judge; don't let anybody
25 get upset with you because you must not discuss this

1 matter or allow anyone to discuss it with you.

2 Have we got a lingerie shower tonight? We're
3 all right?

4 THE JUROR: Yes, ma'am.

5 THE COURT: Okay. We're good to go. Wonderful.
6 Wonderful.

7 Nobody else got anything planned tonight that's
8 going to take all your time up? Nobody's working? Good.
9 Because we need you rested for tomorrow morning.

10 Ladies and gentlemen, just as we said last
11 night, I don't know if there's going to be any publicity,
12 but please be mindful, assume there will be so you'll be
13 on the lookout so that you do not listen to anything, read
14 anything about this matter, that's radio, television,
15 newspaper, internet. Don't blog, don't tweet, don't
16 Facebook, don't research, don't do anything to try to find
17 out any information regarding this matter or anyone that
18 has anything to do with it. You must receive all of the
19 information from which you will make up your minds here in
20 court while court is in session.

21 Please remember, leave your notes in your seats.
22 We will secure them over the evening and replace them for
23 you in the morning.

24 And I so look forward to seeing you in the
25 morning at 9:30.

1 Remember, have a bowl of Wheaties. What did you
2 all get this morning? You all had biscuits? It should be
3 like a doughnut or danish or something fattening.

4 Have a wonderful evening.

5 (The jury left open court at approximately 4:51
6 p.m.)

7 THE COURT: All right. Anything before we take
8 our break?

9 MR. HILTON: Just a reminder, Your Honor.

10 I was going to say to do it this afternoon, but
11 we can do it in the morning with no problems for me, but I
12 would like to publish the stipulations to the jury first
13 thing in the morning if that's okay.

14 THE COURT: That would be great. It's a little
15 late to spring a whole new concept on them. Maybe it
16 would be better to do it in the morning. If you'll remind
17 me, we'll certainly do that first thing. I'll be here
18 just a few minutes before 9:30 in the morning in case
19 there's any issues that we need to raise and you all have
20 a good night.

21 MR. HILTON: As far as scheduling goes, I have
22 what I intend at this point to be approximately five more
23 witnesses; there's some SLED people, one more detective.

24 THE COURT: Good.

25 MR. HILTON: And so I think that will take us

1 through lunchtime tomorrow.

2 THE COURT: Clearly. Be ready to go, then,
3 tomorrow afternoon, okay?

4 MS. ROGERS: Yes, Your Honor.

5 THE COURT: I mean, I know we've got motions,
6 but just for your scheduling purposes in an abundance of
7 caution.

8 MS. ROGERS: Yes, Your Honor.

9 THE COURT: All right. You all have a good
10 evening. See you in the morning at 9:30.

11 (The proceedings were concluded for the day and
12 reconvened on November 18, 2010.)

13 VOLUME 2 OF 3
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STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

COURT OF GENERAL SESSIONS
2007-GS-18-1755

STATE OF SOUTH CAROLINA)

vs.)

TREVEE GETHERS)

DEFENDANT)

TRANSCRIPT OF RECORD

VOLUME 3

November 18-19, 2010
St. George, South Carolina

B E F O R E:

THE HONORABLE DIANE SCHAFER GOODSTEIN, JUDGE;
and a jury.

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

RUSSELL D. HILTON, ASSISTANT SOLICITOR
HARRISON BELL, JR., ASSISTANT SOLICITOR
Attorneys for the StateSARA JAYNE ROGERS, ASSISTANT PUBLIC DEFENDER
Attorney for the DefendantBONNIE H. KELLY
Official Court ReporterTRANSCRIBED BY:
CAROL M. THUEME, RPR

1 THE COURT: Please be seated. And good morning.
2 Anything before we bring the jury out from the
3 State?

4 MR. HILTON: A couple things, Your Honor.

5 THE COURT: All right.

6 MR. HILTON: First of all, I want to address
7 State's Exhibit 40. This is the fingerprint card that was
8 introduced through Mr. Javon Wright yesterday. It was
9 admitted into evidence; however, we did make a copy of it.
10 And I think we had a side bar and we discussed that.

11 I would propose just to mark the actual card as
12 a Court's exhibit, substituting the copy as the real
13 Exhibit 40.

14 THE COURT: And for the record, the reason for
15 that?

16 MR. HILTON: The reason for that is on the
17 actual card, it listed his charge that he was booked in on
18 as distribution of Schedule 1, 2, or 3 controlled
19 substance.

20 THE COURT: Okay. And that was the objection
21 that the defense would have had had Mr. Hilton not
22 preempted, if you will, that objection. So as I
23 understand it, that redaction met with your approval?

24 MS. ROGERS: Yes, Your Honor. And he was even
25 kind enough to white it out instead of marking through it.

1 THE COURT: Yes. And then the copied one, once
2 it's copied then they cannot see it. They can't read
3 anything through it or anything.

4 MS. ROGERS: Yes, Your Honor.

5 (WHEREUPON, The Court's Exhibit No. 7 was marked
6 for purposes of the record.)

7 THE COURT: Very well. All right. And there
8 was an objection that I wanted you to put on the record
9 that we'd done at the side bar. You've got another one
10 and then don't -- we'll have to recreate that, and I don't
11 remember what it was. Yes.

12 And you want me to read the stipulations this
13 morning, I know that.

14 MR. HILTON: I do.

15 THE COURT: All right. And what else you got?

16 MR. HILTON: That's all from the State.

17 THE COURT: There's something else. It will
18 come to me.

19 Remember, we were at the side bar and I made a
20 determination and I said remember to put it on the record.
21 It will come to you. When it comes to you today, just
22 remember to put that on, okay?

23 MS. ROGERS: Okay, Your Honor.

24 THE COURT: It will come to you. It should come
25 to you.

1 MR. HILTON: I think it dealt with Veronica
2 Kitt's statement and -- not the statement that we
3 introduced, but State's Exhibit 35 dealing with Mr. Dante
4 Hubbard.

5 THE COURT: Yes.

6 MR. HILTON: The objection was in relation --

7 THE COURT: Yes, but I think you made that one
8 on the record. But suffice it to say that you did object
9 to that -- to, A, the statement coming in, and, B, that
10 portion about Mr. Hubbard coming in specifically, and I
11 knew, though, that the objection was defense. I think I
12 said that, but that was your basis.

13 MS. ROGERS: Yes, Your Honor.

14 THE COURT: Very well. Thank you.

15 MR. HILTON: And, Your Honor, just to be clear,
16 State's Exhibit 35, the letter to Dante Hubbard, is not
17 into evidence and is not going to be offered at least at
18 this time.

19 THE COURT: At least at this time.

20 All right. Anything further?

21 You have something else, too, don't you?

22 MS. ROGERS: It will come to me.

23 (A discussion was held off the record.)

24 THE COURT: All right. If there is nothing
25 further from anyone, let's have the jury.

1 (The jury came into open court at approximately
2 10:02 a.m.)

3 THE COURT: Good morning, ladies and gentlemen.
4 At this time we will continue with the State's case.

5 Mr. Hilton, please call your next witness.

6 MR. HILTON: The State would call Steve Morelli.

7 Your Honor, before we call that witness, we
8 would ask those stipulations be published.

9 THE COURT: That's right. Very, very well.

10 Ladies and gentlemen, I'm going to read to you
11 something called a stipulation. I need to tell you what a
12 stipulation is first.

13 A stipulation is an agreement of Counsel and
14 it's an agreement of Counsel that you should simply take
15 as fact certain information. Don't struggle with it,
16 don't try to figure out whether or not it's so or not so.
17 These lawyers have agreed on behalf of their clients that
18 you should accept the information in the stipulation as
19 true, as fact. And here's the stipulation.

20 The State and the Defense agree to the
21 following: The chain of custody regarding the collection
22 of gunshot residue is complete from the time of collection
23 from the victim to the time of analysis.

24 Secondly, the chain of custody regarding the
25 collection of the Buccal swabs from the defendant, Trevee

1 Gethers, is complete from the time the swabs were
2 collected from the defendant until the time of analysis.

3 Number three, the chain of custody regarding the
4 Bluetooth headpiece marked as State's Exhibit 27 is
5 complete from the time of collection from the scene until
6 the time of analysis.

7 Number four, the State has entered into an
8 agreement whereby Veronica Kitt's charge of murder will
9 remain under the jurisdiction of the Family Court provided
10 Ms. Kitt testifies truthfully and cooperates in the
11 prosecution of this defendant, Trevee Gethers.

12 Now, what is a chain of custody? A chain of
13 custody means that from the moment that an item is
14 collected it is -- you must be able to know where it was,
15 and if it moved, say, from Point A to Point B, who moved
16 that piece of evidence from Point A to Point B and how was
17 that movement documented and how do folks know that. That
18 is just a part of the law. It's called the chain of
19 custody. And that's what the stipulation deals with, the
20 chain of custody from the time of the collection of the
21 evidence until the time of analysis.

22 And you've heard some testimony about analysis,
23 where that was done and by who. That's what the
24 stipulation does. It doesn't -- there is no stipulation
25 with regard to any results of analysis but only with

1 regards to the chain of custody; that you need not worry
2 about that; in other words, the items that were picked up
3 at the scene that are mentioned were the items that made
4 it to be analyzed.

5 Now, just to review, the gunshot residue, the
6 Buccal swabs from the defendant, the Bluetooth headpiece,
7 and then of course the stipulation with regards to
8 Veronica Kitt.

9 Any additions or exceptions from the State?

10 MR. HILTON: Nothing from the State.

11 THE COURT: From the Defense?

12 MS. ROGERS: No, Your Honor.

13 THE COURT: Very well.

14 Now, ladies and gentlemen, at this time -- thank
15 you for that reminder, Mr. Hilton -- at this time we will
16 continue with the State's case.

17 MR. HILTON: The State would now call Detective
18 Steve Morelli.

19 THE COURT: Yes.

20 THE CLERK: Please raise your right hand and
21 state your name for the record.

22 THE WITNESS: Steve Morelli.

23 THE CLERK: Spell your last name, please.

24 THE WITNESS: M-O-R-E-L-L-I.

25 STEVE MORELLI, after being duly sworn, testified

1 as follows:

2 THE CLERK: Thank you. You may have a seat.

3 DIRECT EXAMINATION

4 BY MR. HILTON:

5 Q I guess it's Corporal Morelli; is that correct?

6 A Yes, sir.

7 Q All right. And I call you detective because when
8 were you a detective?

9 A Between the years of 2007 and 2009.

10 Q Okay. So back in September of 2007, were you working
11 in the detective division of the sheriff's office?

12 A Yes, sir, I was.

13 Q And how long have you worked for the sheriff's
14 office?

15 A Eight years.

16 Q Did you participate in the murder investigation of
17 the victim in this case, Mr. Robert Earl Robinson?

18 A Yes, I did.

19 Q And what assignment did you have in that
20 investigation?

21 A I was assigned to assist the lead investigator,
22 Detective Garrison.

23 Q Mr. Garrison sitting at the table?

24 A Yes, sir.

25 Q And during the course of that investigation, are you

1 pretty much side by side with him?

2 A Yes, sir, I was.

3 Q Let me ask you a couple of initial questions. Did
4 you respond to the scene that night?

5 A Yes, sir, I did.

6 Q Let me show you what's been marked as State's Exhibit
7 2 and ask you to take a look at this picture. If you
8 notice, there's a cut or a tear in the victim's clothing.
9 Do you know where that came from?

10 A I believe that was from the medical personnel that
11 had arrived on the scene prior to my arrival.

12 Q Okay. And is that common practice, for them to
13 remove or cut the clothing of individuals out at the
14 scene?

15 A Yes, sir, it is.

16 Q As part of your participation in the investigation of
17 this case, did you have the opportunity to review some
18 phone records that were subpoenaed?

19 A Yes, sir, I did.

20 Q Did that include the phone record of the defendant,
21 Mr. Trevee Gethers?

22 A Yes, sir, it did.

23 Q Did it include the phone record of Maggie Reid?

24 A Yes, sir, it did.

25 Q Now, we have heard some testimony from Ms. Kitt and

1 some others about some phone calls going back and forth
2 between individuals and I want to ask you some about those
3 phone calls.

4 I'm going to show you what's been entered into
5 evidence as state Exhibit 42 and 43 and just ask if those
6 are the phone records that you subpoenaed?

7 A Yes, sir.

8 Q Are those the phone records, or at least a copy of
9 them, that you reviewed during the course of this
10 investigation?

11 A Yes, sir, it is.

12 Q I want to begin by looking at State's Exhibit 43, or
13 your copy of it, and ask you about what some of the
14 records indicate with regard to the victim's telephone.

15 A Okay.

16 Q Do you see a call around 4:33 p.m. on those records?

17 A Yes, sir, I do.

18 Q And who -- whose telephone number is that coming
19 from?

20 A That came from Maggie Reid's telephone to the
21 victim's phone.

22 Q Do you see some calls around 6:55 p.m.?

23 Actually, I'm sorry. I'm asking you now about
24 the defendant's records. Let me skip that for a second.

25 A Okay.

1 Q Do you see a call around 8:57 p.m.?

2 A Yes, sir, I do.

3 Q And what call is that?

4 A That is from Maggie Reid's phone to the victim's
5 phone.

6 Q What about at 9:24 p.m.?

7 A The victim called his son, Marcus Brothers.

8 Q What about from 9:42 to about 9:47?

9 A The victim and Maggie Reid's phone go back and forth.
10 You stated at 9:47?

11 Q Yes..

12 A Maggie Reid's phone called the victim's phone.

13 Q How about 9:50?

14 A At 9:50, the victim's phone dials Maggie Reid's phone
15 and then Maggie Reid's phone dialed the victim's phone.

16 Q How about at 10:02 p.m.?

17 A At 10:02 p.m., the victim called Maggie Reid's phone.

18 Q 10:04?

19 A At 10:04, the victim contacted his son, Marcus
20 Brothers.

21 Q 10:34 p.m.?

22 A Maggie Reid's phone dialed the victim's phone.

23 Q 10:41 p.m.?

24 A The victim called Maggie Reid's phone back.

25 Q 10:49?

- 1 A Maggie Reid's phone dialed the victim's phone.
- 2 Q 10:51?
- 3 A Maggie Reid's phone dialed the victim's phone.
- 4 Q 10:57?
- 5 A Maggie Reid's phone dialed the victim's phone.
- 6 Q 10:51?
- 7 A Maggie Reid's phone dialed the victim's phone.
- 8 Q 10:57?
- 9 A Maggie Reid's phone dialed the victim's phone.
- 10 Q 10:58?
- 11 A Maggie Reid's phone dialed the victim's phone.
- 12 Q Now, what time did you all receive the 911 calls?
- 13 A At 10:57 p.m.
- 14 Q Do we know about what time the time of death was?
- 15 A Not an exact time, but with all the 911 calls that
- 16 came in during that time and the first officer arrived on
- 17 the scene, it was within, I believe, three minutes, from
- 18 10:57 to -- I believe the first officer arrived on the
- 19 scene at 11 o'clock p.m.
- 20 Q The 911 calls were what time did you say?
- 21 A 10:57.
- 22 Q So presumably the time of death or at least the time
- 23 of the shooting would have been shortly before that?
- 24 A Between 10:57 and 11 o'clock, yes, sir.
- 25 Q Now, let me ask you about a call at 11:40 p.m.

1 Do you see -- actually, we're shifting over now
2 to State's Exhibit 42, the defendant's records.

3 A Yes, sir.

4 Q Did you review those records in the course of your
5 investigation as well?

6 A Yes, sir, I did.

7 Q Okay. Let's just back up to the beginning and look
8 about the 4:30 range, specifically 4:34 p.m.?

9 A September 17th?

10 Q And all these calls that I'm referring to are on
11 September 17th, 2007.

12 A Okay.

13 Q Is that the calls that you were referring to when you
14 read your responses?

15 A Yes, sir.

16 Q I show a 4:34 on the 17th, 4:34 p.m.?

17 A Yes, sir.

18 Q Is there a call indicated on the defendant's phone
19 records?

20 A Yes, sir, there is.

21 Q And who is that call coming from?

22 A From Maggie Reid's phone to the defendant's phone.

23 Q How about at 4:40?

24 A From Maggie Reid's phone to the defendant's phone.

25 Q How about 5:11, 5:12, in that time range?

1 A Maggie Reid's phone dialed the defendant's phone, or
2 called the defendant's phone.

3 Q Is that one time or several times, or what?

4 A That's three times between 5:11 and 5:12.

5 Q How about 6:55?

6 A The defendant's phone called Maggie Reid's phone.

7 Q 6:59?

8 A The defendant's phone called Maggie Reid's phone.

9 Q 8:47?

10 A Maggie Reid's phone called the defendant's phone.

11 Q Was that one time or more than once?

12 A That was three times between -- you said 8:57 or
13 8:47?

14 Q 8:47.

15 A 8:47, 8:48, and 8:55, there was three phone calls
16 from Maggie Reid's phone to the defendant's phone.

17 Q 9:17?

18 A Maggie Reid's phone called the defendant's phone.

19 Q You said the 911 calls started coming at 10:57?

20 A Yes, sir.

21 Q What call is at 10:56?

22 A 10:56, Maggie Reid's phone calls the defendant's
23 phone.

24 Q What time is the next call between any one of these
25 individuals, you know, between themselves?

1 A Which individuals?

2 Q Well --

3 A Maggie Reid's phone and the defendant's phone?

4 Q Yes.

5 A The next phone call would be from the defendant's
6 phone to Maggie Reid's phone at 11:40 p.m.

7 Q Are there any other calls to the victim from Maggie
8 Reid's phone?

9 A After the 10:58?

10 Q After the last call, which I think you indicated was
11 10:58.

12 A No, sir, Maggie Reid's phone never called the
13 defendant's phone again.

14 Q You said the defendant's phone.

15 A I mean the victim's phone, excuse me.

16 Q Detective Morelli, I just want to clear up the time
17 of death a little bit.

18 A Uh-huh.

19 Q You said the 911 calls came in at 10:57, correct?

20 A Yes, sir.

21 Q So the time of the shooting would have been when in
22 relation to that?

23 A If the 911 -- the 911 calls were reporting a
24 shooting, and I believe the individual that called 911 was
25 Mr. Ritchey, who actually found the deceased, the victim.

1 Q So it would have been before 10:57 or after 10:57?

2 A It would have been right at 10:57 when he was dialing
3 911.

4 Q But the time of the shooting would have been when in
5 relation to 10:57?

6 A Right at that time when they called 911.

7 Q It wouldn't have been after it, would it?

8 A No, sir, it would not.

9 MR. HILTON: Thank you. Please answer any
10 questions Ms. Rogers may have for you.

11 THE WITNESS: Yes, sir.

12 THE COURT: Cross-examination.

13 MS. ROGERS: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MS. ROGERS:

16 Q Corporal Morelli, do you have the victim's phone
17 records in front of you also?

18 A Yes, sir. I mean yes, ma'am, excuse me.

19 Q It's okay.

20 Can you tell me if there are any calls from the
21 victim to Maggie Reid's cell phone?

22 A Yes, ma'am, there is.

23 Q Okay. And were those calls solely made on 9-17 or
24 are there any on 9-16, 9-18?

25 A There are no phone calls from the victim's phone to

1 Maggie Reid's phone on 9-18.

2 Q Okay. What about 9-16?

3 A On 9-16, I'd have to look.

4 No, ma'am, there's no phone calls to Maggie
5 Reid's phone from the victim's phone on 9-16.

6 Q And you stated that you were the assistant lead
7 investigator with Detective Garrison?

8 A Yes, ma'am.

9 Q And you were at the scene that night?

10 A Yes, ma'am.

11 MS. ROGERS: May I approach, Your Honor?

12 THE COURT: You may.

13 BY MS. ROGERS:

14 Q Detective Morelli, can you tell me if that looks
15 familiar to you?

16 A That looks like a Bluetooth headset.

17 Q And that was found at the scene that night?

18 A To my knowledge it was.

19 Q Can you tell me if you notice anything unusual in it?
20 Can you see blood or anything that would resemble blood on
21 any of those pieces?

22 A No, ma'am, not in this photograph.

23 Q And were you also present when the statement of
24 Veronica Kitt was taken?

25 A Yes, ma'am.

1 Q Did you all promise her anything in exchange for her
2 statement?

3 A No, ma'am, I did not.

4 Q Did you imply that she could go home if she made a
5 statement?

6 A No, ma'am, I did not.

7 Q Are you aware that she was released within an hour of
8 making the statement to you and Detective Garrison?

9 A I believe she was released at some point, but I'm not
10 sure of the exact time.

11 Q And was it you or Detective Garrison that actually
12 copied down her statement?

13 A I believe the actual writing of the statement was
14 mine.

15 Q And you were able to understand everything she said
16 perfectly?

17 A Yes, ma'am.

18 MS. ROGERS: May I have a moment, Your Honor?

19 THE COURT: Yes.

20 MS. ROGERS: We have no further questions of
21 this witness, Your Honor.

22 THE COURT: Very well.

23 Any redirect?

24 MR. HILTON: Just briefly.

25 REDIRECT EXAMINATION

1 BY MR. HILTON:

2 Q You were talking about Maggie Reid's phone. That's
3 actually the phone that Veronica Kitt was using; is that
4 correct?

5 A Yes, sir, it was.

6 MR. HILTON: No further questions, Your Honor.

7 THE COURT: All right. Recross?

8 MS. ROGERS: No, Your Honor.

9 THE COURT: Very well. You may come down.
10 Call your next witness.

11 MR. HILTON: Thank you, Your Honor. The State
12 would call Agent Dan DeFreese.

13 THE CLERK: Please raise your right hand and
14 state your name for the record.

15 THE WITNESS: It's Frank Dan DeFreese.

16 THE CLERK: And please spell your last name.

17 THE WITNESS: D-E- capital F-R-E-E-S-E.

18 DAN DEFREESE, after being duly sworn, testified
19 as follows:

20 THE CLERK: Thank you. You may have a seat.

21 THE COURT: Your witness.

22 MR. HILTON: Thank you, Your Honor.

23 DIRECT EXAMINATION

24 BY MR. HILTON:

25 Q Agent DeFreese, where are you employed?

1 A I work for the South Carolina Law Enforcement
2 Division in the Forensic Services Laboratory in Columbia.

3 Q And how long have you been working there?

4 A Forty-four years.

5 Q Maybe I shouldn't ask you that question. Might be
6 embarrassing.

7 And what position do you hold up at SLED?

8 A I'm an examiner of firearm and tool mark evidence.

9 Q And what sort of education and classes and stuff did
10 you go through to get that position?

11 A Well, I'm a graduate of the University of South
12 Carolina in Columbia, but my training in the field of
13 firearm and tool mark identification occurred principally
14 at SLED.

15 After my employment and my assignment to the
16 firearms laboratory, I began a course of instruction that
17 lasted about two and a half years. I studied the
18 techniques of firearm and tool mark identification under
19 Lieutenant Millard Cate. Lieutenant Cate established the
20 SLED laboratory when SLED itself was established in 1947.

21 I was also instructed by a gentleman named Carl
22 Stokes who was another examiner working in the laboratory
23 at that time.

24 And after that period of instruction and
25 supervision, I began accepting cases on my own and

1 testifying as to my results, and I have been testifying
2 since 1969.

3 Q And how many times would you estimate that you have
4 testified before?

5 A I estimate somewhere between 600 and 700 times.

6 Q And is that in state court?

7 A It's in general sessions courts of this state, in
8 criminal courts in other states, and in federal court.

9 MR. HILTON: Your Honor, at this time we would
10 offer Agent DeFreese as an expert in firearms analysis.

11 THE COURT: Any voir dire or objection?

12 MS. ROGERS: Just one quick voir dire, Your
13 Honor.

14 THE COURT: Certainly.

15 MS. ROGERS: Mr. DeFreese, have you testified
16 each of those times on behalf of SLED or have you ever
17 testified privately?

18 THE WITNESS: I have testified at the request of
19 the defense many times. I don't testify in civil matters
20 as part of my job requirements, but I have testified for
21 the defense many times.

22 MS. ROGERS: No objection, Your Honor.

23 THE COURT: Very well. So qualified.

24 MR. HILTON: Thank you, Your Honor.

25 BY MR. HILTON:

1 Q Agent DeFreese, I've got a couple of questions for
2 you.

3 First of all, what's the difference between a
4 bullet, a cartridge, a casing, a projectile? Kind of
5 explain the anatomy of a shell casing.

6 A Well, a complete round of ammunition is called a
7 cartridge. And a cartridge is made up of a bullet, a
8 cartridge case into which that bullet is loaded,
9 propellant powder which is also loaded into the cartridge
10 case, and some form of priming mechanism.

11 Centerfire cartridges have a separate primer.
12 It's a cap-like structure that has an explosive
13 percussion-sensitive mixture in it, which is what
14 initiates the burning of the propellant powder when the
15 primer is struck by the firing pin of the gun in which the
16 cartridge is loaded.

17 And those components, the basic components, the
18 primer, the powder, the cartridge case, and the bullet are
19 the -- will make up a complete round or complete cartridge
20 of the centerfire metallic ammunition.

21 Q Is the bullet also known as the projectile?

22 A Yes.

23 Q Those two terms are interchangeable?

24 A Yes. The confusion comes in because a lot of people
25 call the entire cartridge a bullet, when really the bullet

1 is just that portion of the cartridge which is propelled
2 down the bore, down the barrel of the gun and out of the
3 gun.

4 Q Now, were you asked to look at a bullet on the case
5 of what became SLED No. L-0714158?

6 A Yes.

7 Q Let me show you what's been entered into evidence as
8 State's Exhibit 36 and ask if you recognize that. You can
9 open it up if you need to.

10 A Yes, I recognize this.

11 Q And how do you recognize that?

12 A I recognize it by the engraving on the base of the
13 bullet that I placed on the bullet at the time I began my
14 examination.

15 Q Okay. And the information that is engraved on there
16 is what?

17 A It's my case number, what you just read, the
18 L-0714158; the item number, which this is item one; and my
19 initials.

20 Q Now, by looking at that bullet, what is some of the
21 things that you can determine?

22 A Well, we can determine its diameter, we can determine
23 its weight. We can count the number of land and groove
24 impressions on it which are placed there by the barrel of
25 the firearm in which it was fired. We can determine the

1 direction of twist of those rifling impressions, and we
2 can determine their width.

3 Using that information, which we refer to as its
4 general rifling characteristics, its caliber, its
5 direction of twist, the number of lands and grooves, the
6 kind of rifling, and of course the land and groove
7 dimensions --

8 Q And just to stop you right there for a second, just
9 explain to the jury briefly what the rifling and the lands
10 and grooves are.

11 A Within the barrel of a rifle firearm, a rifle firearm
12 traditionally has included rifles, pistols, revolvers, and
13 not shotguns, but now there are also shotguns made that
14 have rifling in the barrels. Shotguns traditionally were
15 smooth bores. But there's a series of spiraling grooves
16 that are placed inside the barrel for the purpose of
17 gripping the bullet and imparting a spin on the bullet as
18 the bullet is being propelled down the barrel and out of
19 the gun.

20 The purpose for putting a spin on the bullet is
21 to make it accurate in flight. Much in the same way that
22 you see a quarterback put spin on a football to keep the
23 football from tumbling end over end in flight, the spin is
24 placed on the bullet so that the bullet will remain stable
25 in flight much in the same fashion.

1 What we have found is by studying recovered
2 bullets, that it's possible to identify particular bullets
3 back to the gun barrels in which they were fired when the
4 bullets are not too badly damaged. It's also possible to
5 measure the rifling impressions and to suggest a number of
6 possible makes of firearms that may have fired a bullet
7 when no firearm is submitted for identification.

8 Q And, Agent DeFreese, were you able to conduct any
9 analysis on this particular bullet?

10 A I was.

11 Q And what were you able to determine?

12 A I found that this bullet bore six land and groove
13 right-hand twist rifling impressions which I measured and
14 which I compared against a database of known rifling
15 impressions from different manufacturers of firearms. And
16 from that database I was able to suggest as an
17 investigative lead a number of makes of firearms that
18 potentially could have fired this bullet.

19 Q We'll come back to that in just a second, but let me
20 ask you, were you able to determine the caliber and the
21 weight of the bullet?

22 A Within limits, that we're able to look at all the
23 remaining observable physical characteristics of the
24 bullet and from that we can suggest the kind of bullets
25 that are most like this.

1 Looking at its dimensions and its manner of
2 construction, this bullet is most consistent with bullets
3 that we have found loaded into .38 special caliber and
4 .357 magnum caliber cartridges.

5 Q Let me ask you, what's the difference in an auto type
6 pistol and a revolver?

7 A Well, semi-automatic pistols are a kind of handgun
8 that use part of the energy of the cartridges being fired
9 to cycle the firearm, to make the firearm load itself.

10 The typical semi-automatic firearm has a
11 magazine, usually a detachable box that's located inside
12 the grip of the pistol. It has a frame that holds
13 everything together and it has a slide which reciprocates,
14 which goes back and forth, and has a barrel that usually
15 is either fixed or it tips slightly during the cycling
16 process.

17 With a semi-automatic pistol, for each pull of
18 the trigger, a bullet is fired down the barrel and out of
19 the gun. Within a short time later a cartridge case is
20 extracted from the chamber area in the back of the barrel
21 and the cartridge case is automatically expelled from the
22 firearm.

23 During this cycling, the next cartridge in the
24 magazine is fed into the back of the barrel, called the
25 chamber, and the gun's prepared for the next shot.

1 So with semi-automatic pistols, you would expect
2 for each bullet fired, for there to be an extracted and
3 ejected cartridge case left by the pistol with no effort
4 required on the part of the shooter to do this. The
5 pistol just does it itself. It has only one chamber, so
6 it has to empty that chamber to prepare itself for the
7 next round of fire.

8 In the case of a revolver, a revolver is the
9 kind of handgun that has a cylinder as its central member
10 and in that cylinder there are a number of chambers.
11 Usually with .38 special and .357, it's five, six, seven
12 rounds.

13 The cylinder rotates within the frame of the
14 handgun to bring these chambers into alignment with the
15 barrel just before the instant firing, or just before
16 firing occurs.

17 Revolvers are manually-operated firearms. It
18 requires the operator to place however many cartridges in
19 the chamber, chambers of the cylinder that the gun will
20 hold. And to fire the gun, during the firing sequence, if
21 it's a five-shot revolver, as many as five shots can be
22 fired with no cartridge cases being ejected from the gun.

23 When all the cartridges are fired, the operator
24 has to open the chamber or otherwise remove the fired
25 cartridge cases from the gun in order to place additional

1 cartridges and prepare it for further firing.

2 Q Are there times when you can look at a projectile or
3 a bullet and determine whether it's most consistent with a
4 revolver-type pistol or most consistent with an auto-type
5 pistol?

6 A Yes.

7 Q And what were you able to tell about this particular
8 projectile?

9 A Well, in the case of this projectile, it has a
10 distinctive ring that runs around it called a crimping
11 cannellure. Crimping cannellures are a feature that are
12 frequently found on bullets loaded into revolver
13 cartridges. They're placed there so that the manufacturer
14 can tightly crimp the mouth of the cartridge case onto the
15 bullet to keep the bullet from backing out during firing.
16 There's a tendency of bullets to back out of the cartridge
17 case under recoil if they're not firmly crimped into the
18 cartridge on revolvers.

19 That's much less of a consideration for
20 semi-automatic pistols because of the fact that they're
21 held in the box inside the grip..

22 So many semi-automatic pistol bullets do not
23 have crimping cannellures, many revolver bullets do.

24 Q Now, a minute ago, Agent DeFreese, you talked about
25 the rifling characteristics that were impressed upon the

1 projectiles as well as the number of lands and grooves,
2 and I think you said that you were able to determine a
3 list of manufacturers that produced those -- that would be
4 consistent with producing those rifling characteristics.

5 What list of weapons were you able to come up
6 with?

7 A Based on the general rifling characteristics,
8 firearms made by American Weapons, Astro, Beistegui --
9 that's B-E-I-S-T-E-G-U-I -- Browning, Charter Arms,
10 Excam -- that's E-X-C-A-M -- F.I.E., Herders, Hy Hunter,
11 Indumil -- I-N-D-U-M-I-L dash Llama -- L-L-A-M-A -- Llama,
12 Quality Firearms Incorporated, Rossi, and Taurus.

13 All of these manufacturers or trade names of
14 firearms have produced firearms that have land and groove
15 specifications that match those on this bullet.

16 This bullet was only fired by one firearm, but
17 these manufacturers all make firearms that have rifling
18 specifications like this bullet.

19 Q Are there any of these weapons that you listed that
20 produce a handgun or a rifle that would eject a
21 .38 caliber or .357 caliber charge?

22 A After these firearms I previously stated, only the
23 Browning -- Browning makes a lever action .357 magnum
24 caliber rifle. It's also a manually-operated firearm, so
25 it doesn't automatically eject its cartridge case.

1 But all the other firearms are either
2 derringer-type firearms, which are also manually-operated
3 pistols, or they're revolvers.

4 Q And when you say a derringer type, what do you mean
5 by that?

6 A Derringer is a style of manually-operated pistol.
7 Most of them have multiple barrels, usually two barrels.
8 And with those firearms, the gun is opened, one or two or
9 however many cartridges they hold are placed in the same
10 number of barrels, and then the gun is closed, and in most
11 cases it has to be manually cocked and fired.

12 When it fires, the bullet leaves the gun but the
13 cartridge case stays in the barrel. The cartridge case is
14 not automatically extracted or ejected and later the
15 shooter has to open the gun and extract the cartridges to
16 prepare the gun to be shot more.

17 So it's a manually-operated pistol, but it does
18 not have a cylinder.

19 Q And the Browning that you mentioned, that's a rifle?

20 A Yes, sir, that is a lever-action western style rifle.

21 Q And about how large would that be?

22 A It's a carbine-style gun. It would probably be in
23 the range of three feet or a little less than three feet
24 in length.

25 Q Agent DeFreese, in your opinion as an expert in

1 firearms, is this projectile most consistent with that
2 coming from a revolver or an auto-type pistol?

3 A A revolver or potentially a derringer.

4 Q And would that explain why no shell casing was
5 recovered at the scene of the crime?

6 A It would, because revolvers and derringers do not
7 extract any dead cartridge cases on their own.

8 Q Let me ask you this question: Did the sheriff's
9 office ever submit some pistols to you?

10 A There were no pistols actually submitted in this
11 case. They did ask that I compare the bullet in this
12 case, State's Exhibit 36, with test bullets fired by some
13 guns submitted in another case, but they did not match.

14 Q One more question, Agent DeFreese. The projectile
15 that you have in front of you, could that have been fired
16 out of a .40 caliber shell casing?

17 A No. This has fully engraved, evenly engraved land
18 and groove impressions on it, so it was fired from the
19 correct caliber firearm.

20 MR. HILTON: Thank you. Please answer any
21 questions Ms. Rogers may have for you.

22 THE COURT: Cross-examination.

23 MS. ROGERS: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 BY MS. ROGERS:

1 Q Agent DeFreese, does SLED have a database of known
2 firearms or bullets used in crimes across the State?

3 A We have several databases. The one I was referring
4 to here is the database of dimensions of land and groove
5 impressions.

6 We also have a computerized system that seeks to
7 correlate bullets and cartridge cases with bullets and
8 cartridge cases submitted in other incidents.

9 Q And other than the bullets provided to you by the
10 State, can you run these -- run this particular bullet
11 through any of those databases?

12 A I didn't. Markings on the packaging indicated that
13 this bullet had been entered by others into the
14 computerized system that I was referring to, but I didn't
15 duplicate that effort.

16 Q And each gun, even though they have lands and grooves
17 that end up on the bullet itself, each gun has a
18 particular fingerprint on the bullet, if you will; is that
19 accurate?

20 A More nearly like a signature.

21 Each gun barrel is capable of leaving unique
22 identifying marks on a bullet that may be able to be
23 identified back to that particular gun barrel, so it is
24 possible when the bullet is not too badly damaged. And
25 this one is damaged, but not badly damaged.

1 If the right firearm had been submitted, I
2 probably would have been able to identify this bullet back
3 to that firearm.

4 Q And to this day they have not submitted a firearm to
5 you?

6 A To my knowledge the firearm that fired this bullet
7 has not been recovered. If it has, it hasn't been
8 submitted to me.

9 MS. ROGERS: Thank you. No further questions.

10 THE COURT: Redirect.

11 REDIRECT EXAMINATION

12 BY MR. HILTON:

13 Q Agent DeFreese, you would be unable to make any type
14 of comparison to a known firearm unless that firearm was
15 recovered, correct?

16 A That's correct.

17 MR. HILTON: No further questions, Your Honor.

18 THE COURT: Recross?

19 MS. ROGERS: Briefly, Your Honor.

20 THE COURT: Certainly.

21 RECROSS-EXAMINATION

22 BY MS. ROGERS:

23 Q While you wouldn't have been able to make the
24 comparison to the firearm itself, had this gun been used
25 in another crime, you would have been able to compare the

1 bullets, correct?

2 A If bullets in good condition had been recovered from
3 another crime, I might have been able to compare another
4 bullet because, in fact, when we do the comparison, we
5 compare test bullets fired by a given gun. We don't
6 directly compare the gun with the bullet.

7 So, yes, if there had been bullets from another
8 crime, I would have been able to compare that with this
9 item, Item 36, to see if they could have been fired by the
10 same gun.

11 Q And, again, you did not perform that test?

12 A Well, there wasn't one. There was no other bullet
13 that was identified to me as saying compare this bullet
14 with State's Exhibit 36.

15 MS. ROGERS: Thank you, Your Honor.

16 THE COURT: All right. Is this witness free to
17 leave?

18 MR. HILTON: He is.

19 THE COURT: Any objection?

20 MS. ROGERS: No, Your Honor.

21 THE COURT: You are free to go, sir.

22 Call your next witness.

23 MR. HILTON: The State would call Lisa
24 McReynolds.

25 THE CLERK: Please raise your right hand and

1 state your name for the record.

2 THE WITNESS: Lisa McReynolds.

3 THE CLERK: And spell your last name, please.

4 THE WITNESS: M-C-R-E-Y-N-O-L-D-S.

5 LISA MCREYNOLDS, after being duly sworn,
6 testified as follows:

7 THE CLERK: Thank you. You can have a seat.

8 MS. ROGERS: Your Honor, may we approach?

9 THE COURT: Of course.

10 (A bench conference was held with the judge and
11 attorneys in the presence of the jury but out of the
12 hearing of the jury.)

13 THE COURT: Ladies and gentlemen, there is a
14 matter that I must take up outside your presence;
15 therefore, I'm going to ask you to please step to your
16 jury room.

17 Do not discuss this matter or allow anyone to
18 discuss it with you.

19 (The jury left open court at approximately 10:52
20 a.m.)

21 THE COURT: We're going to take a short comfort
22 break.

23 (A break was taken.)

24 THE COURT: All right. Now, yes, there's an
25 objection interposed by Ms. Rogers with regards to the

1 problem that this witness, as I understand it, that this
2 witness was not on the witness list.

3 MS. ROGERS: Correct, Your Honor.

4 THE COURT: All right, Mr. Hilton.

5 MR. HILTON: Your Honor, there was a stipulation
6 entered into in the case, and I don't know exactly which
7 number it was, but it was regarding the gunshot residue --

8 THE COURT: Yes.

9 MR. HILTON: -- and the chain of custody of the
10 gunshot residue up until the time of analysis.

11 THE COURT: Right.

12 MR. HILTON: Ms. McReynolds is a SLED employee
13 that as far as I know lives in the Columbia area, has no
14 connection down here as to, you know, know any of the
15 potential jurors.

16 Her testimony is really just out of an abundance
17 of caution for the State. She did do some of the
18 preparatory processing for the analysis and just out of an
19 abundance of caution I was going to offer her testimony to
20 say that she opened up the kit, that she submerged it in a
21 solution to remove any chemicals that were present, and
22 then that was submitted for analysis. So really I think
23 her testimony is covered by the stipulation.

24 Otherwise, I don't think it's prejudicial for
25 her to testify in that there is no indication that she

1 knows anybody. She is a fact witness of the case, but
2 she's not a fact witness in that it puts the defendant at
3 the crime -- at the scene of the crime or is in any way
4 connected to the actual crime itself. And I just don't
5 think that her testimony would be unduly prejudicial to
6 the defense.

7 THE COURT: Anything you want to add?

8 MS. ROGERS: Yes, Your Honor.

9 Our argument would be that this is a murder
10 trial, and that the State had ample opportunity to prepare
11 the witness list, and the stipulation was just entered
12 into in the previous days. Therefore, the reason we have
13 our witness list handed to the Court is so that the Court
14 may inquire of the jury if they know this person, if they
15 might be influenced by this testimony, and we have no way
16 of knowing that at this point.

17 My client has a constitutional right to know who
18 the witnesses are and at least have an opportunity to
19 review those witnesses at hand, so that would be our
20 objection.

21 THE COURT: Okay. Very well.

22 I don't know that the testimony is necessary. I
23 guess I won't know that until I hear the testimony with
24 regards to the analysis. However, I do believe it is
25 appropriate that Counsel in a murder case not be surprised

1 with a witness that is not on the witness list.

2 And you would tell me as an officer of the
3 court, Ms. Rogers, that you did not know of this witness
4 until she was called?

5 MS. ROGERS: Correct, Your Honor.

6 THE COURT: Just right before our break?

7 MS. ROGERS: Yes, Your Honor.

8 THE COURT: I can't allow you to call her. I've
9 excluded her.

10 I am so sorry that you made this trip. I am so
11 sorry. I really apologize. You're free to leave.

12 MS. McREYNOLDS: Thank you.

13 THE COURT: Thanks for coming to the country.

14 All right. Let's have the jury back, please.

15 (The jury came into open court at approximately
16 11:10 a.m.)

17 THE COURT: All right. Ladies and gentlemen, at
18 this time we will continue with the State's case.

19 Please call your next witness.

20 MR. HILTON: The State would call Agent Ila
21 Simmons.

22 THE COURT: All right.

23 THE CLERK: Please raise your right hand and
24 state your name for the record.

25 THE WITNESS: My name is Ila Simmons.

1 THE CLERK: Spell your first and last name,
2 please.

3 THE WITNESS: My first name is spelled I-L-A.
4 My last name is spelled S-I-M-M-O-N-S.

5 ILA SIMMONS, after being duly sworn, testified
6 as follows:

7 THE CLERK: Thank you. You may have a seat.

8 THE COURT: Your witness.

9 MR. HILTON: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MR. HILTON:

12 Q Agent Simmons, where are you employed?

13 A I'm employed at the South Carolina Law Enforcement
14 Division, also known as SLED, in the forensics laboratory
15 trace evidence department.

16 Q And how long have you been working there?

17 A Eleven years.

18 Q And what sort of training do you have to be employed
19 in the trace evidence department?

20 A I have a Bachelor of Science degree in Chemistry.
21 After completing that, I came to work at SLED. And in my
22 first three years there I worked with a trace evidence
23 examiner who was court qualified. I had to take multiple
24 written and practical examinations in the area of trace
25 evidence and conclude them all with one hundred percent

1 efficiency.

2 Q As an employee of the trace evidence department, do
3 you analyze gunshot residue kits?

4 A Yes, I do.

5 Q And what exactly is a gunshot residue kit?

6 A A gunshot residue kit is a standardized kit that is
7 put together by a scientific company. It is administered
8 from SLED to different agencies around the state. It
9 contains both sticky tabs and swabs for use in collecting
10 gunshot residue from the hands of someone believed to be
11 in proximity of a weapon that was discharged, either
12 someone firing a weapon or just being in close proximity
13 to it.

14 Q Any idea how many of these kits you've analyzed over
15 the course of your career?

16 A Approximately 30,000 GSR samples.

17 Q Have you ever testified as an expert before?

18 A Yes, sir, I have.

19 Q How many times?

20 A Approximately two hundred times.

21 MR. HILTON: Your Honor, at this time we would
22 offer Agent Simmons as an expert in trace evidence and
23 gunshot residue.

24 THE COURT: Any voir dire?

25 MS. ROGERS: Briefly, Your Honor.

1 THE COURT: All right.

2 MS. ROGERS: Ms. Simmons, have you ever
3 testified outside of your employment for SLED?

4 THE WITNESS: No, ma'am. However, I do testify
5 for the defense on many occasions.

6 MS. ROGERS: That's all, Your Honor.

7 No objection.

8 THE COURT: Very well. So qualified.

9 BY MR. HILTON:

10 Q Agent Simmons, what exactly is gunshot residue?

11 A Gunshot residue is a mixture of microscopic chemicals
12 that come out of a gun when it's discharged. It's made up
13 primarily of lead, barium, and antimony. This material
14 when it comes out of the gun can get on anything in close
15 proximity to the gun, including the hands of the person
16 holding the gun when it's discharged.

17 Q Could it also be on the victim?

18 A Yes, it can, if the victim is in close proximity to
19 the weapon.

20 Q I was going to ask you about the distance. What do
21 you call "in close proximity"?

22 A With a handgun, within six feet of the muzzle of the
23 gun.

24 Q And this gunshot residue, is it pretty fragile, is it
25 pretty durable, or what?

1 A It's very fragile. It has the consistency of salt.

2 And, you know, if you get salt on your hands,
3 you can wipe your hands and it comes off. You can wash
4 your hands, you can use hand sanitizer, putting your hands
5 in and out of your pockets can remove gunshot residue from
6 your hands.

7 Q And I think you said a minute ago it can be on the
8 victim but it can also be on the person shooting the gun,
9 right?

10 A Yes, sir.

11 Q And if somebody's arrested several days later, would
12 it do any good to test that person for gunshot residue?

13 A No, sir. We have a policy at SLED -- we have test
14 fired numerous firearms, thousands of firearms, thousands
15 of different types of ammunition, and taking gunshot
16 residue kits from the analysts in our lab after they shoot
17 the guns. After six hours from the shooting incident
18 someone will not have gunshot residue left on them if
19 they're a living individual.

20 On deceased individuals it can be taken
21 indefinitely because they're no longer making contact with
22 things with their hands, they're not sweating, and the
23 gunshot residue is not being removed.

24 Q So if the defendant's arrested several days later, it
25 would be futile to attempt any kind of gunshot residue kit

1 on him; is that correct?

2 A That's correct.

3 Q Did you receive a gunshot residue kit in this case
4 for analysis?

5 A Yes, sir, I did.

6 Q I'm going to show you what's been marked as State's
7 Exhibit 28 and ask if you recognize this. And you can
8 open it up if necessary.

9 A Yes, sir, I do.

10 Q What is that?

11 A This is the gunshot residue kit labeled as being
12 collected from Robert E. Robinson. It is marked with the
13 laboratory identification number, the item number for this
14 specific piece of evidence, my initials, and the date of
15 the analysis.

16 Q And is that the kit that you analyzed in this case?

17 A Yes, it was.

18 Q Now, how do you go about processing this kit?

19 Let me back up just a little bit.

20 What's exactly contained in the kit?

21 A In the kit there are particle lifts, which is
22 basically a piece of double-sided tape that has a handle,
23 so that when someone is collecting the GSR kit, their
24 hands never made contact with the double-sided piece of
25 tape. The only thing that makes contact with the tape

1 would be the hands of the person that's being sampled.

2 And each sample, there is a sample collected
3 from the right palm, another sample from the back of the
4 right hand, a sample from the left palm and a sample from
5 the back of the left hand. Those are completed. They're
6 sealed each individually, placed back in the envelope.

7 And then swabs are collected. They're just like
8 Q-tips, a little bit of nitric acid is placed on them, the
9 dilute acid, and then they go back over the same areas of
10 the hand and they will get taken from each of those areas
11 and they're placed in tubes and sealed.

12 Q And when you all receive a kit up at SLED, what sort
13 of process do you go through to analyze the kit?

14 A It is received into our evidence log-in where we have
15 a central log-in area where all the evidence comes through
16 and they put on an identification number and an item
17 number.

18 After that it would be picked up and brought up
19 to our department, and we would check to be sure that it
20 is sealed and initialed by the agency that had collected
21 the kit.

22 This kit is then opened. There is a form inside
23 of the kit that is a standardized form that comes with the
24 kit that is filled out by the person collecting the kit.
25 It has the name of the person from whom the samples were

1 collected and the time of the incident and the time that
2 the samples were collected. We look at that sheet to be
3 sure that it was within our six-hour time frame, and then
4 we process the samples for analysis, for our
5 instrumentation.

6 Q And how do you go about that process?

7 A We begin first by analyzing the swabs. We add to
8 each set of swabs an internal standard solution. We then
9 filter the samples. A small amount of each one of those
10 internal standard solutions for each sample is extracted
11 and placed on our instrumentation.

12 Q All right. And then once you have the sample
13 extracted, how do you go about determining whether you
14 have gunshot residue or you don't?

15 A We place them on the instrument that determines how
16 much of each one of these metals that we're looking for is
17 present. We're looking for lead, barium, and antimony,
18 which is the three primary components of the parallel
19 primer of the cartridge. We have shot numerous weapons,
20 we know approximately how much is discharged for different
21 types of weapons and different types of ammunition and we
22 have threshold levels that have to be met before we can
23 say that gunshot residue is found.

24 Q And is that the test that you performed on this kit?

25 A Yes, sir.

1 Q And that's the kit from Mr. Robinson?

2 A Yes, sir.

3 Q Okay. And what were you able to determine through
4 your analysis?

5 A On the palm and back of the right hand, we found that
6 there were metals that could be associated with gunshot
7 residue. And on the palm of the left hand there were also
8 metals that were consistent with gunshot residue.

9 Q Now, does that mean he held a gun or shot a gun or
10 anything like that?

11 A It is most consistent with someone having or being in
12 the vicinity of the weapon when it was discharged because
13 the concentrations that we found are more consistent with
14 being in front of a gun when it's discharged than handling
15 or firing a gun.

16 If I were to fire a gun, only a very small
17 amount of gunshot residue is going to blow back on the
18 hand of the person shooting the weapon. However, if I'm
19 standing directly in front of a gun when it's discharged
20 and my hands are in a position so that the gunshot residue
21 can get on my hand, I'm going to have a tremendous amount
22 of gunshot residue on my hands and the concentrations are
23 going to be much higher simply because 98 percent of the
24 gunshot residue comes out of the muzzle of the gun and
25 goes forward and only a small, maybe three to five

1 percent, comes back on the hands of someone shooting the
2 weapon.

3 Q Now, Agent Simmons, why would it be that he would
4 have, the victim would have gunshot residue on both sides
5 of his right hand, the palm and the back, and only on the
6 palm of the left hand?

7 A That would be dependent upon where his hands were
8 when the gun was discharged. If this hand was bladed so
9 that the gun was pointed this way, this hand was directly
10 bladed toward the weapon, gunshot residue would go around
11 the hand and get on the palm and the back of the hand.

12 If this hand were bladed in a position that it
13 was directly toward the gun like this, then it would only
14 get on the palm of the hand and would not get on the back
15 of the hand. That is a possibility.

16 Q And would that be consistent with somebody in a
17 defensive stance?

18 A Yes, sir, it could be.

19 MR. HILTON: Your Honor, at this time we would
20 offer what's been marked as State's Exhibit 28 into
21 evidence.

22 THE COURT: Any objection?

23 MS. ROGERS: No, Your Honor.

24 THE COURT: Very well.

25

1 (WHEREUPON, State's Exhibit No. 28 was admitted
2 into evidence.)

3 MR. HILTON: Please answer any questions
4 Ms. Rogers may have for you.

5 THE COURT: Cross-examination.

6 MS. ROGERS: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MS. ROGERS:

9 Q Ms. Simmons, if the victim had fired a gun, would
10 there really be any way to tell how the gun powder residue
11 got on his hands? If he had fired a gun that day and then
12 it happened to be left over from the shooting incident, is
13 there any way to separate those out?

14 A Simply by concentrations. The concentration of
15 gunshot residue that's found is more consistent with
16 having been in proximity of a weapon when it's discharged
17 than being behind the weapon, but you can't say
18 definitively that it had to have come from simply being in
19 the proximity of a weapon. If a gun had been fired
20 earlier, some of the gunshot residue could have been there
21 from the firing of a gun and then more was placed onto the
22 hands by being in the proximity of a weapon as well.

23 Q And you mentioned during your testimony with the
24 solicitor that when -- the person firing the gun also gets
25 gunshot residue on their hands. Is that an accurate

1 statement?

2 A Yes, ma'am.

3 Q Would it be an accurate statement that that gunshot
4 residue might also be in their fingerprints or things that
5 they touched later? Is that possible?

6 A I don't know if it would be on like a fingerprint
7 sample. Like you mean like if someone had taken their
8 fingerprints or --

9 Q Right.

10 A I don't know that there's ever been any research,
11 scientific research done on that, so I can't say for
12 certain.

13 Q What about items like a Bluetooth?

14 A That is a possibility. If it were in the proximity
15 of a weapon when it was discharged, it can get the gunshot
16 residue on it.

17 I know sometimes clothing, if someone were
18 wearing clothing and they discharge a weapon, it can get
19 gunshot residue on it. So if it's in close enough
20 proximity to the gun when it's fired, it can get on there.

21 Q And did the State ever submit a Bluetooth for you to
22 test?

23 A No, ma'am.

24 MS. ROGERS: One moment, Your Honor.

25 THE COURT: All right.

1 MS. ROGERS: No further questions.

2 THE COURT: Redirect?

3 MR. HILTON: Thank you, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. HILTON:

6 Q Agent Simmons, you were asked about gunshot residue
7 and if you can tell if a victim had shot a gun previously
8 and that gunshot residue had remained.

9 If somebody has a bullet hole in them, is that
10 consistent with firing a gun or having a gun fired at
11 them?

12 A If they sustained a gunshot wound, then that's
13 consistent with a bullet having been fired on them.

14 Q Let me ask you about the Bluetooth.

15 We talked about the fragility of gunshot
16 residue. I will show you what's been marked as State's
17 Exhibit 23 and ask you to take a look at that.

18 If something like that is laying out in the
19 weather, say in the dew that may fall during the nighttime
20 hours, would that be preservative of gunshot residue?

21 A No, sir. If that were in the dew or rain or
22 something of that nature, there would be no gunshot
23 residue left on it if there was gunshot residue on it at
24 some point.

25 MR. HILTON: Thank you.

1 No further questions, Your Honor.

2 THE COURT: All right. Re-cross?

3 MS. ROGERS: Briefly, Your Honor.

4 THE COURT: Certainly.

5 RECROSS-EXAMINATION

6 BY MS. ROGERS:

7 Q If that Bluetooth had been collected within 10, 15,
8 20 minutes, there was no dew, there was no weather, is it
9 likely that the gunshot residue still would have been on
10 that Bluetooth?

11 A If there had been some, it is a possibility. If it
12 had not been removed in some way, yes.

13 MS. ROGERS: Thank you, Your Honor.

14 THE COURT: Very well. Is this witness free to
15 leave?

16 MR. HILTON: She is, Your Honor.

17 THE COURT: And any objection?

18 MS. ROGERS: No, Your Honor.

19 THE COURT: Okay. You're free to go.

20 Call your next witness, please.

21 MR. HILTON: The State calls Agent Lilly
22 Gallman.

23 THE CLERK: Please raise your right hand and
24 state your name for the record.

25 THE WITNESS: My name is Lilly Smalls Gallman.

1 THE CLERK: Please spell your first and last
2 name, please.

3 THE WITNESS: First name is spelled L-I-L-L-Y.
4 And the last name Gallman is spelled G-A-L-L-M-A-N.

5 LILLY GALLMAN, after being duly sworn, testified
6 as follows:

7 THE CLERK: Thank you. You may have a seat.

8 THE COURT: All right. Your witness.

9 MR. HILTON: Thank you, Your Honor.

10 THE COURT: Yes.

11 DIRECT EXAMINATION

12 BY MR. HILTON:

13 Q Thank you, Agent Gallman. Who are you employed by?

14 A I'm employed by the South Carolina Law Enforcement
15 Division.

16 Q And how long have you been there?

17 A Twenty years.

18 Q And what department do you work in?

19 A I work in the DNA department. I'm employed as a
20 forensic DNA analyst.

21 Q And what sort of education do you have, or do you
22 have to have, to be a DNA analyst?

23 A I have a degree in biology from the University of
24 South Carolina.

25 Once I received my degree, I continued working

1 at the University of South Carolina in the area of
2 molecular genetics, cloning, and sequencing with DNA.

3 I began working with the South Carolina Law
4 Enforcement Division in January of 1990. At that time we
5 were establishing the DNA lab, so I was one of the
6 analysts who was involved in establishing the DNA lab at
7 SLED.

8 The training that we took was from the FBI, so I
9 attended the FBI DNA training school.

10 Q Have you ever been qualified as an expert before?

11 A Yes, I have.

12 Q And is that in DNA analysis?

13 A Yes, in DNA and telepathy.

14 Q About how many times was that?

15 A Approximately 100 I would guess.

16 MR. HILTON: Your Honor, at this time we would
17 offer Agent Gallman as an expert in DNA analysis.

18 THE COURT: Any voir dire or objection?

19 MS. ROGERS: Briefly, Your Honor.

20 THE COURT: Very well.

21 MS. ROGERS: Ms. Gallman, have you ever
22 testified outside the scope of your employment for SLED as
23 an expert?

24 THE WITNESS: Yes, I have. I have testified for
25 the defense on occasion, and I have been subpoenaed for

1 federal court also.

2 MS. ROGERS: No objection, Your Honor.

3 THE COURT: Very well.

4 BY MR. HILTON:

5 Q Agent Gallman, what is DNA?

6 A DNA stands for deoxyribonucleic acid. It's
7 considered to be the blueprint of the body. Everyone's
8 DNA is unique except for identical twins. They have the
9 same genetic makeup.

10 Since everyone's DNA is different except for
11 identical twins, we're able to compare unknown and known
12 samples for the purpose of identification.

13 We get samples from crime scenes and there are
14 unknowns and compare them to standards from either the
15 victim or the subject in a given case.

16 Q Is DNA something that you can just look at this
17 counter and say, oh, there's some DNA?

18 A No, you can't see it like that.

19 Q All right. If there's blood on something, do you
20 know that there's necessarily DNA there?

21 A If there's blood on an item, we would take for
22 granted that there would be DNA in that blood.

23 Q Okay. Let me show you what's been marked as State's
24 Exhibit 23 and just ask you to look at this item. Can you
25 tell just by looking at that whether there's any DNA on it

1 or not?

2 A No, I would have to swab this item and extract
3 whatever sample I had and see if I can develop a DNA
4 profile from it.

5 Q Okay. Did you receive a Bluetooth headset in what
6 was SLED Lab No. L-0714158?

7 A Yes, I did.

8 Q Let me show you what's been marked as State's Exhibit
9 27 and ask if you recognize that item.

10 A This is the packaging that the Bluetooth was
11 submitted in. You can see where my initials and the date
12 that I sealed the evidence bag at the time when it was
13 submitted to SLED..

14 Q Now, how do you go about developing a DNA profile?

15 A For example, in this particular case, we had the
16 Bluetooth. I took that item and I swabbed it with a
17 sterile swab. It's just like a Q-tip.

18 First I dampened it and then I swabbed it. And
19 this particular swab, the cotton top was removed and
20 placed in the tube with the solution. And with the
21 solution, any sample that was on the swab is released from
22 the swab and also any cells, whether it's skin cells or
23 cells that come from sweat, all your DNA is the same all
24 over your body. It does not have to be from blood. You
25 can just swab the back of someone's hand and you can pick

1 up their DNA.

2 So any DNA that was there, the cells would be
3 broken open by the solution and then the DNA would be
4 released into the solution.

5 And from that point on, I would carry it through
6 the different procedures and develop a DNA profile from
7 that DNA.

8 Q Were you able to develop a DNA profile off of the
9 Bluetooth headset?

10 A Yes, I was.

11 Q Okay. When you developed that profile, what did you
12 do at this point?

13 A Once the profile was developed from the Bluetooth
14 headset, it was a mixture of at least three individuals.
15 The DNA profile of the major contributor to that
16 particular mixture was from an unknown male individual.
17 That particular DNA profile was then put into our database
18 to check and see if we could get a hit on that particular
19 DNA profile.

20 Q And let me just stop you there for a second.

21 What is a mixture? What does that mean?

22 A That means that -- let's say for example, if I pick
23 up this particular cup, we know that the agents of the
24 court already handled it. It could be someone else also
25 has already handled, and when I swab it, you'll pick up my

1 DNA, her DNA, and if you handled it, your DNA also, and it
2 would create a mixture within that particular DNA sample.

3 Q Is one profile as strong as the other?

4 A Not on the Bluetooth, no. It depends on who did
5 handling of it most, right, and who left more DNA.

6 In this particular case, the unknown male
7 individual had -- there was much more DNA there from the
8 unknown male individual on the headset.

9 Q What is CODAS?

10 A CODAS is the Combined DNA Index System which I
11 referred to as the database. Samples from known offenders
12 and also from different cases are placed into this
13 database and we look for whether we can get a hit from
14 that particular person, meaning that the DNA profile that
15 I put into CODAS is checked through the computer to see if
16 there's a sample from a known individual in there that
17 could be a match to that sample.

18 Q Were you able to get a hit in this case?

19 A Yes, I was.

20 Q And that was off of the Bluetooth headset?

21 A Yes.

22 Q And who did that hit come to?

23 A The hit on that particular item on the victim
24 attributed from that sample matched the subject in this
25 case, Trevee Gethers.

1 Q Trevee Gethers?

2 A Yes.

3 Q All right. And after you receive a CODAS hit, is
4 that a conclusive match?

5 A No. What's done is since there's so many samples
6 that are placed into the database, what we do to make sure
7 that there's no problem and as a safeguard against getting
8 the wrong person, something going wrong, we request a
9 standard from that person who it hit upon so that we can
10 develop a profile from a known sample that was taken from
11 an individual to check and see if we were correct in the
12 match.

13 (WHEREUPON, State's Exhibit No. 48 was marked
14 for identification only.)

15 BY MR. HILTON:

16 Q Agent Gallman, let me show you what's been marked for
17 identification as State's Exhibit 48 and ask if you
18 recognize this.

19 A This package contains the Buccal swab or the cotton
20 swab that's used to swab the inside of the mouth of the
21 subject in this particular case. This was submitted to
22 SLED so that I could develop a DNA profile from the
23 standard from the subject.

24 Q Is that what is called a known stand?

25 A Yes, it is.

1 Q And what does that mean?

2 A That means that when the collection is done, it's
3 done in the presence of someone who we know that this swab
4 was taken from this individual at this particular time and
5 packaged and submitted to our agency.

6 Q Okay. And who was that known sample taken from?

7 A It was taken from the subject in this case, Trevee
8 Gethers.

9 Q Were you able to develop a DNA profile from that
10 known sample?

11 A Yes, I was.

12 Q Were you able to compare that to the DNA profile that
13 you developed on the Bluetooth headset?

14 A Yes, I was.

15 Q And when you make a comparison and develop a profile,
16 are you able to make a statistical -- are you able to come
17 up with a statistical number about how often that same
18 profile occurs?

19 A Yes. When we compare samples, known and unknown, the
20 first part of the information that we need to establish is
21 whether this sample matches the unknown -- whether the
22 known sample matches the unknown.

23 In this particular case, the major contributor
24 in this particular sample, meaning the swabs that came
25 from the Bluetooth headset, matched the DNA profile of

1 Trevee Gethers.

2 Once that's done by our protocol, we are
3 supposed to address the frequency of that particular event
4 in a given population: How frequent do you see this
5 particular DNA profile? And I'm going to read from my
6 report.

7 It states that "the DNA profile developed on the
8 major contributor to this mixture," meaning the mixture
9 from the Bluetooth, "matches the DNA profile of Trevee
10 Gethers."

11 And then we go on and put the frequency of the
12 event, and it says, "The probability of randomly selecting
13 an unrelated individual having a DNA profile matching the
14 major contributor to this mixture is approximately one in
15 26 quadrillion."

16 Q What was that number again?

17 A One in 26 quadrillion.

18 Q Twenty six quadrillion. Now, how many zeros does
19 that have?

20 A That would have 15 zeros.

21 Q So if I was to write out this number, what would it
22 be?

23 A It would be -- you would put -- it would be 26 with
24 15 zeros behind it.

25 Q Does that appear to be 26 quadrillion?

1 A Yes.

2 MR. HILTON: Your Honor, at this time we would
3 offer State's Exhibit 49 into evidence.

4 THE COURT: Any objection?

5 MS. ROGERS: No, Your Honor.

6 THE COURT: Very well.

7 (WHEREUPON, State's Exhibit No. 49 was marked
8 for identification and received into evidence.)

9 MR. HILTON: Your Honor, at this time we would
10 also offer State's Exhibit 48, being the Buccal swabs,
11 into evidence.

12 THE COURT: Any objection?

13 MS. ROGERS: No, Your Honor.

14 THE COURT: Very well.

15 (WHEREUPON, State's Exhibit No. 48 was admitted
16 into evidence.)

17 BY MR. HILTON:

18 Q Agent Gallman, about how many people are in the
19 world?

20 A There are approximately 6.5 billion people in the
21 world.

22 Q Is that more or less than 26 quadrillion?

23 A Much less.

24 MR. HILTON: Much less.

25 Thank you, Agent Gallman. Please answer any

1 questions Ms. Rogers may have for you.

2 THE COURT: Cross-examination.

3 MS. ROGERS: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MS. ROGERS:

6 Q Ms. Gallman, were you provided with any other DNA
7 samples to compare with what was found on the Bluetooth?

8 A I received a blood standard from the victim, Robert
9 Robinson. I also received swabs that were taken from the
10 car, from the front door window, from the passenger's
11 center armrest. Also I received fingernail clippings from
12 the right and left hands of the victim, Robert Robinson.

13 Q And aside from the Bluetooth, were you able to relate
14 any of that DNA back to Mr. Gethers?

15 A No, I was not.

16 Q Was there any DNA from the victim on the Bluetooth?

17 A No.

18 MS. ROGERS: No further questions, Your Honor.

19 THE COURT: All right. And redirect?

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

21 THE COURT: All right. Is this witness free to
22 leave?

23 MR. HILTON: She is.

24 MS. ROGERS: Yes, Your Honor.

25 THE COURT: Very well. You are free to go.

1 Call your next witness, please.

2 MR. HILTON: Your Honor, at this time we would
3 ask to take a short recess.

4 THE COURT: Very well. Very well.

5 Ladies and gentlemen, we'll take a short recess.
6 We'll take our morning break, if you will, at this point.

7 Please do not discuss this matter or allow
8 anyone to discuss it with you. And leave your notebooks.

9 We'll take about 15 minutes.

10 Thank you.

11 (The jury left open court at approximately 11:41
12 a.m.)

13 THE COURT: Yes, sir. Are you close to resting,
14 is that what we're doing?

15 MR. HILTON: We are. I just want to make sure
16 that all the evidence is in that I anticipated getting in.

17 THE COURT: Okay.

18 MR. HILTON: And make sure that I met all the
19 elements and just confer with co-counsel for a moment.

20 THE COURT: Very well. You all do that and when
21 you're ready let me know because I would like to go ahead
22 and hear motions before the jury comes back out and then
23 you can just rest.

24 Which means that we'll be ready to begin your
25 case. Of course, I will hear the motions and all, and

1 I'll listen to you all fully, but I just wanted you to
2 know for your scheduling purposes, Ms. Rogers.

3 MS. ROGERS: Yes, Your Honor.

4 THE COURT: Very well.

5 (A break was taken.)

6 THE COURT: Ready?

7 Is there any motions? Let's go ahead and argue
8 the motions, please.

9 Motions?

10 MS. ROGERS: Yes, Your Honor.

11 At this time we would like to make a motion for
12 a directed verdict.

13 THE COURT: Very well. And I would respectfully
14 deny your motion.

15 As you know, it is not for the Court to weigh
16 the evidence, that is for the jury. It's for the Court to
17 determine whether or not there is evidence on each and
18 every element, including any inferences reached, and of
19 course from which the jury can reasonably determine guilt.

20 And I find that there is evidence on each and
21 every element from which the jury could reasonably
22 determine guilt, and I would respectfully deny your motion
23 --

24 MS. ROGERS: Thank you, Your Honor.

25 THE COURT: -- on that basis, noting your

1 exception thereto.

2 Now, are you ready to proceed?

3 MS. ROGERS: Yes, Your Honor.

4 THE COURT: All right. Very well.

5 Now, let me tell you how I proceed just so you
6 know.

7 If -- what I typically and normally do is that I
8 do not examine a defendant with regards to testifying
9 until the very last moment because I think a defendant
10 ought -- and his lawyer or her lawyer -- ought to have
11 every opportunity to make that decision until the very
12 end, just before the defense rests. So if need be, just
13 don't rest until I have had that opportunity, if need be.
14 Do you understand what I'm saying?

15 In other words, I'm not asking you, nor do I
16 want to know, what your plan is in terms of your defense.
17 I guess what I'm saying is that before you rest, if your
18 client does not testify, just let me know so that I can
19 talk to him about that, okay?

20 MS. ROGERS: Okay, Your Honor.

21 Hypothetically --

22 THE COURT: I like that.

23 MS. ROGERS: -- if we plan to rest right after
24 the State, is that something you would want to do before
25 we bring the jury back in?

1 THE COURT: I would, because I would want to
2 examine your client. And in the event that he would need
3 to speak to you, and anything further, I certainly would
4 want him to have that opportunity to talk to you again
5 before the jury comes back out. I don't want him to be
6 hemmed in in any regard. Do you see what I'm saying?

7 MS. ROGERS: Yes, Your Honor.

8 THE COURT: In other words, say you were going
9 to rest when the jury came back out, right? What I would
10 want -- I would not want you to do that in order to
11 examine your client. I wouldn't want to examine your
12 client until the last moment because I think his options
13 are to remain open. So I wouldn't want you to rest in
14 front of the jury until I have had an opportunity to do
15 that with your client.

16 And if your intention is to rest when the jury
17 comes back out, what I would want to do is examine your
18 client now before they come back out, give your client --
19 once I've examined him, he may want to spend some time
20 talking with you about that, and I want him to have every
21 opportunity to do that.

22 Does that make sense?

23 MS. ROGERS: Yes, Your Honor.

24 THE COURT: Wonderful. Do you want to chat with
25 him a minute? Let me know.

1 MS. ROGERS: Yes, Your Honor.

2 THE COURT: Okay.

3 MS. ROGERS: Do you mind if we step out here?

4 THE COURT: Not in the least.

5 (A break was taken.)

6 THE COURT: Okay.

7 MS. ROGERS: Your Honor, we are going to rest,
8 so if you would like to question my client at this time.

9 THE COURT: Thank you so much.

10 Yes, sir, Mr. Gethers, if you would please
11 stand.

12 And you know we placed you under oath for the
13 Jackson v Denno, but in an abundance of caution I will do
14 it again.

15 If you'll raise your right hand for me, please,
16 sir.

17 TREVEE GETHERS, after being duly sworn,
18 testified as follows:

19 THE COURT: Now, at this time, Mr. Gethers, I am
20 going to explain to you certain of your rights. If you do
21 not understand anything I say, please let me know. If you
22 want me to explain anything in detail, please let me know.
23 Do you understand?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Now, we have reached the stage of

1 the trial where you may present your defense. You have
2 the right to claim the protections given to you by the
3 Fifth Amendment to the Constitution of the United States.

4 This amendment states in part: No person shall
5 be compelled in any criminal case to be a witness against
6 himself.

7 This means that you cannot be required to
8 testify in this case. You have the right to testify in
9 your own behalf; however, no one can make you testify.
10 This is a personal right, and no one can waive this right
11 except you.

12 If you decide to testify, you will be subject to
13 the same rules that govern other witnesses, and you may be
14 examined and cross-examined on any relevant issue in this
15 case.

16 In addition, if you have any convictions
17 involving dishonesty or false statement or for crimes
18 punishable by imprisonment for more than a year and this
19 court determines that the probative value of admitting
20 this evidence outweighs its prejudicial effect to you, the
21 Solicitor will be able to introduce your record to attack
22 your credibility.

23 If you decide to testify, this decision on your
24 part must be freely, voluntary, and intelligently made,
25 with knowledge of the protections given to you by the

1 Fifth Amendment and the consequences of your decision to
2 testify.

3 If you decide not to testify, I will instruct
4 the jurors they cannot give the fact that you did not
5 testify any consideration whatsoever and that there is to
6 be absolutely no prejudice to you because you did not
7 testify. It is left entirely up to you whether or not you
8 testify.

9 You may talk to your attorney. I know you have
10 been talking with your attorney, but if you need to speak
11 with her further, I certainly want you to do that.

12 You may speak with your family, trusted friends,
13 or anyone else, but the final decision, the final
14 decision, Mr. Gethers, will be left entirely up to you.

15 Do you understand what I have explained to you?

16 THE DEFENDANT: Yes, ma'am, I do.

17 THE COURT: And do you have any questions about
18 what I have explained to you?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: Do you have any questions of me or
21 of Ms. Rogers?

22 THE DEFENDANT: No, ma'am.

23 THE COURT: Have you discussed with your lawyer
24 whether you should or should not testify?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: And do you wish to talk to her any
2 more at this time?

3 THE DEFENDANT: No, ma'am.

4 THE COURT: And do you wish to testify or not to
5 testify?

6 THE DEFENDANT: Not testify.

7 THE COURT: Very well. Thank you.

8 MS. ROGERS: Yes, ma'am.

9 THE COURT: All right now. Ms. Rogers, do I
10 understand that you will be resting in front of the jury?

11 MS. ROGERS: Yes, Your Honor.

12 THE COURT: And, Counsel, as you know, we will
13 need to go over the charge and get your closing. It is
14 now 8 minutes after 12. Do you want me to send the jury
15 to lunch and give us a chance to go over the charge and
16 then come back and to argue or do you wish to argue at
17 this time?

18 MR. HILTON: I would certainly ask for some sort
19 of a break, Your Honor.

20 MS. ROGERS: Agreed.

21 THE COURT: Just want to be sure. I figured
22 that, but, you know, I just wanted to be certain, and
23 that's how we will proceed.

24 Very well. Thank you.

25 Anything before we bring the jury out from the

1 State?

2 MR. HILTON: Nothing from the State.

3 THE COURT: From the Defense?

4 MS. ROGERS: No, Your Honor.

5 THE COURT: What I anticipate is that the State
6 will rest, Defense will rest, then we'll send the jury to
7 hunch? Yes?

8 Very well. Let me have the jury.

9 (The jury came into open court at approximately
10 12:09 p.m.)

11 THE COURT: All right. Mr. Hilton.

12 MR. HILTON: Your Honor, at this time the State
13 would rest.

14 THE COURT: Thank you.

15 Ladies and gentlemen, you have now heard the
16 witnesses and received the evidence that you will from the
17 State.

18 Yes, ma'am, Ms. Rogers.

19 MS. ROGERS: Your Honor, at this time the
20 Defense rests.

21 THE COURT: Very well.

22 Ladies and gentlemen, you have now heard the
23 witnesses and received the evidence which you will in this
24 case.

25 What remains for us are the arguments of counsel

1 and my charge on the law, ladies and gentlemen, and
2 there's some matters that I must take up outside your
3 presence.

4 And it seems to me that rather than have you
5 wait for that and get hungry and everything, it's probably
6 good for us to go ahead and take our lunch.

7 When you return from lunch, you will hear the
8 arguments of counsel and then my charge or instruction on
9 the law and then you will receive this case for your
10 deliberation.

11 Ladies and gentlemen, you are not prepared to
12 deliberate because you have not heard the arguments of
13 counsel, nor my charge on the law, so you are not prepared
14 to deliberate. So please be mindful over the lunch to not
15 discuss this matter or allow anyone to discuss -- do not
16 discuss it and don't allow anyone to discuss it with you.

17 Don't read anything about this matter, don't
18 listen to anything about this matter. Don't chat, blog,
19 tweet, talk about, or in any way have any communications
20 about this matter.

21 Ladies and gentlemen, given that we are going to
22 get our lunch and there's some matters that I must take
23 up, let us start back at, yes, probably 2. Realistically,
24 I would rather you be doing, you know, eating slowly of
25 the epicurean opportunities of St. George rather than

1 rushing and coming back here and waiting on us, because we
2 will be ready by then. So I will see you all at
3 2 o'clock.

4 Please leave your notebooks in your seat.

5 (The jury left open court at approximately 12:12
6 p.m.)

7 THE COURT: Motions?

8 MR. HILTON: None from the State, Your Honor.

9 MS. ROGERS: None from the Defense, Your Honor.

10 THE COURT: Okay. In other words, just so our
11 record is clear, you made the motion for a directed
12 verdict at the conclusion of the State's case. You have
13 had no additional evidence, there has been no additional
14 evidence presented, but if need be at the conclusion of
15 both parties resting, if you needed to renew your motion
16 for directed verdict you would do that?

17 MS. ROGERS: Yes, Your Honor.

18 THE COURT: Very well.

19 Just in an abundance of caution, I put that in
20 the record, and likewise, I would respectfully deny your
21 motion, noting your exception thereto.

22 Counsel, I do like to have your input as I put
23 together the charge, and so if we could just retire and
24 you all give me the benefit of your thoughts, I will
25 certainly share with you my charge and hear any additions

1 that you feel that the charge will need. If we could do
2 that now and you need to find some language or whatever
3 over lunch, I think we'll have time to do that.

4 And then we'll be in adjournment until five
5 minutes until 2.

6 (A lunch break was taken.)

7 THE COURT: All right. Counsel, anything from
8 the State before we bring the jury out?

9 MR. HILTON: Nothing from the State.

10 THE COURT: And from the Defense?

11 MS. ROGERS: No, Your Honor.

12 THE COURT: Very well. Now it's my
13 understanding in that there was not a defense offer, that
14 the State will argue in full and then the Defense? Do you
15 all wish -- need to be heard on that?

16 MR. HILTON: I do not, Your Honor.

17 THE COURT: Very well. Thank you then.

18 (The jury came into open court at approximately
19 2:16 p.m.)

20 THE COURT: Ladies and gentlemen, I certainly
21 hope that you had a very good lunch. I want to tell you
22 how we're going to be proceeding.

23 You are first going to hear from Mr. Hilton in
24 his closing argument on behalf of the State, and then
25 you're going to hear from Ms. Rogers in her closing

1 argument on behalf of Mr. Gethers.

2 After the closing arguments, there will be a
3 very short break, which I will explain when we reach that
4 point, and then I will deliver the charge or the
5 instruction on the law applicable to this case to you.
6 And then there will be another short break that I will
7 explain when we reach that point, and then, ladies and
8 gentlemen, you will receive this case for your
9 deliberations.

10 Ladies and gentlemen, I ask that you please draw
11 close as we listen to the closing arguments of the
12 attorneys.

13 Mr. Hilton.

14 MR. HILTON: Thank you, Your Honor.

15 THE COURT: Yes.

16 MR. HILTON: Ladies and gentlemen of the jury,
17 first of all, I again want to thank you on behalf of the
18 state of South Carolina, on behalf of the sheriff's
19 office, Major Garrison, and most importantly, on behalf of
20 the family of Robert Earl Robinson. They have been here
21 this whole trial as well as you.

22 At the beginning of this trial I told you that
23 you'd hear testimony about fingerprints, you'd hear
24 testimony about DNA, you'd hear testimony about telephone
25 call records, and much, much more. And I also told you

1 that this is our system of justice: This courtroom; Her
2 Honor; the solicitor; the defendant; and you, the jury,
3 this is our system of justice. And that's all we're here
4 for is justice. We're not here to reward anybody, we're
5 here for justice.

6 The defendant is entitled to have the State
7 prove beyond each -- beyond every doubt every element of
8 the charges he's -- of the crime that he's charged with,
9 the offense of murder.

10 But likewise, the victim's family is entitled to
11 justice, too. The people of the state of South Carolina
12 are entitled to justice.

13 Now, the State, the Solicitor's office, we have
14 put up quite a number of witnesses in this case and we've
15 proven this case beyond all reasonable doubt. And you
16 took an oath at the beginning of your deliberations that
17 if the State meets its burden, you'll find the defendant
18 guilty, and that's what I'm going to ask you to do before
19 I sit down.

20 But I want to talk to you about the evidence
21 that you've heard, because every person that I called up
22 to that stand had something to say and it was something
23 that I, at least, thought was important.

24 Every piece of that story and every witness that
25 got up on that stand told you a piece of the story and

1 every piece of this evidence goes along with that story
2 along its way.

3 I told you at the beginning the definition of
4 murder. Murder is the unlawful killing of another with
5 malice aforethought. The unlawful killing of another with
6 malice aforethought.

7 Now, how does the evidence, all this evidence,
8 the testimony that you heard, how does all this fit in
9 with the definition of murder? And that's what I want to
10 talk to you about for a few minutes. I want to talk to
11 you about how it all fits in and how the defendant, Trevee
12 Gethers, fits in to all this.

13 Now, we know from some of the witnesses that the
14 victim was going to take Veronica Kitt some money. That
15 was verified by the store video that you watched, by
16 Marcus Brothers, the victim's son.

17 And we know he ended up in [REDACTED] There's
18 pictures of the car. You have the map of [REDACTED]
19 There is no question about that kind of stuff at all. We
20 know he ended up in [REDACTED]

21 We know he was shot from the passenger's side of
22 the vehicle and we know that the gunshot wound through his
23 arm into his chest caused his death.

24 But what else do we know? Well, we've heard
25 from several witnesses. You started out hearing from the

1 Richeys, Michael and Kim Ritchey.

2 You heard from Michael Ritchey that he was
3 sitting at the F building. And you'll have this map to
4 take back with you in the jury room, so if you can't see
5 it right now, that's okay. But the F building is circled.
6 And he put an "X" where that stairwell was, stated that he
7 was out there with his wife, they were looking out over
8 the courtyard, he was smoking a cigarette. Starts hearing
9 some argument. He believes it to be two people.

10 Then he hears a gunshot, what he believes to be
11 a gunshot. Pauses for a second, runs downstairs to get a
12 license plate number. Never saw anybody running towards
13 Bi-Lo, never saw anybody running back through the
14 courtyard.

15 And if you look at this map, you can see Bi-Lo's
16 over here. If he was facing this way, there's the road
17 going towards the Bi-Lo that loops back around [REDACTED]
18 There's the courtyard right there.

19 The white vehicle was right where it's indicated
20 on this map, to the right-hand side of the F building out
21 at [REDACTED] He never saw anybody running.

22 About that same time Kim Ritchey was out there
23 with him, but she went to check on one of the children
24 that they had in the bedroom in the back, the bedroom
25 closest to the parking lot. She heard what she thought

1 was two voices, heard the word "money" come up several
2 times. Shortly thereafter she hears a gunshot. Runs out
3 and her husband says, "Call 911, I think something's
4 wrong." She goes in and calls 911.

5 That was when Michael went down and saw the
6 vehicle loop around from one parking spot to another in a
7 course of just several seconds, which is consistent with
8 what Dr. Presnell testified, that if someone's shot in
9 that fashion, they might live for a few seconds before
10 they're going to expire.

11 He pauses a second -- this is Michael Ritchey --
12 he goes up to the car, puts his hand on the glass to check
13 for kids, doesn't see anybody, opens the driver's door,
14 sees the blood, sees Mr. Robinson slumped over, hollers at
15 his wife to call 911.

16 And lo and behold, after they process the
17 vehicle, Michael Ritchey's statement, just like he said,
18 palm prints on the driver's side of the car, fingerprints
19 on the door handle when he opened the door and checked to
20 see if anybody was in there.

21 About all this same time Shanika Moon, you heard
22 from her, she was one of the first witnesses, I think she
23 might have been witness number three, Shanika Moon was
24 living in I believe it was [REDACTED] 1 downstairs in
25 that apartment building. She hears arguing, she looks

1 out, she sees two people. Two people. She sits back
2 down, she hears a shot.

3 She should have called 911. I mean, everybody
4 knows she should have called 911, but she didn't. We
5 can't hold that against Shanika Moon, but 911 was called
6 nonetheless by Kim Ritchey.

7 And they got several calls. You heard Detective
8 Garrison say there were several calls and that the calls
9 started coming in about 9:57.

10 The next witness you heard from was Deputy
11 Williard Driggers. He works for MUSC now, but at the time
12 he was working for the sheriff's office. You heard he
13 gets the call over his radio and he was right near the
14 entrance. You can see the entrance on this map, ladies
15 and gentlemen, what's been marked as State's Exhibit 1,
16 right out here on Orangeburg Road. He gets the call on
17 his radio, whips it around, and comes back to the
18 entrance.

19 If you remember his testimony, he said he kept
20 looking in the mirror to see if there were any cars coming
21 out of [REDACTED] Never saw any cars coming out.

22 He pulls up to the scene, sees a white vehicle,
23 gets out, notices that the vehicle is backed up kind of in
24 the middle of the road, engine revved up.

25 He puts on some gloves to preserve any evidence

1 that might be there, opens the car, switches it off.

2 And what does he say? He says the smoke was
3 still in the air from the gunshot. There was no one
4 around.

5 You heard from Deputy Chris Freshman, now an
6 officer with the Charleston City Police Department. He
7 pulls up, they start securing the scene and know it's a
8 crime scene at that point. He starts securing the scene
9 and they start talking to the witnesses, the same
10 witnesses that came in here and told you what they are
11 heard, the Ritcheys, Shanika Moon.

12 And then you heard from Earl Asbell. Earl.
13 Asbell is a lieutenant at the sheriff's office. He's been
14 there for a number of years. He's been doing crime scene
15 investigations most of that time, and he starts processing
16 the scene.

17 And what do they do? They just don't focus in
18 on something. They take a broad area and they pick up
19 cigarette butts and lighters and buttons and watch pieces
20 and a shell casing and all kinds of stuff that ultimately
21 they found out most of it didn't have anything to do with
22 the scene, but they picked it up anyway just to be on the
23 safe side. Anything that might have had something to do
24 with that crime, they picked up.

25 What else do they pick up? They picked up what

1 we've marked as State's Exhibit 27, a Bluetooth headpiece
2 that you heard him testify that it was still blinking blue
3 at the scene of the crime. What does that mean? That
4 means it hadn't been there too long.

5 Where was that Bluetooth recovered? It's marked
6 on the map right here, State's Exhibit 1. It's labeled
7 "Bluetooth." If you look from the vehicle, the Bluetooth
8 is in the middle of there and [REDACTED] I'll tell you
9 why that's important in a minute. But they recovered that
10 Bluetooth because they thought it might have something to
11 do with the crime.

12 They then towed the vehicle. Why? Dew was
13 starting to fall and they wanted to preserve any prints.
14 They said it would be difficult to lift any prints if the
15 dew fell on there, that would cause problems with their
16 powder.

17 Later on in the trial there was mention of,
18 well, maybe they should have tested this for gunshot
19 residue. Well, you heard Agent Simmons say that you're
20 not going to hardly find any gunshot residue once the dew
21 falls on something. That stuff is very fragile.

22 They towed the vehicle back to the shop and they
23 began processing it. They lifted prints and they lifted
24 prints and they lifted prints and they swabbed for DNA
25 inside the vehicle, and they were lucky to find any prints

1 at all. But in this case they did, they found a bunch of
2 prints. And I'm going to talk some more about those
3 fingerprints in a few minutes also.

4 They also recovered the victim's telephone that
5 night at the scene.

6 And at that time they had no suspects. You
7 heard Detective Garrison say he came out and he was
8 assigned the case that night. They had no suspects. So
9 they started where they could.

10 They started with the family and found out who
11 Mr. Robinson was based on his wallet, based on the ID in
12 his wallet. Found out who he was, found out his address.

13 About 12 o'clock at night, 12:30 at night they
14 go to Walterboro to see if they could find out any
15 information about this case. They talk to Ms. Robinson.
16 Well, she says he was going to see his son, Marcus.

17 They go find Marcus. Sure enough, Marcus said,
18 "Yeah, I talked to my dad. He wanted to borrow \$200. He
19 met me at the store, I loaned him \$200, he bought a drink
20 and he left. That's the last time I saw him." That's all
21 on the video. There is no dispute about that kind of
22 stuff.

23 They start checking the phone calls from the
24 victim's cell phone. They start subpoenaing telephone
25 records. Still no real suspect at this time. They don't

1 have any idea who did this.

2 They start getting fingerprints back and they
3 get a hit, a CODAS hit from this defendant, Trevee
4 Gethers, taken from that vehicle.

5 They didn't stop there. Once they found out a
6 suspect they didn't stop. They sent other prints in to
7 see if any of the other prints match known people in the
8 neighborhood that were known for causing crime. I think
9 you heard some names: Quintavious Davis, Donsurvi
10 Chisholm. There may have been more names, but they sent
11 in these other fingerprints. No luck.

12 They recovered the projectile from the body of
13 Mr. Robinson to see if they could match it up to any gun
14 that had been used somewhere else in some other crime. No
15 luck. They asked SLED, asked Agent DeFreese, "Compare
16 this bullet with some bullets that we know are used in
17 some other crimes." No luck.

18 They start getting back these phone records that
19 they had subpoenaed and they find out that the number
20 calling the victim around the time of the murder was from
21 two people. The first person is this girl named Shawn
22 from up in St. George. Okay. They finally get a name
23 from somebody other than a fingerprint that came from
24 Mr. Gethers. They go talk to Shawn. Shawn checks out.
25 She's legitimate, doesn't have anything to do with it.

1 She's eliminated as a suspect.

2 They then find out the other number is from a
3 girl named Maggie Reid. You heard Maggie Reid testify
4 from the witness stand, and she told you Veronica Kitt was
5 using her cell phone that night and that she was dating a
6 guy named "City." And we found out that "City" was the
7 defendant Trevee Gethers seated right over here at the
8 defense table.

9 You heard from Detective Garrison that based on
10 those fingerprints, based on the telephone calls going
11 back and forth between the victim and Veronica Kitt, based
12 on the fingerprints all along the passenger side of that
13 vehicle, they got a warrant for Veronica Kitt and Trevee
14 Gethers and charged both of them with the crime of murder.
15 They put those warrants in NCIC. Didn't have a clue where
16 they were.

17 Did they stop after they got a warrant? No,
18 they didn't stop. They started asking around. They found
19 out from Brandee Kiefer during the execution of a search
20 warrant, they found out from Brandee Kiefer, and she
21 testified as well, that the defendant came and took her
22 car -- I think it was the next night after the crime --
23 dropped her off from work and when she came out of work,
24 the defendant's Lincoln was sitting there. Her car was
25 gone.

1 She tried to talk to him on the phone a couple
2 of times, finally talked to him and he told her what she
3 told police, Don't tell police -- or she told police that
4 Trevee said, "Don't tell anyone that I'm up in Virginia.
5 Well, when are you going to have my car back? I will be
6 back in a little while."

7 A few days later through NCIC, the National
8 Crime Information Center, after they had put in a car
9 serial number, they find out that Brandee Kiefer's car was
10 up in New Kent, Virginia.

11 So was Brandee lying? How would she have known
12 they were going up to Virginia if she didn't talk to
13 Trevee Gethers?

14 The car was abandoned at a gas station.

15 Several days later, Trevee Gethers, Veronica
16 Kitt, they're picked up in New York at a gas station
17 running from the law using fake IDs. Veronica Kitt may
18 have been buying cigarettes with her fake ID, but she
19 wasn't buying cigarettes up in New York. Maybe it hadn't
20 made it over to the cigarette district yet.

21 They weren't buying cigarettes, folks. They
22 were running from the law. As the old saying goes, The
23 wicked flee where no one pursues. Well, that saying was
24 before the time of NCIC, the National Crime Information
25 Center.

1 So what next? Mr. Gethers, Ms. Kitt, they're
2 picked up from New York and they're brought back to South
3 Carolina. And almost two years later, Veronica Kitt
4 decides that she's going to try to help herself. She sets
5 up an appointment through her attorney to give a
6 statement. She works out a deal with the State.

7 Now, folk, this is nothing uncommon. This
8 happens all the time in these cases. She sets up a deal
9 with the State and she gives this statement.

10 Now, you just can't give some random statement.
11 I mean, the information you give has to check out.

12 She worked a deal to stay in Family Court and be
13 prosecuted as a juvenile instead of an adult. And, ladies
14 and gentlemen, that may have happened with or without any
15 deal from the State. Ultimately it's up to the Family
16 Court to decide whether a juvenile comes up and is
17 prosecuted as an adult.

18 She gives a statement and says that she'll
19 testify truthfully and cooperate in the prosecution of
20 Mr. Gethers.

21 Now, folks, don't think for one minute that
22 Veronica Kitt is the State's key witness. She is a
23 deceptive little brat. She came up here and she started
24 off pretty good. "Yeah, I called Mr. Robinson," calls are
25 going back and forth. A couple of minutes into her

1 testimony she starts backing up. "No, I didn't say that.
2 No, the police made that up. I didn't say that."

3 Remember when I first asked her if she gave a
4 statement to the police? She said, "Yeah, I gave a
5 statement to the police."

6 I said, "Is that your signature right there?"

7 "Yeah, that's my signature right on the bottom."

8 And what I'm talking about is 'State's Exhibit
9 33. You'll have that back there with you.

10 I said, "Did you tell the police the truth?"

11 "Yeah, I told them the truth."

12 Maybe she didn't mean to say that. That might
13 have been some misspeak on her part.

14 But she gave that statement in front of
15 Detective Garrison, Detective Morelli, and her own
16 attorney.

17 Now, I kept saying to myself when I was
18 preparing this case, How do we know, how do we know that
19 Veronica Kitt was truthful with police when she gave that
20 statement back at that time? I kept scratching my head
21 over that. You know, she's either lying then, she's lying
22 now, or she's lying the whole time. I mean, that's your
23 options. And after I read that statement again, it hit
24 me, and I want to read you a portion of it.

25 It says -- and again, you'll have this back

1 there to read for yourself -- it says, "I called Trevee
2 after to see if he got the money, and he said no."

3 From that one little statement in here, we know
4 that this is the truth. How do we know it's the truth?
5 Because you remember Marcus said he loaned his dad \$200,
6 and he picked that up from the store. And then
7 Ms. Robinson testified right after Marcus and she said she
8 got some property back from the coroner's office. How
9 much was it? \$200. \$199 is what she said. And if you
10 remember, Marcus said he bought a drink at the store.

11 There was no money taken off of Earl Robinson
12 that night. The only way Veronica Kitt would have known
13 that is if Trevee Gethers told her. That's the only way.

14 Veronica Kitt didn't help anybody by coming in
15 here and lying. She violated her deal to testify
16 truthfully. She certainly didn't help the defendant
17 because her statement came in anyway. And she certainly
18 didn't help you out in trying to figure out the truth on
19 what happened the night of September 17th, 2007.

20 But, ladies and gentlemen, even after Veronica
21 Kitt gave her statement, the police didn't stop their
22 investigation there. You heard that up until this year
23 Earl Asbell collected a DNA sample, a DNA sample, a swab
24 of the defendant's mouth. I said, "Who did you take it
25 from? From that guy seated right over there." He took

1 that DNA sample and they sent it up for comparison to the
2 Bluetooth headset that was recovered from the scene of the
3 crime. And lo and behold, they got a match. And not only
4 just a match, not a one in ten match, not a one in 20
5 match, not a one in a thousand match, a one in
6 26 quadrillion. If I had that much in my bank account I
7 wouldn't be standing in front of y'all today, I can tell
8 you that. One in 26 quadrillion.

9 Now, let's talk about the telephone calls. You
10 heard testimony that there were these telephone records
11 and there were 14 calls between the victim and Veronica
12 Kitt. And I think you all jotted some of that down when
13 we were going over that testimony. I counted 14 calls
14 between the two of them.

15 And yes, that was Maggie Reid's phone, but
16 again, we know that Veronica Kitt was using Maggie Reid's
17 phone.

18 How do we know that? Well, Maggie Reid told us
19 that and Veronica Kitt told us that. So you have two
20 witnesses there about who was using whose phone.

21 And during that same time, there's 12 calls that
22 go back and forth between Veronica Kitt and the defendant.

23 Look at Veronica Kitt's statement to police.
24 Not her testimony, because I don't believe her testimony
25 for a minute, but look at her statement to police. She

1 talks about those calls in there. That information is
2 verified with the phone records, verified information.

3 Why are all these calls important? Because we
4 know that the time of death is just before 10:57 when
5 those 911 calls started coming in. And if you look back
6 at those records, at 10:56, Maggie Reid's phone that
7 Veronica Kitt was using calls the defendant. And then she
8 makes two calls to the victim shortly after that in rapid
9 succession. And there are no more calls until 11:40 that
10 night when the defendant calls back to Maggie Reid.

11 You think that he was trying to get out of the
12 area during that time? You think that's when Veronica
13 Kitt asked him if he'd got any money from Mr. Earl and he
14 said, "No, I never got the money"?

15 All these calls, and coincidentally they stopped
16 within a minute or two from the time the 911 calls were
17 coming in, and the next call is from the defendant back to
18 Veronica.

19 Fingerprints. I asked Earl Asbell to draw a
20 diagram, drew the car, and he indicated on this diagram --
21 and again you'll have this back there in your evidence, in
22 your jury room with you and you'll be able to look at it a
23 whole lot closer -- I had him label all of the latent
24 lifts that they were able to lift off that vehicle, that
25 white Toyota Sequoia, and identify all of these

1 fingerprints. You'll have all these back there with you,
2 too. All of these prints I had him label.

3 And then I got Kalisha Gill, the fingerprint
4 expert, and she got up here and indicated whose prints
5 were whose. She took the known prints -- there's some
6 known prints, here they are, State's Exhibit 40 -- she
7 looked at these known prints from this guy, Trevee
8 Gethers, and compared them to the prints that were taken
9 from the car.

10 And I looked at that chart again and it occurred
11 to me, all of these are left-hand prints. The passenger's
12 side of the vehicle, every print belonging to Trevee
13 Gethers, left palm, left thumb, left index, left middle,
14 left palm, left thumb, left index, left index, all these
15 are left-handed prints.

16 Well, think about it, he even opened the door,
17 the passenger's side door, with his left hand. How
18 awkward would that be? Left hand, you open the
19 passenger's side door, you're on the hood side of the
20 vehicle then.

21 Why don't we find any right-hand prints?
22 Because the defendant had a .38 caliber or a .357 revolver
23 in his right hand the moment that he got in the car. He
24 walked down the passenger's side of this car, hand prints
25 along the side, opens the door with his left hand, gun in

1 his right, sits down in that car.

2 You talk about malice. You talk about a wicked
3 or depraved heart. He got into that white Sequoia, he was
4 arguing about money, and when the victim wouldn't give it
5 to him, he shot him and he took off. He slammed that door
6 with his left hand because he had the gun in his right and
7 he ran towards [REDACTED] and he got into his Lincoln,
8 that Maggie Reid testified he was there standing by his
9 Lincoln earlier that day, he jumped into his Lincoln and
10 he took off.

11 He went and traded cars with Brandee Kiefer. He
12 came back and picked up Veronica Kitt at some point in
13 time after that. Trevee, Veronica Kitt, and two fake IDs
14 along with Brandee Kiefer's car headed up to New York.

15 He probably knew they were going to be looking
16 for Brandee Kiefer's car after a short amount of time and
17 so he ditched it in Virginia.

18 Folks, he wasn't going to a family reunion up in
19 New York. You don't ditch your car halfway and take a bus
20 ride the rest of the way if you're going up there to buy
21 cigarettes. You talk about malice, you talk about a
22 person devoid of any social responsibility. That's the
23 definition of Trevee Gethers.

24 Mr. Earl Robinson sitting in his car, the
25 defendant gets in, "Give me the money, Give me the money."

1 I submit to you, ladies and gentlemen, that's what Kim
2 Ritchey heard when she heard the word "money" come up
3 those couple times. And before he even got a chance to
4 give it to him, the defendant shot him in the chest.

5 You heard the testimony from the pathologist and
6 the gunshot residue expert, with his arms raised the
7 bullet goes through his arm into his chest, through his
8 lungs, pierces his heart, and the defendant flees, leaving
9 behind his fingerprints, a Bluetooth, and the dying body
10 of Earl Robinson.

11 Ladies and gentlemen, this is the last time that
12 I'm going to be able to speak to you during the course of
13 this trial, so I can only anticipate what the defense is
14 going to get up here and say to you. But I suspect it
15 will be the same old lines. It will be, the police didn't
16 do their job.

17 Folks, what more could they have done? They
18 swabbed the inside of the car, didn't get anything. They
19 lifted fingerprints. All those came back to Trevee
20 Gethers or Michael Ritchey or the victim, Earl Robinson.
21 They're identified on the chart.

22 Yes, there was a couple of fingerprints that
23 were unidentified. There were a bunch of fingerprints
24 that are marked on the chart that didn't have the quality
25 or quantity of ridge detail to be identified. They could

1 be anybody's. They could be the defendant's, Trevee
2 Gethers.

3 And a couple of unidentified prints. It was
4 Ms. Robinson's car. Think it might be Ms. Robinson's
5 prints on the car? Could it be Marcus' prints in the car?
6 It could be anybody's prints.

7 What more could they have done? No murder
8 weapon. No murder weapon. Beyond a reasonable doubt, you
9 got to let my guy go.

10 Folks, they looked for a weapon. Detective
11 Garrison got up here and testified they looked at the
12 scene, they looked in the ditch behind the scene, what you
13 can see on the map. There's a ditch that runs behind the
14 apartment complex. There's a dumpster over in this area.
15 You heard Detective Garrison say they looked all in that
16 area, they looked all in the area between [REDACTED] and
17 [REDACTED] I think he even said he walked that himself
18 looking for it several times. They looked in that
19 dumpster.

20 Conducted search warrants. They searched the
21 Ireland Drive address where the defendant was living.
22 They searched Veronica Kitt's apartment. No luck, no
23 murder weapon.

24 But they're still looking for that gun. You
25 heard Detective Garrison say they entered the projectile

1 into IBIS. If that gun shows up and another projectile
2 gets entered into IBIS, they can make the match, there's
3 your gun. That gun could be anywhere from here to New
4 York City. And we don't reward defendants for throwing
5 away evidence.

6 What else? Somebody else did it. It had to be
7 somebody else. Other fingerprints I talked about a minute
8 ago? That's who did it. That's the real guy.

9 Ladies and gentlemen, those prints have no
10 connection to this crime. The telephone records don't
11 jibe with those fingerprints. Veronica's statement,
12 Veronica Kitt's statement to police doesn't jibe with
13 those fingerprints. The Bluetooth that was found in the
14 area that somebody would take off fleeing from the scene,
15 that doesn't have anything to do with those fingerprints.
16 Fake IDs in New York doesn't have anything to do with
17 fingerprints.

18 So what else? That was no good. You heard
19 Lilly Gallman testify, the DNA expert from SLED, that
20 Trevee Gethers was the major contributor of the DNA on the
21 Bluetooth, the major contributor. Well, I guess that
22 means there's a minor contributor on there, too. That's
23 the guy who must have done it, right? No, that guy didn't
24 leave fingerprints at the scene. That guy's telephone
25 records didn't match up.

1 All right. So that doesn't work. Beyond a
2 reasonable doubt. You've got to prove my client's guilty
3 beyond a reasonable doubt, and the State's failed to meet
4 its burden. Because no one saw him at the scene. Nobody
5 can say they saw that defendant shoot Earl Robinson.
6 Well, that's right. Because there were only two people
7 there. We know that because Shanika Moon looked out a
8 window and saw two people arguing in that car. The
9 Ritcheys heard two voices.

10 Folks, Mr. Robinson didn't shoot himself and
11 then get rid of the gun.

12 And what about all those left-hand fingerprints
13 on the side of the vehicle where Trevee Gethers got into
14 that car with the gun in his right hand, that .38 or a
15 .357 revolver?

16 And why do I keep saying revolver? Because
17 that's why they didn't find a shell casing at the scene.
18 You heard from Agent DeFreese, a revolver doesn't eject a
19 shell casing unless it's manually removed. He didn't have
20 time for that. The defendant, Trevee Gethers, was booking
21 it getting out of there and that's why he lost his
22 Bluetooth.

23 And those left-hand fingerprints, last I checked
24 the defendant has both hands.

25 All this stuff, ladies and gentlemen, is what is

1 called a red herring. And the defense counsel will use
2 that to try to take your eye off of the facts, off of all
3 this evidence that's up here, off of all that testimony
4 that you heard from the scene. They'll want you to
5 disregard the testimony of every witness and the facts on
6 this table up here and the evidence presented before you.
7 Don't believe any of that stuff. Just believe what could
8 have been, just believe what could have happened. Well,
9 that's not what beyond a reasonable doubt is.

10 I want to take a minute to talk to you about
11 Earl Robinson. There's some testimony by Veronica Kitt
12 that Earl Robinson had called her up so that he could get
13 some. When I was preparing for this trial, I was trying
14 to figure out how that could be. That may be the case.
15 Let's assume that that is the case. Earl Robinson's not
16 the one on trial here. Earl Robinson is not the one who
17 went out and shot anybody.

18 If Earl Robinson was trying to get some from
19 Veronica Kitt, he would be charged as well. That's
20 criminal sexual conduct with a minor. But that's not what
21 we're here for. We're here for the facts in reference to
22 Trevee Gethers shooting Robert Earl Robinson on
23 September 17th, 2007, at the back of the F building of
24 [REDACTED] apartment complex.

25 Beyond a reasonable doubt. If you're firmly

1 convinced of anything, it should be that this defendant,
2 Trevee Gethers, pulled the trigger on Earl Robinson when
3 he didn't give him that money that was in his pocket.

4 If you think the police made up all this
5 evidence, let Mr. Gethers go. But to do that, you would
6 have to disregard all of this, the flight up to New York,
7 the Bluetooth, the fake IDs, all the testimony that you
8 heard from the stand. You would have to disregard every
9 piece of that.

10 There's only one just verdict in this case. And
11 remember, I told you this was our justice system. We're
12 just here for justice.

13 There's one verdict that speaks the truth, a
14 verdict that holds the defendant accountable for his
15 heinous and cowardly crimes, a verdict of guilty.

16 That man, Trevee Gethers, shot Earl Robinson on
17 September 17th, 2007, and here's how we know.

18 Thank you.

19 THE COURT: Thank you, Mr. Hilton.

20 Ms. Rogers.

21 MS. ROGERS: Your Honor, at this time the
22 defense would like to renew its motion for directed
23 verdict.

24 THE COURT: Very well. Thank you. And just as
25 before, it's respectfully denied.

1 MS. ROGERS: Thank you, Your Honor.

2 May I have permission to set up the podium area?

3 THE COURT: Most assuredly.

4 MS. ROGERS: Ladies and gentlemen of the jury,
5 the first day of this trial I told you my client, Trevee
6 Gethers, did not commit this crime and was not a guilty
7 man. As the judge will instruct you, the burden lies with
8 the State to prove beyond any reasonable doubt that my
9 client, Mr. Gethers, committed this crime.

10 Further, the fact that his prints were found or
11 that his Bluetooth was found at the scene of a crime is
12 not enough evidence to find him guilty of a crime. His
13 mere presence is not enough.

14 The witnesses that testified in this trial were
15 under an oath to tell the truth. And let's look at what
16 this testimony has been.

17 The Ritcheys testified that they didn't see the
18 shooter, they didn't see the shooting, that they didn't
19 see anybody fleeing the scene. They also testified that
20 [REDACTED] is a violent neighborhood; that shooting,
21 gunshots, violent occurrences happen there often.

22 Ms. Moon testified that she saw two people in a
23 vehicle arguing; however, she could not identify
24 Mr. Gethers as one of those people. She could not
25 identify Mr. Gethers being at the scene. She could not

1 identify anybody. She also testified that [REDACTED] is a
2 violent, high crime area.

3 Detective Driggers, one of the first responders,
4 also testified that it wasn't the first time, or the last
5 time, he had been to [REDACTED] because it was a violent
6 area. And he also stated that nobody came forward during
7 that time that had witnessed the actual event, nor did
8 anyone come forward at that time and say, I saw
9 Mr. Gethers commit this crime.

10 Detective Asbell testified that Mr. Gethers'
11 prints were found on the outside of the vehicle. They
12 were. They were not found inside the vehicle. On his
13 Bluetooth, he stated that he didn't see any blood on the
14 Bluetooth itself.

15 He also said that they gathered all kinds of
16 evidence, like cigarette butts and .40 caliber shells, but
17 none of that was relevant to the crime and none of it was
18 ever tested.

19 Marcus Brothers, the victim's son, testified
20 that he gave his dad \$200 that night, which just happens
21 to be the amount you heard Ms. Kitt testify she had
22 asked -- excuse me -- Mr. Robinson for in exchange for
23 sex.

24 Jestine Robinson, the wife of the victim,
25 testified that the car had been washed on Wednesday.

1 Well, that's Thursday, Friday, Saturday, Sunday, and
2 Monday that the car was not washed and could have gotten
3 prints on it at any time.

4 You heard the fingerprint expert say there's no
5 way to tell how long prints have been on a car or the age
6 of prints and that they could be on a car for an extended
7 period of time.

8 You heard Brandee Kiefer testify that her and
9 Mr. Gethers, they lived together; they had an ongoing
10 relationship; they had a child together; they switched
11 cars often, that was not an unusual occurrence.

12 She also testified that there were nights when
13 Mr. Gethers didn't come home, and that was perfectly
14 normal, that she didn't think anything of it.

15 Veronica Kitt testified that her and Mr. Gethers
16 had a relationship, an ongoing long-term relationship.
17 That they often took trips together, trips out of the
18 state. She testified that she had her cousin
19 Ms. Ravenel's ID on her all the time because she was 14
20 years old and smoked.

21 Ninety percent of college students have fake
22 IDs. Have they committed a crime and are they running
23 from the law, too, or could it simply be they want to do
24 something they're not of legal age to do?

25 Major Garrison testified that there was no

1 weapon found at the crime scene, at the Gethers' home, in
2 the dumpster. And they are still looking for that weapon.
3 To this day it still has not been located.

4 Dr. Presnell testified that the shot occurred
5 with stippling, which means the shooter would have had to
6 have been within close proximity.

7 Again, I remind you that there is no evidence of
8 my client inside that car, fingerprints, DNA, hair,
9 nothing. There is no evidence of Mr. Gethers being inside
10 that vehicle.

11 Maggie Reid did testify that she let Veronica
12 Kitt borrow her phone, that they were neighbors, and also
13 that Veronica and my client had a relationship. So all
14 those phone calls that went on between Veronica and my
15 client were normal calls. They were calls between a
16 boyfriend and a girlfriend or friends.

17 She also testified, when Veronica was sitting
18 right there, that Mr. Robinson had been a family friend.
19 People call their family friends.

20 Kalisha Gill testified as an expert that there
21 was no way to determine the age of the prints, that there
22 were a number of prints inside and outside of the vehicle.

23 As the Solicitor already pointed out to you,
24 Detective Asbell and Ms. Gill made some markings on this
25 chart of the vehicle. As you can see, there are a number

1 of unidentifiable prints, whether they lacked the
2 sufficiency to be identified or couldn't be matched. You
3 will notice that there are a number inside the vehicle.

4 Corporal Morelli testified that the calls from
5 Maggie Reid's phone to Mr. Robinson and Mr. Gethers
6 occurred that day and that there were a lot of them.
7 Again, these are people that Veronica Kitt had a close
8 personal relationship with and it would make sense that
9 she would call these people.

10 He also testified that he arrived at the scene
11 and he also saw no blood on the Bluetooth. And he would
12 have been there within a reasonable amount of time before
13 dew had started to gather or any of the other outside
14 forces that could have washed away that evidence from the
15 Bluetooth, could have affected it.

16 Mr. DeFreese testified that the weapon most
17 likely used as a .38 or .357 magnum revolver. He has not
18 been able to obtain that weapon. Further, he was never
19 sent anything but a couple of guns used in previous crimes
20 in [REDACTED] to compare those bullets to. None of those
21 matched.

22 He also testified that he was never sent any
23 bullets or did any research in any of the databases to see
24 if the bullet from this particular crime matched anything
25 in those systems.

1 Ms. Simmons testified that gunshot residue was
2 found on Mr. Robinson's hands and that the Bluetooth could
3 have had gunshot residue on it under the right conditions,
4 but it was never tested.

5 Finally, Ms. Lilly Gallman, the DNA expert,
6 testified that only Mr. Gethers' DNA was found on the
7 Bluetooth; that the other contributor could not be
8 identified as to the victim or anyone else.

9 Again I remind you that this shooting had to
10 happen within close proximity. And if that's the case,
11 the likelihood of the victim's DNA being on this Bluetooth
12 is very high had my client been the shooter.

13 She also testified that Mr. Gethers' DNA was not
14 found in the car, under Mr. Robinson's fingernails, or in
15 any of the other samples collected from the crime scene
16 that day.

17 Ladies and gentlemen, that is 16 of the State's
18 21 witnesses, all of which have something to say about
19 reasonable doubt, which the burden is on the State to
20 prove beyond any reasonable doubt that my client is the
21 person that committed this crime.

22 No one saw my client. My client was a
23 19-year-old boy at the time of this incident. He was
24 scared and he did the wrong thing. He took his girlfriend
25 and decided to go on a trip. Is that enough to imply

1 guilt? I don't believe so.

2 You heard testimony that Ms. Kitt was using Ms.
3 Ravenel's ID again to buy cigarettes. My client may have
4 had similar reasons to be using Mr. Hubbard's ID and, in
5 fact, could have used it frequently also.

6 The burden rests with the State to prove every
7 element of this crime beyond a reasonable doubt.

8 Murder as defined by the South Carolina Code of
9 Laws as the Solicitor has already informed you is the
10 killing of any person with malice aforethought, either
11 express or implied. They have not been able to prove that
12 my client killed anybody, simply that items belonging to
13 him were found at a crime scene. Based upon the evidence
14 before you, it is clear that they have not met their
15 burden.

16 [REDACTED] is a violent neighborhood, a place
17 where violence occurs frequently.

18 As the Solicitor also told you, they picked up a
19 lot of evidence, but they didn't test it all. They have
20 investigated and continued to investigate this case, but
21 the problem with that is, that investigation has been
22 focused on my client.

23 As Elvis Presley would say, only fools rush in,
24 and that's what happened in this case. My client became a
25 convenient suspect because they had evidence of him being

1 at this location. And while they continue to investigate
2 and continue to look for the gun, all of that
3 investigating is aimed at proving my client's guilt.

4 The Solicitor said that people don't give false
5 statements to the police. In fact, they do. A lot of
6 people give false statements to the police, whether it's
7 to protect themselves, protect a loved one, or just out of
8 plain fear. It's also possible for people to give
9 statements that are partially true and partially false.

10 There's no way to really know what Ms. Kitt said
11 was completely true or completely false without Ms. Kitt
12 testifying herself. And her position is that it was not
13 concurrent with the statement she gave police. She sat up
14 there and she repeatedly said, "That's my signature." She
15 agreed with that. But what you didn't hear her say is,
16 "That was my statement, those were my words."

17 You heard testimony that it was transcribed,
18 which is common practice with police officers. But that
19 also doesn't mean that it wasn't taken out of context. We
20 have all done it. I might tell you I saw a blue truck in
21 the parking lot. Your interpretation of that could be, I
22 saw a Ford F-250.

23 As to the gun and the left-handed fingerprints,
24 that's pure speculation on the part of the Solicitor.
25 There is no proof that my client ever had a gun in his

1 hand, much less was at the scene with the gun in his hand.
2 If the motive was robbery as the Solicitor has said, why
3 was the money left behind?

4 I'm not asking you to disregard the testimony of
5 the witnesses that have come before you. I'm asking you
6 to listen to them in their entirety. And again I believe
7 if you do that, you will find that the State has not met
8 their burden and you must reach the true just verdict in
9 this case which is not guilty. That would be justice in
10 this case.

11 My client was simply a 19-year-old young man in
12 the wrong place running with the wrong people. Don't make
13 him spend the rest of his life behind bars based on this
14 evidence you have before you.

15 Thank you.

16 THE COURT: Thank you.

17 All right. Just stand up where you are. Does
18 anybody need a comfort break? It will take me about 40
19 minutes to deliver the charge to you, so that's helpful.

20 No? Just stand and stretch.

21 Ladies and gentlemen, the indictment in this
22 case charges the defendant, Mr. Trevee Gethers, with the
23 offense of murder. I remind you that the fact that
24 Mr. Gethers was arrested, charged, and indicted in this
25 case is not evidence in this case and cannot be considered

1 by you as evidence of guilt in this case, nor does it
2 create any presumption or inference of guilt. The
3 indictment is simply the formal written instrument which
4 contains the charge made against Mr. Gethers. It is the
5 formal document by which this case is brought into this
6 court.

7 Ladies and gentlemen, the indictment in this
8 case alleges that the defendant, Trevee J. Gethers, did in
9 Dorchester County on or about September the 17th, 2007,
10 with malice aforethought, kill one Robert Earl Robinson by
11 means of shooting the victim and that said victim did die
12 as a proximate result thereof, this being in violation of
13 Section 16-3-10 of the South Carolina Code of Laws, as
14 amended, and the common law of the state of South
15 Carolina.

16 Now, ladies and gentlemen, Mr. Gethers has pled
17 not guilty to this indictment and that plea puts the
18 burden on the State to prove the defendant guilty.

19 A person charged with committing a criminal
20 offense in South Carolina is never required to prove
21 himself or herself innocent. I charge you that it is an
22 important rule of law that the defendant in a criminal
23 trial, no matter the seriousness of the charge, that
24 defendant will always be presumed to be innocent of the
25 crime for which the indictment was issued unless guilt has

1 been proven by evidence satisfying you of that guilt
2 beyond a reasonable doubt.

3 This presumption of innocence does not end when
4 you begin your deliberations, but it accompanies the
5 defendant throughout the trial until you reach a verdict
6 of guilt based on evidence satisfying you of that guilt
7 beyond a reasonable doubt.

8 The presumption of innocence is like a robe of
9 righteousness placed about the shoulders of the defendant
10 which remains with him until it has been stripped from him
11 by evidence satisfying you of Mr. Gethers' guilt beyond a
12 reasonable doubt.

13 The presumption of innocence is not a mere legal
14 theory. It's not just a legal phrase. It is a
15 substantial right to which every defendant is entitled
16 unless you, the jury, are satisfied from the evidence of
17 the defendant's guilt beyond a reasonable doubt.

18 What then is reasonable doubt in the law? A
19 reasonable doubt is the kind of doubt that would cause a
20 reasonable person to hesitate to act. A reasonable doubt
21 is the kind of doubt that would cause a reasonable person
22 to hesitate to act. The State has the burden of proving
23 the defendant guilty beyond a reasonable doubt.

24 Some of you may have served as jurors in civil
25 matters where you were told that it is only necessary to

1 prove that a fact is more likely true or not true, such as
2 by the greater weight or the preponderance of the
3 evidence. In criminal cases the State's proof must be
4 more powerful than that. It must be beyond a reasonable
5 doubt. Proof beyond a reasonable doubt is proof that
6 leaves you firmly convinced of the defendant's guilt.

7 There are very few things in this world that we
8 know with absolute certainty, and in criminal cases the
9 law does not require proof that overcomes every possible
10 doubt. If based on your consideration of the evidence you
11 are firmly convinced that the defendant is guilty of the
12 crime charged, you must find the defendant guilty.

13 If, on the other hand, you think there is a real
14 possibility that the defendant is not guilty, you must
15 give the defendant the benefit of the doubt and find him
16 not guilty.

17 Now, I remind you, ladies and gentlemen, that
18 you and I have certain duties to perform during the course
19 of the trial. As the trial judge, it is my responsibility
20 to preside over the trial of this case and I also have the
21 duty to rule over the admissibility of the evidence
22 presented during the trial.

23 You are to consider only the competent evidence
24 before you. You are to consider only the testimony that
25 has been presented from this witness stand and any

1 exhibits which have been made a part of record in this
2 case and the stipulations of Counsel.

3 I have the additional duty to charge you with
4 regards to the law applicable to this case. As the
5 presiding judge, I am the sole judge of the law of this
6 case and it is your duty as jurors to accept and apply the
7 law as I now state it to you.

8 If you already have any ideas as to what the law
9 is or what it should be and it does not agree with what I
10 tell you the law is, you must abandon your preconceived
11 idea because you are by your oath sworn to accept and to
12 apply the law exactly as I state it to you.

13 Now, in every case tried in this court before a
14 jury, the jury becomes the sole, the exclusive, the only
15 judge of the facts in the case. A trial judge cannot
16 intimate, state, comment on, or make any statement to a
17 trial jury about the facts in a case.

18 Since you, the jury, are the sole judges of the
19 facts in this case, you are not to infer from what I have
20 said during the course of this trial in ruling on
21 admissibility of evidence or otherwise or anything that I
22 say to you now during the course of this instruction that
23 I have any opinion regarding these facts. The law doesn't
24 allow me to have an opinion regarding these facts, and I
25 have no opinion regarding the facts of this case. This is

1 a matter solely for you to determine.

2 As jurors, it is your duty to determine the
3 effect, the value, the weight, and the truth of the
4 evidence presented during this trial.

5 Now, ladies and gentlemen, normally there are
6 two types of evidence that are presented during a trial.
7 One type of evidence is called direct evidence. The other
8 type of evidence is called circumstantial evidence.

9 Direct evidence is the testimony of a person who
10 claims to have actual knowledge of a fact, such as an eye
11 witness. It is evidence which immediately establishes the
12 main fact to be proved.

13 Circumstantial evidence is proof of a chain of
14 facts and circumstances indicating the existence of a
15 fact. It is evidence which immediately establishes
16 collateral facts from which the main fact may be inferred.
17 Circumstantial evidence is based on inference and not on
18 personal knowledge or observation.

19 The law makes absolutely no distinction between
20 the weight or value to be given to either direct or
21 circumstantial evidence, nor is a greater degree of
22 circumstantial or a greater degree of certainty required
23 of circumstantial evidence than of direct evidence. You
24 should weigh all of the evidence in this case, and after
25 weighing all the evidence if you are not convinced of the

1 guilt of the defendant beyond a reasonable doubt, you must
2 find the defendant not guilty.

3 Let me give you a couple of very easy examples.

4 It's February. It's cold. It's gray. Snow's
5 forecast. After supper you go outside and there is white
6 stuff falling from the sky on your lawn. That is direct
7 evidence that it is snowing. You see it snowing, you're
8 an eye witness to the snow.

9 Next example: It's February. It's cold. Snow
10 is forecast. It is very cold. You can verify that; go
11 outside, look at your lawn and it is dry and crunchy and
12 cold. Now go to bed. You wake up in the morning and
13 covering your lawn is two inches of snow. Ladies and
14 gentlemen, that is circumstantial evidence that it snowed
15 overnight. It was cold, it was forecast, you had brown
16 crunchy grass, you go to bed at night, you wake up in the
17 morning and there is snow covering the ground. That is
18 circumstantial evidence that it snowed overnight. That's
19 proof of a chain of events that direct or point towards
20 the existence of a fact that it snowed overnight.

21 Now, let's talk about credibility of witnesses.

22 Ladies and gentlemen, in order to make the
23 findings of fact that you will make, you necessarily must
24 determine the credibility of each witness. Credibility
25 simply means believability. It becomes your duty as

1 jurors to analyze and to evaluate the evidence and to
2 determine which evidence convinces you of its truth.

3 In determining the believability of witnesses
4 who have testified in this case, you may believe one
5 witness as opposed to several witnesses, or several
6 witnesses as opposed to one witness. You may believe a
7 part of the testimony of a witness and reject the
8 remaining part of the testimony of the same witness. You
9 may believe a witness' testimony in its entirety and you
10 may reject the testimony of a witness in its entirety.

11 You may consider whether any witness has
12 exhibited to you any interest, bias, or other motive in
13 this case. You may also consider the appearance and the
14 manner of a witness while on the witness stand.

15 Now, ladies and gentlemen, in this case you have
16 heard from witnesses who have been deemed to be expert
17 witnesses. And as we talked earlier, our Rules of
18 Evidence ordinarily do not permit witnesses to testify
19 regarding their opinion or the reasons for those opinions.

20 An exception to this rule is for those who have
21 been deemed to be expert witnesses, a witness who by
22 virtue of their education, knowledge, experience,
23 profession, education have become an expert in some art or
24 science, profession, or calling, and those individuals may
25 state an opinion as to relevant and material matters

1 within their expertise and they may also state and testify
2 regarding the reasons for those opinions.

3 Now, you should consider any expert opinion
4 received in evidence in this case like any other evidence:
5 Give it the weight that you think it deserves. If you
6 decide that an opinion of an expert witness is not based
7 on sufficient education and experience, or if you conclude
8 that the reasons given in support of the opinion are not
9 sound, or that the opinion is outweighed by other
10 evidence, you may disregard the opinion in its entirety.
11 An expert witness' testimony is to be given no greater
12 weight than that of other witnesses simply because the
13 witness is an expert.

14 And further, you are not required to accept an
15 expert's opinion even though it is not contradicted.

16 Expert testimony is given for the purpose of
17 helping you understand the evidence and not for the
18 purpose of controlling your judgment.

19 Now, ladies and gentlemen, I instruct you and I
20 emphasize that the fact that the defendant, Mr. Gethers,
21 did not testify is not a factor to be considered by you in
22 any way in your deliberation and in your consideration of
23 the question of whether Mr. Gethers is guilty or not
24 guilty. The fact that Mr. Gethers did not testify must
25 not be considered by you in any manner whatsoever. A

1 defendant has the Constitutional right to remain silent
2 and the assertion of this right must not be considered by
3 you in your deliberations.

4 I repeat under your oath, you are to draw no
5 conclusion whatsoever from the fact that the defendant in
6 this case did not testify. The fact that this defendant
7 did not testify should not even be discussed in the jury
8 room.

9 Ladies and gentlemen, the burden of proof, as I
10 have stated it to you, is and remains on the State. The
11 defendant is not required to prove himself innocent. He's
12 not required to prove he is not guilty. The burden of
13 proof is and remains on the state of South Carolina to
14 prove guilt beyond a reasonable doubt.

15 Now, ladies and gentlemen, there's an issue
16 that's arisen in this case with regards to identification
17 of the defendant as the person who committed the crime.
18 The State has the burden of proving identity beyond a
19 reasonable doubt. You must be satisfied beyond a
20 reasonable doubt of the accuracy of the identification of
21 the defendant before you may convict him.

22 Identification testimony, of course, is an
23 expressional belief or impression by a witness. You must
24 determine the accuracy of the identification of the
25 defendant and you must consider the believability of each

1 identification witness in the same way as any other
2 witness. You may consider whether the witness had an
3 adequate opportunity to observe the offender at the time
4 of the offense and this will be affected by things like
5 how long or short a time was available, how far or close
6 the witness was, the lighting conditions, and whether the
7 witness had a chance to see or know the person in the
8 past.

9 I once again instruct you, burden of proof on
10 the State extends to every element of the crime charged,
11 and this specifically includes the burden of proof beyond
12 a reasonable doubt the identity of the defendant as the
13 person who committed the crime.

14 If after examining the testimony you have a
15 reasonable doubt as to the accuracy of the identification,
16 you must find the defendant not guilty.

17 Now, ladies and gentlemen, we're going to talk
18 about intent.

19 In order to establish criminal liability,
20 criminal intent is required. For example, the mental
21 state required to be proven by the State for a particular
22 crime might be purpose, intent, knowledge, recklessness,
23 criminal negligence.

24 Criminal intent must be proven by the State
25 beyond a reasonable doubt. Criminal intent is always a

1 matter that must be determined by the jury from the
2 circumstances shown to have existed. There is no way to
3 prove intent through mathematical certainty. There is no
4 way that medical science can dissect a person's brain and
5 determine what the person had in mind. So the law says
6 that criminal intent may be inferred from the
7 circumstances shown to have existed.

8 And this is how you make a determination of
9 whether or not the element of intent is present.

10 It is not necessary to establish intent by
11 direct and positive evidence, but intent may be
12 established by inference in the same way as any other
13 fact, by taking into consideration the act of the parties
14 and all the facts and circumstances of the case.

15 Criminal intent is a mental state, a conscious
16 wrongdoing. It is up to you to determine what the
17 defendant intended to do based on the circumstances shown
18 to have existed.

19 Criminal intent can arise from action or a
20 failure to act. It may arise from recklessness or
21 indifference to duty or consequences considered by the law
22 to be the equivalent of criminal intent.

23 Now, ladies and gentlemen, there has been
24 evidence presented that one or more witnesses made a prior
25 statement which are not consistent with the witness'

1 present testimony. You may use this evidence to consider
2 whether to believe the witness and you may also use the
3 evidence of the earlier contradictory statement to
4 determine the proof of those things. It is up to you to
5 decide whether to believe the earlier statement or the
6 testimony given at trial.

7 If a witness is shown to have knowingly
8 testified untruthfully concerning any material matter, you
9 may consider this in determining whether to trust the
10 witness' testimony as to other matters. You may recall,
11 reject all testimony of that witness or give all or part
12 of the testimony the weight that you believe it
13 determines -- it deserves.

14 Now, let's talk about murder and the elements.

15 Ladies and gentlemen, the defendant,
16 Mr. Gethers, is charged with murder. The State must prove
17 beyond a reasonable doubt that the defendant, Mr. Gethers,
18 killed another person with malice aforethought.

19 Now, malice is hatred, ill will, or hostility
20 towards another person. It is the intentional doing of a
21 wrongful act without just cause or excuse and with an
22 intent to inflict an injury or under circumstances that
23 the law will not infer -- excuse me, or under
24 circumstances that the law will infer an evil intent.

25 Malice aforethought does not require that malice

1 exists for any particular time before the act is
2 committed, but malice must exist in the mind of the
3 defendant just before and at the time that the act is
4 committed. Therefore, there must be a combination of the
5 previous evil intent and the act.

6 Now, malice aforethought may be express or
7 inferred. The terms "express" and "inferred" do not mean
8 different kinds of malice but merely the manner in which
9 malice may be shown to exist; that is either of course by
10 direct or by inference from the facts and circumstances
11 which are proved.

12 Express malice is shown when a person speaks
13 words which express hatred or ill will for another, or
14 when the person prepares beforehand to do the act, such as
15 lying in wait, or any other acts going to show that the
16 deed was within the defendant's mind would be express
17 malice.

18 Now, malice may be inferred from conduct showing
19 a total disregard for human life. Inferred malice may
20 also arise when the deed is done with a deadly weapon. A
21 deadly weapon is any article, instrument, or substance
22 which is likely to cause death or great bodily harm.

23 Whether an instrument has been used as a deadly
24 weapon depends on the facts and circumstances of the each
25 case. The following are examples, and just examples,

1 which may -- of items which may be considered deadly
2 weapons: A shotgun, a rifle, a dirk, dagger, knife, sling
3 shot, metal knuckles, razor, gasoline, firebomb, or
4 Molotov cocktail, and lighter fluid. A gun could be a
5 deadly weapon even if it is not operating.

6 Now, I further charge you that mere presence at
7 the scene is not sufficient to prove someone guilty of a
8 crime.

9 Now, ladies and gentlemen, in just a moment I'm
10 going to go over the verdict form with you, and before I
11 go over the verdict form with you there are two things I
12 want to say do you about it.

13 First, there are two possible verdicts. I've
14 written these two possible verdicts on this piece of
15 paper. One is written first and the other is written
16 second.

17 Ladies and gentlemen, I could have just as
18 easily written the second verdict first and the first
19 verdict second; in other words, there is no hidden meaning
20 in the order in which these possible verdicts have been
21 placed on paper. It is simply reality that if you're
22 going to write two things down, one's got to be first and
23 one's got to be second. So please don't take any hidden
24 meaning from the order in which these possible verdicts
25 have been written on the paper.

1 Secondly, your verdict must be unanimous. That
2 means this verdict must be the verdict of each and every
3 one of you. This is not the verdict of the majority and
4 this is not the verdict of any one of you. This is the
5 verdict of each and every one of you, which should be a
6 hint to my alternate.

7 Now, ladies and gentlemen, the verdict form
8 reads as follows: "As to the indictment alleging murder,
9 we, the jury, unanimously find the defendant," and there
10 are two possible verdicts, "not guilty and guilty."
11 Whichever is the unanimous verdict of this jury, once the
12 deliberations are concluded, Madam Presiding Juror, you
13 will simply circle that verdict. And once you have
14 finished your deliberations, sign your verdict form where
15 it says Presiding Juror -- and, Ms. Salkowski, you know
16 who you are -- and for your -- just for your reference
17 point, today is the 18th of November 2010, you would
18 also date the verdict form.

19 Once the deliberations are concluded, you've
20 reached your verdict, you've circled the appropriate
21 unanimous verdict of this jury, then you sign it and date
22 it. You will then return to the jury room and you will
23 give your verdict out to Mr. Taylor who will in turn give
24 it to me. You do not publish the verdict.

25 Now, ladies and gentlemen, there's some

1 additional instruction that I need to give to you.

2 The first is that at any moment I'm going to ask
3 you step to your jury room with this instruction: Do not
4 discuss this matter or allow anyone to discuss it with
5 you.

6 Now, you're anticipating based on everything I
7 told you that now is the time for your deliberations, so I
8 am going to tell you what is going to happen when you
9 leave.

10 When you leave on this next occasion, I'm simply
11 going to turn to these lawyers, I'm going to ask them two
12 questions: Have I given this jury all of the law that
13 they may need for their deliberations, and Have I stated
14 it for them correctly.

15 Now, sometimes I fail to give you all the law
16 that you may need for your deliberations and these
17 attorneys help me and let me know that.

18 In the event that I need to bring you back out
19 because I have failed to give you all the law that you may
20 need for your deliberations, please don't consider that
21 with any inferences.

22 In the event that I need to bring you back out
23 because I have stated something incorrectly to you, and I
24 can assure you that that would be unintended, but in the
25 event that I need to bring you back out to correct

1 something that I have told you that is not correct, I ask
2 you in advance, please allow me to correct my error in
3 your minds. This is my chance to get this right, to give
4 you all the law that you may need for your deliberations
5 and to state it for you correctly.

6 In the event that I do not need to bring you
7 back out, you will be brought your notes, the exhibits,
8 the verdict form, and an instruction to begin your
9 deliberations.

10 Now, during your deliberations all 12 of you
11 must be present. If you need to take a break, someone of
12 your number needs to take a comfort break, stop your
13 deliberations, take your comfort break, and then all 12 of
14 you just reconvene your deliberations when all 12 of you
15 are together. Again, all 12 of you must be present for
16 you to deliberate. And of course when your deliberations
17 are concluded, knock on the door and you'll return to the
18 courtroom.

19 Now, ladies and gentlemen, I do want to leave
20 you with one conclusion, one final thought.

21 Actually, before I do that, I want to talk to
22 you a moment about your notes.

23 Your notes will be brought to you. Your notes
24 are for you. They are to allow you to refresh your
25 recollection. They are not to be used to browbeat another

1 juror and to say, "No, I'm right. See right here, I wrote
2 it down." Your notes are to be shared with no one. They
3 are for you. They are for you to allow you to refresh
4 your recollection.

5 Now, ladies and gentlemen, the final thought
6 that I referred to just a moment ago is this: The word
7 "verdict," the word "verdict" comes from the Latin phrase
8 "veredicto," which means to speak the truth, to speak the
9 truth. And that is now your task, to speak the truth.

10 Please step to your jury room. Do not discuss
11 this matter. Do not allow anyone to discuss it with you.

12 Leave your notes, except for my alternates. If
13 you all would stay here with me.

14 (The jury left open court at approximately 3:46
15 p.m.)

16 THE COURT: Mr. Henderson and Mr. Linkowski, you
17 of course are our alternates. Let me tell you what I'm
18 going to ask you to do for me if you'd be so kind.

19 I believe that if something should happen to one
20 of our jurors, and it does happen from time to time, in
21 the next 15 minutes, that I could stop the jury's
22 deliberation, seat one of you, and then reconvene the
23 deliberations anew and save the trial. With that in mind,
24 I'm going to impose upon you to give us 15 minutes more of
25 your time, and watch your watch. If you would do that, I

1 would be so very, very grateful.

2 If you will go with Mr. Taylor, who is going to
3 put you all in a different location.

4 (The alternate jurors left open court at
5 approximately 3:47 p.m.)

6 THE COURT: All right. Any exceptions or
7 additions from the State?

8 MR. HILTON: Nothing from the State.

9 THE COURT: From the Defense?

10 MS. ROGERS: No, Your Honor.

11 THE COURT: If you all would do this for me,
12 please. I need you to look at the verdict form, please,
13 and look at the items, look at the evidence to be sure
14 that what is going to this jury is what is supposed to be
15 going to this jury, and then we will be in recess until we
16 hear from our jury.

17 I thank you both for a very well-tried case.
18 We'll be at ease.

19 (WHEREUPON, the jury began deliberations at
20 approximately 3:51 p.m.)

21 THE COURT: Let us have the jury.

22 (The jury came into open court at approximately
23 5:24 p.m.)

24 THE COURT: All right. Ladies and gentlemen,
25 you all have been hard at it now for quite sometime. It

1 is time for you to go home. That's enough for today.

2 In a moment I am going to be sending you all
3 home for this evening. And, ladies and gentlemen,
4 obviously I need to review with you a couple of things.

5 First of all, do not discuss this matter or
6 allow anyone to discuss it with you, knowing that the
7 curiosity is yet going to be heightened. Remember to put
8 it on the judge, don't you take any upset.

9 And I always -- when jury's are in the process
10 of deliberating, one of the things that I like to just
11 mention to them is that it is appropriate for you to now
12 just stop. You know, you have been working hard. You
13 probably don't realize how much time has actually passed,
14 but you have been at it quite awhile. Just stop, rest
15 your mind.

16 Remember, don't do any research, don't look up
17 any words, don't do any Colombo, don't read anything,
18 don't listen to anything about this matter, and of course
19 that goes for radio, television, Internet. You have
20 received the information, you must not receive any
21 additional information other than that of course which is
22 now entered into evidence.

23 You know, I would suggest to you that you put
24 this down, don't think about it, rest your minds. You all
25 have focused so very hard for several days and you have

1 been hard at work this afternoon. Just rest. You are
2 more tired than you probably realize.

3 The other thing, I'd say go out and take a walk
4 except you can't because you're going to get home in the
5 dark. I don't know that I would suggest that, but, you
6 know, do something pleasant for yourself. Rest from these
7 matters. Put them down. Tomorrow morning will come soon
8 enough.

9 And, Madam Presiding Juror, do you want to
10 caucus your jury to see if they want to come at 9 or 9:30
11 or 10 in the morning? It's completely up to you guys.
12 Who wants 9?

13 THE JUROR: How about 8?

14 THE COURT: Who wants 9? Who wants 9:30?

15 There you go. How about 10?

16 All right. Looks like 9 o'clock won. And
17 that's perfectly fine. If you will gather, of course, in
18 your jury assembly room.

19 What will happen in the morning is that you will
20 gather at 9 in your jury assembly room and you will be
21 brought upstairs and your note pads and the exhibits will
22 be given to you. Of course, until you have your note pads
23 and your exhibits and all 12 of you are together you must
24 not deliberate. But when you're all together in your jury
25 room, all 12 of you are there with your exhibits and your

1 notes, you are free to begin your deliberation. There is
2 no magic instruction or anything, it's just when all 12 of
3 you are together you may begin your deliberations.

4 Of course, Ms. Salisbury will have something for
5 you in the morning as well.

6 But in any event, remember, put this down. Do
7 not discuss it and let nobody talk to you about it.
8 Really do put it aside now and get yourself some rest and
9 when you return in the morning, you will be brought up
10 into your jury room at 9 and you will begin your
11 deliberations.

12 Have a wonderful evening.

13 And, folks, I want my jury escorted out to their
14 cars.

15 THE BAILIFF: Yes, ma'am.

16 (The jury was excused for the evening at
17 approximately 5:28 p.m.)

18 THE COURT: Any exceptions or additions from the
19 State?

20 MR. HILTON: None from the State, Your Honor.

21 THE COURT: From the Defense?

22 MS. ROGERS: No, Your Honor.

23 THE COURT: See you all in the morning.

24 (The proceedings were concluded for the day and
25 reconvened on November 19th, 2010.)

1 (WHEREUPON, the jury resumed deliberations at
2 approximately 9 a.m. on November 19th, 2010.)

3 THE COURT: All right. Ms. Rogers, I'm looking
4 for your client's parents. Are they here?

5 There they are.

6 Let me speak with you all. And again, I want
7 you to know that I speak to you really with a lot of
8 consideration for you. And I want you to know, just as I
9 discussed with you before we began the trial of this case,
10 these are the most difficult, the most difficult cases for
11 the victim's family, and certainly for the defendant's
12 family, and they are heartbreaking, particularly for the
13 family.

14 I say that because my next words to you may seem
15 like I don't understand and I don't appreciate that, so I
16 begin by telling you that I do.

17 When the jury comes back with its verdict, the
18 verdict will be read and there must not be any outbursts
19 from anyone. And that is very difficult to ask of folks,
20 and I am aware of that. But this jury, who has worked so
21 hard, is entitled to your maintaining your composure and
22 your decorum, and so I ask, understanding that I am asking
23 a lot, but I am asking that you be mindful of that.

24 If you do not believe that you can maintain your
25 composure -- and, of course, I have no idea what the

1 verdict is. I know it's one of two things, but I don't
2 know what it is, but I ask if you have any concerns about
3 your ability to maintain your composure, that you leave
4 the courtroom now.

5 Very well. Unfortunately if there is an
6 outburst, that will be contempt of court, and I will have
7 to handle it as contempt of court, which will make me very
8 sad.

9 Very well. Anything from the State before we
10 bring the jury out?

11 MR. HILTON: Nothing from the State.

12 THE COURT: From the Defense?

13 MS. ROGERS: No, Your Honor.

14 THE COURT: Very well. If we could have the
15 jury, please.

16 (The jury came into open court at approximately
17 10:36 a.m.)

18 THE COURT: All right. Ms. Salkowski, it is my
19 understanding that your jury has reached its verdict; is
20 that correct?

21 THE JUROR: Yes, Your Honor.

22 THE COURT: If you'll please pass it to
23 Mr. Taylor.

24 (The jury forelady complies.)

25 THE COURT: All right. Yes, ma'am.

1 (Whereupon the verdict of the jury is published
2 as follows:)

3 VERDICT

4 THE CLERK: In regards to the State of South
5 Carolina, County of Dorchester versus Trevee J. Gethers,
6 Indictment No. 2007-GS-18-1755, the jury finds the
7 defendant guilty of murder.

8 Ladies and gentlemen of the jury, if this was
9 your verdict in the jury room and is still your verdict,
10 please raise your right hand.

11 THE COURT: Let me observe for the record that
12 all of our jurors had their hands raised.

13 Anything further from the State before we
14 dismiss the jury?

15 MR. HILTON: Nothing from the State, Your Honor.

16 THE COURT: Anything from the Defense?

17 MS. ROGERS: Would you please poll the jury,
18 Your Honor?

19 THE COURT: Very well.

20 (A discussion was held off the record.)

21 THE COURT: Ladies and gentlemen, I apologize
22 for the disruption, and I will deal with that later. That
23 is not appropriate.

24 But, ladies and gentlemen, I'm going to call
25 your name, and as your name is called, I'm going to ask

1 you to stand and I have two questions for you, and they
2 are this: Was this your verdict in your jury room, and
3 does it continue to be your verdict? And those are going
4 to be the questions I'm going to ask of you.

5 I'm going to begin with Ms. Diane Piksa.

6 Was this your verdict in your jury room?

7 THE JUROR: Yes.

8 THE COURT: And is it your -- does it continue
9 to be your verdict?

10 THE JUROR: Yes.

11 THE COURT: Thank you.

12 And next, Bryan Galloway.

13 Mr. Galloway, was this your verdict in your jury
14 room?

15 THE JUROR: Yes, ma'am.

16 THE COURT: Does it continue to be your verdict?

17 THE JUROR: Yes, ma'am.

18 THE COURT: And Patricia Minus. Ms. Minus, was
19 this your verdict in your jury room?

20 THE JUROR: Yes, ma'am.

21 THE COURT: Does it continue to be your verdict?

22 THE JUROR: Yes, ma'am.

23 THE COURT: And Cory Burchard, is that right?

24 THE JUROR: Burchard.

25 THE COURT: Burchard. Mr. Burchard, was this

1 your verdict in your jury room?

2 THE JUROR: Yes, ma'am.

3 THE COURT: Does it continue to be your verdict?

4 THE JUROR: Yes, ma'am.

5 THE COURT: Ms. Salkowski, was this your verdict
6 in your jury room?

7 THE JUROR: Yes, Your Honor.

8 THE COURT: And does it continue to be your
9 verdict?

10 THE JUROR: Yes, Your Honor.

11 THE COURT: Very well.

12 Angela Ammons. Ms. Ammons, was this your
13 verdict in your jury room?

14 THE JUROR: Yes, ma'am.

15 THE COURT: And does it continue to be your
16 verdict?

17 THE JUROR: Yes, ma'am.

18 THE COURT: Betty Alston Campbell. Did I do
19 that right?

20 THE JUROR: Betty Campbell Alston.

21 THE COURT: Betty Campbell Alston, was this your
22 verdict in your jury room?

23 THE JUROR: Yes, Your Honor.

24 THE COURT: Does it continue to be your verdict?

25 THE JUROR: Yes, Your Honor.

1 THE COURT: Franklin Raynor. Mr. Raynor, was
2 this your verdict in your jury room?

3 THE JUROR: Yes, Your Honor.

4 THE COURT: Does it continue to be your verdict?

5 THE JUROR: Yes, Your Honor.

6 THE COURT: And Linda Newman, was this your
7 verdict in your jury room?

8 THE JUROR: Yes, ma'am.

9 THE COURT: And does it continue to be your
10 verdict?

11 THE JUROR: Yes, ma'am.

12 THE COURT: Dwight Beavers, was this your
13 verdict in your jury room?

14 THE JUROR: Yes, Your Honor.

15 THE COURT: And does it continue to be your
16 verdict?

17 THE JUROR: Yes, Your Honor.

18 THE COURT: And Cynthia Brown. Ms. Brown, was
19 this your verdict in your jury room?

20 THE JUROR: Yes, Your Honor.

21 THE COURT: Does it continue to be your verdict?

22 THE JUROR: Yes, Your Honor.

23 THE COURT: And Joseph Rowell. Mr. Rowell, was
24 this your verdict in your jury room?

25 THE JUROR: Yes, ma'am.

1 THE COURT: And does it continue to be your
2 verdict?

3 THE JUROR: Yes, ma'am.

4 THE COURT: I find that all of our jurors have
5 been polled, that each and every juror has indicated that
6 this verdict of guilt was their verdict in their jury room
7 and it continues to be their verdict here in the
8 courtroom.

9 Anything further from the State?

10 MR. HILTON: Nothing, Your Honor.

11 THE COURT: From the Defense?

12 MS. ROGERS: No, Your Honor.

13 THE COURT: Very well. Ladies and gentlemen, I
14 want to thank you for your service on this jury. I want
15 to thank you for your service on this panel this week.
16 You have obviously given us so very, very much of your
17 dear and precious time and I am so grateful to you for
18 every single solitary tick of the clock.

19 These matters are not easy, but you have given
20 to our way of life, to our system of justice so much of
21 your time and I am truly, truly grateful to you for it.

22 This obviously concludes your service on this
23 jury. This concludes your service on our jury panel this
24 week.

25 And you are now at liberty to talk about this

1 case should you wish to talk about it. You are going to
2 be going home and whoever's been so curious, you can
3 tonight certainly say, I am at liberty now to talk about
4 this case. It's perfectly okay with me if you say, You
5 can take me to dinner. That's perfectly fine.

6 Now, ladies and gentlemen, let me just share
7 with you that the lawyers in this case, lawyers in every
8 case, are practitioners. We call it the practice of law
9 because the practice of law is just that, it is a
10 profession at which you continue to improve, you continue
11 to get better. And you may or may not hear from these
12 young lawyers as they improve their skills, they may want
13 to know from you what was helpful and what wasn't helpful.

14 If you get such a phone call from these lawyers
15 or they approach you at some point when they happen to see
16 you and they ask you, if you're comfortable talking about
17 that, that is perfectly fine. You will provide them a
18 service as they try to get better at what they do.

19 If you don't want to talk about it, that is
20 absolutely perfectly fine, too. And you just tell them, I
21 don't want to talk about it.

22 Now, for 13 years I have been telling jurors
23 this, and I know it concerns them, but I want to tell you
24 that this has never happened, but I'm afraid if I don't do
25 it with every jury panel then it will happen and here it

1 is.

2 Ladies and gentlemen, should you have somebody
3 approach you and want to talk about this case and you tell
4 them you don't want to talk about it and they don't
5 respect your wishes, I want you to contact Ms. Graham, our
6 Clerk of Court, and she will contact me and I will
7 intercede on your behalf.

8 Again, I haven't had that happen. Arguably
9 maybe sort of kind of once, but really not. But I always
10 tell jurors that so if it should ever happen you would
11 know who to call, because I'm there for you in that event.
12 I don't want somebody telling you you've got to talk to
13 them if you don't want to talk to them. And I'm afraid
14 I'll jinx it, that one time I don't tell the jury panel
15 that it will happen, so I don't think that's going to
16 certainly, and certainly won't happen with these lawyers,
17 but I tell you in an abundance of caution.

18 Now, I used to tell jurors that the check was in
19 the mail because I really thought it was, and then
20 Ms. Graham looked at me and said, "Don't tell them that,
21 it's not true." but it does soon get in the mail. But
22 our trip to Tahiti, yeah, it's in Jedburg. It is a very
23 small token of all that you have given to us.

24 Ladies and gentlemen, I certainly wish for you
25 and your families a very happy holiday season as we are

1 approaching that time. And if you have any suggestions or
2 comments or questions, you've given up so much of your
3 time, I am delighted to give you some of mine.

4 If you have any questions or concerns or
5 comments, you can leave a note, or if you want to speak
6 with me for whatever reason, I'll be happy to do that if
7 you'll just let Ms. Salisbury know as she escorts you back
8 into your jury room. And I think what I'm going to ask
9 you to do is if you want to escort back into your jury
10 room, that's fine.

11 For your informational purposes, I'm going to
12 proceed to sentencing. Sometimes jurors wish to observe
13 that, sometimes they don't. It's completely -- you are
14 now a member of the public and this is a public place. So
15 if you wish to be present, you are welcome to return to
16 the audience. You certainly can return right here to your
17 jury box. And if you do not, then you certainly may go
18 about your business.

19 Remember, those of you who are leaving us and
20 need something for your employer, we'll be delighted to
21 get that for you down in the Clerk's office. They will
22 get you a statement that says where you have been and what
23 you have been up to.

24 Our Clerk's office is directly below us. Those
25 of you who are elevator riders, take a left on the first

1 floor. Those of you who are stair walkers, take a right.
2 It's at the bottom of the steps. Go to the Clerk's office
3 and tell them you need something for your employer and
4 they will get that for you promptly.

5 It has been an honor, it has been a privilege of
6 mine to serve with you in this capacity. And should our
7 paths ever cross again in this capacity, it would likewise
8 be an honor and a privilege.

9 Again, I wish you all a safe and happy holiday,
10 and at this time you are free to go. You are free to stay
11 but are likewise free to go.

12 Ms. Salisbury, just let me know if there are any
13 jurors that wish to speak and I will come right to them.

14 (The jury was excused from open court at
15 approximately 10:46 a.m.)

16 SENTENCING

17 THE COURT: All right. If you have your
18 sentencing sheet filled out, if you all would come
19 forward, please, with your client.

20 All right. And, Mr. Hilton, I am happy to hear
21 from you, and of course I'm happy to hear from Ms. Rogers
22 and any family members if they wish to speak.

23 MR. HILTON: Yes, Your Honor. You heard the
24 facts of the trial. We started on Monday with hearings.
25 You heard all the testimony that was presented to the jury

1 and some that we decided for different reasons not to
2 present to the jury. You heard testimony that was
3 inadmissible for other reasons.

4 But one thing I wanted to point out was one
5 thing that I don't think I made as clear to the jury as I
6 need to make to Your Honor, and that was the positioning
7 of Mr. Robinson when he was shot in that vehicle.

8 You heard from Agent Ila Simmons that testified
9 in reference to the gunshot residue.

10 THE COURT: Yes.

11 (A brief pause was taken while some jurors
12 returned to the courtroom.)

13 MR. HILTON: You heard from Agent Ila Simmons in
14 reference to the gunshot residue, and her testimony in
15 conjunction with the pathologist's testimony about the
16 positioning of the arm -- I'm just going to stop for a
17 second if that's all right.

18 THE COURT: Sure. Let them come in.

19 (A brief pause was taken while some jurors
20 entered the courtroom.)

21 THE COURT: Was anyone else coming? No. Okay.

22 MR. HILTON: Thank you, Your Honor. May it
23 please the Court.

24 THE COURT: Sure.

25 MR. HILTON: What I was saying was you heard

1 from Agent Presnell (sic) with SLED in reference to the
2 gunshot residue, her testimony in conjunction with Dr.
3 Presnell's testimony about the location and the alignment
4 of the arm, and both of those experts together indicate
5 that the arm positioning was in a hands-up defensive,
6 defenseless position to a person, Trevee Gethers, who shot
7 him with either a .38 or a .357 revolver-style pistol.
8 And there's just no excuse for that type of conduct.

9 The jury's convicted him of murder, and we just
10 ask that a sentence be imposed upon Mr. Gethers that's
11 appropriate to the crime that he committed.

12 THE COURT: Very well.

13 MR. HILTON: And I do not know if the family
14 wishes to address the Court. I would just ask they be
15 given that opportunity if need be.

16 THE COURT: I'm happy to hear from you.
17 Absolutely. Come on around.

18 And again, for our record, if you would simply
19 state your name. I know who you are, but our record must
20 reflect who is speaking.

21 MS. ROBINSON: My name is Jestine S. Robinson.

22 THE COURT: Yes, ma'am.

23 MS. ROBINSON: I would just like to say to the
24 jury, thank you for allowing the truth to come forward.

25 And I would just like to say to Mr. and Mrs.

1 Gethers, I know your pain because I know you feel the same
2 pain that I felt on September the 17th.

3 I still have a 15-year-old son that I cannot
4 even bring to talk about his dad. They went to school
5 together every day. And when I have to watch my sons ask
6 me what they would normally ask their dad, and half the
7 time I can't answer. My husband was a person.

8 Trevee, I say to you, if you had asked him for
9 the money, he would have given it to you, no problem. He
10 was that kind of person. He was that type of person.

11 He grew up -- his dad died when he was six years
12 old. He always felt for children that didn't have a
13 parent in the home, and he did what he can. I have nieces
14 and nephews that would come here and tell you the same
15 thing.

16 Trevee, you would never know what you took from
17 us.

18 THE DEFENDANT: I didn't take nothing.

19 MS. ROBINSON: You will never know what you took
20 from us.

21 So I would just like to say that I feel for his
22 family because I know the pain that they're feeling and I
23 pray that they will be able to get well.

24 But, Trevee, I never -- I asked God to never
25 hate the person, and I never even pointed a finger at him,

1 but I thank God that it's over. But I still have to go on
2 with my life and watch my two sons and my family without.

3 THE COURT: You certainly must go forward and
4 know that Mr. Robinson would want you to go forward. You
5 know that he would want you to go forward knowing that he
6 watches from above and he loves you, and he loves you
7 still.

8 And you have many tasks yet to be done with
9 those children. And while it's not fair for you to be
10 doing it alone, he expects, you know he does, and he knows
11 you're up to the task because you obviously come from only
12 a place of love, and a person that comes from that place
13 can accomplish probably all things, but certainly many,
14 many things.

15 I am so sorry for your sadness. You didn't ask
16 for this. This was completely placed upon you. Your
17 beloved husband was a victim, and you are a victim. And
18 for that I am so sorry.

19 But this will bring you closure. This will
20 cause you sadness, but this will bring you closure. And
21 you will know that you have seen it through.

22 You have guarded him, you've protected him, and
23 you've done that which is appropriate. And I want you to
24 take peace, peace, in the fact that you have done that.
25 And I certainly wish you well.

1 Yes, ma'am. And again if you would just
2 identify yourself for the record.

3 MS. SINGLETON: Yes, I am Earlene Singleton.
4 Earl was my brother-in-law and Jestine is my sister. And
5 I would like to tell the jury thank you for your decision.
6 It's not an easy one.

7 And to Mr. Hilton, thank you.

8 And to everyone, thank you.

9 But I just want to say that the day my
10 brother-in-law died, a part of me went with him.

11 Earl wasn't just a brother-in-law. Earl was the
12 person -- he and I were employed at South Carolina State
13 University. You could go to that place right now and ask
14 anyone there about Earl. There's still people who worked
15 there and it's three years later and you would ask them a
16 question about Earl and they would break down and cry.

17 Earl was the man who went beyond the call of
18 duty, not just in his home, in the church, on the job.
19 Even when this happened to him, he was trusting.

20 When my sister kept having abortions, they
21 finally conceived Darius, and the day Darius was born, my
22 brother and I said that he can't keep this up, it's too
23 much. We thought it was all just a fad. But my
24 brother-in-law, the day he died, he brought Darius to my
25 house to get his cleats.

1 He kept Darius in something. Every season if it
2 wasn't basketball season, football season, whatever, he
3 was a family man. And when my husband died suddenly of a
4 heart attack, my son was nine at the time, Earl stepped up
5 to the plate, which he was already doing. Earl took my
6 son, he did more for my son than my own husband was doing.

7 Earl was a jovial person who trusted everybody
8 and anybody. If he had asked Earl for the money, Earl
9 would have given him the shoes off his feet or the shirt
10 on his back. That's the kind of person Earl was.

11 Even our former president at South Carolina
12 State University went to high school with Earl. People
13 still can't believe that a person like Earl was murdered.

14 But -- and just like what was said about the
15 family, we weren't taught to hover hatred. That's not us.
16 But justice must prevail.

17 Justice must -- and I say to everyone in this
18 courthouse today that we pray for one another because
19 we'll need it. And no remorse towards his family. None
20 towards any of the families, but justice prevails. And I
21 thank God for having the opportunity -- and you, and I
22 thank you and the court system here for such a fine job
23 while we were here.

24 Thank you all so much.

25 THE COURT: Thank you for your time.

1 MR. HILTON: I think that's all, Your Honor.

2 THE COURT: Very well. Thank you.

3 Yes, ma'am, Ms. Rogers, on behalf of the
4 defendant.

5 MS. ROGERS: Yes, Your Honor.

6 As the Solicitor pointed out, you also saw
7 evidence that the jury was not privy to and was
8 inadmissible. And you will note that my client has
9 maintained his innocence from the beginning.

10 The testimony that Russell speaks of regarding
11 the experts and the position of the hands, I believe she
12 also said they could have been on the steering wheel. So
13 I would just ask you to keep that in mind in also making
14 your decision, that even the expert couldn't say that it
15 was in fact a defensive pose.

16 My client has been incarcerated for the past
17 three years as you know and has had no issues in the jail,
18 has gotten every certification I think you can get at
19 Berkeley County and has been a peaceable person while
20 there, and we ask that you take that into consideration.

21 THE COURT: Very well. Anyone that wishes to
22 speak on his behalf?

23 MS. HOLMES: I will.

24 THE COURT: Yes. All right.

25 MS. HOLMES: My name is Sadie Holmes. I'm

1 Trevee's aunt, one of his aunties.

2 THE COURT: Yes, ma'am.

3 MS. HOLMES: I lived in North Carolina for
4 awhile so I wasn't around for much of his upbringing, but
5 during the time I would come home and visit and everything
6 I would always get a chance to be around him. I am so
7 sorry for this situation. There's no win here. No win
8 here.

9 THE COURT: No, there is not.

10 MS. HOLMES: And with all due respect, you've
11 got a young man out here doing this and you have an older
12 gentleman out here doing this. There is no win in this
13 situation.

14 But I ask the Court to please consider that he
15 was a young man. He has grown. He is showing that he is
16 trying to change his life around.

17 And I apologize to the family to the highest,
18 because the pain you all feel, we are feeling it, too. We
19 really are. This is a mess, but we seriously apologize.

20 And I just want to hug him. I haven't hugged
21 him in about three years. Can I just put my arms around
22 him?

23 THE COURT: Okay. All right.

24 That will be sufficient. Thank you very, very
25 much.

1 MS. HOLMES: Thank you.

2 THE COURT: And thank you for your words.

3 MS. TAYLOR: I'm Trevee's sister.

4 THE COURT: And your name is?

5 MS. TAYLOR: Michelle Taylor.

6 THE COURT: Yes, ma'am.

7 MS. TAYLOR: He is a good kid. My brother would
8 never, never do anything like this. I'm sorry to the
9 family, but I know my brother. I apologize, but he's a
10 good kid. He's always made good grades in school, done
11 all kind of activities in school, and he would help
12 anyone. He would never hurt anyone. I'm so sorry.

13 That's all I have to say. But can I hug my
14 brother?

15 THE COURT: All right.

16 MS. ROGERS: Your Honor, do you mind if I step
17 in the hall and see if his mom has composed herself enough
18 to speak on his behalf?

19 THE COURT: If she wishes to speak I will
20 certainly let you do that, yes.

21 (A brief pause was taken.)

22 MS. ROGERS: She's not able.

23 THE COURT: Too distraught?

24 MS. ROGERS: Yes, Your Honor.

25 THE COURT: Very well. And, Mr. Gethers, of

1 course under our law you certainly have a right to speak
2 if you wish as well.

3 THE DEFENDANT: I have nothing to say, Your
4 Honor.

5 THE COURT: All right. Very well.

6 And anyone else who wishes to speak on his
7 behalf, Ms. Rogers?

8 MS. ROGERS: No, Your Honor.

9 THE COURT: Very well.

10 MR. HILTON: Your Honor, he does have a prior
11 record. He has a PWID, either methamphetamine or cocaine
12 base, and he also has a possession of a pistol by a person
13 under 21.

14 THE COURT: When was he convicted of that?

15 MR. HILTON: When?

16 THE COURT: When.

17 MR. HILTON: The drug charge was back in --

18 MS. ROGERS: 2007.

19 MR. HILTON: 2007. And then the pistol charge,
20 do you know the date of that?

21 MS. ROGERS: March the 7th, 2007, is the
22 pistol charge.

23 MR. HILTON: And he is on probation for the
24 pistol charge and I think Probation would like to address
25 that at the appropriate time.

1 THE PROBATION AGENT: Your Honor, he does have a
2 four year suspended to three years probation sentence, and
3 we would just ask that the revocation run concurrent to
4 any sentence.

5 THE COURT: Very well. Has he been served the
6 warrant?

7 THE PROBATION AGENT: He was served with a
8 warrant when he was originally taken and brought into
9 custody on the charges he's here for now.

10 THE COURT: Very well. Would you like to
11 address the probation matter further, Ms. Rogers?

12 MS. ROGERS: Again, Your Honor, I would like to
13 say that it seems that 2007 was a year that wasn't so well
14 for my client, and he has grown and matured since then,
15 and I believe as the man that he is today and not the boy
16 he was then, he would not have violated his probation in
17 any way and would have complied fully.

18 THE COURT: All right. Mr. Gethers -- and to
19 the family, I want you to know that as Mr. Gethers' family
20 hugged him, I know you can't do that. And I felt that and
21 I saw you watch that and I know you can't do that. So I
22 wanted you to accept that acknowledgment also.

23 Mr. Gethers, first of all, I am going to revoke
24 the four years on your gun charge.

25 And with regards to this murder charge, I'm

1 going to commit you to the State Department of Corrections
2 for a period of 45 years.

3 When you come out of prison you will be 64 years
4 old. Hopefully at this point you will not pose such a
5 tremendous threat to our community.

6 By statute, sir, you are entitled to credit for
7 the time that you have served, which is what makes it
8 approximately that you will be 64 years old.

9 That concludes this matter.

10 MR. HILTON: Thank you, Your Honor.

11 MS. ROGERS: Thank you, Your Honor.

12 THE COURT: Very well.

13 (The proceedings were concluded.)

14 *** END OF REQUESTED TRANSCRIPT OF RECORD ***
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DORCHESTER COUNTY SHERIFF'S OFFICE STATEMENT

STATEMENT OF BRANDEE ALEXANDRIA KIEFER
 HOME ADDRESS _____ HOME PHONE _____
 EMPLOYER _____ BUSINESS ADDRESS _____
 BUS. PHONE _____ OCCUPATION PRODUCTION
 DATE OF BIRTH _____ SOCIAL SECURITY NUMBER _____
 THIS STATEMENT IS GIVEN 9-20-07 (DATE) AT 5:50 PM (TIME)
DCSD DET. OFFICE (LOCATION)

I HAVE KNOWN TREVOR GETTERS FOR ABOUT A YEAR AND A HALF. I AM PRESENT BY HIM NOW. I HAD MOVED IN WITH HIM LAST JUNE (06) AND WE KINDA FELL OUT AND I MOVED OUT ABOUT A MONTH AGO. I KNOW TREVOR SELLS CRACK AND I HAVE SEEN HIM WITH A SHOTGUN WITH A BARREL ABOUT HALF A FOOT LONG AND HE HAD A LITTLE HANDGUN THAT WOULD FIT IN THE PALM OF MY HAND. IT WAS CHROME WITH BLACK HANDLES.

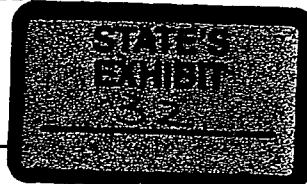
THIS PAST TUESDAY TREVOR DROPPED ME BACK OFF AT WORK AFTER MY LUNCH BREAK (8:00 PM) AND WAS IN MY KIA. WHEN I GOT BACK AT MIDNIGHT AND WENT OUT AND TREVOR'S LINCOLN WAS SITTING THERE AND MY KIA WAS GONE. I KEPT CALLING HIM BUT GOT NO ANSWER. THE NEXT MORNING I CALLED "DAD" ON _____ AND TREVOR SAID THEY WOULD BE BACK IN ABOUT 8 HOURS. BECAUSE THIS, I HAD CALLED "DAD'S" mom (_____) AND SHE SAID THEY JUST GOT HERE. I TALKED TO HIM AGAIN AT 9:40 PM AND HE SAID IT WOULD BE 4 MORE HOURS.

I HAVE READ THE FOREGOING STATEMENT OR HAVE HAD IT READ TO ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I HAVE GIVEN THIS STATEMENT FREELY AND VOLUNTARILY AND HAVE BEEN PROVIDED A COPY OF MY STATEMENT.

WITNESS: Det. J. B. [Signature]

WITNESS: Det. [Signature]

SIGNATURE: Brande A. Kiefer



This morning (Thu) at 1242 I called AGAIN
and he would be there in a minute. I have
NOT SEEN him and he still has my car. I
know TREVEE HAS BEEN SEEING A GIRL NAMED
VERONICA AND I HEARD SHE WAS 15. SHE IS FROM
AZALEA PARK. I DON'T KNOW SHE IS WITH HIM
BUT I HEARD SHE WAS MISSING TOO AND THEY HAD
SOMETHING ABOUT GOING TO VIRGINIA. WHEN I SPOKE
TO TREVEE HE SAID NOT TO TELL ANYONE. THEY ^{WERE} ~~WAS~~ ^{IN} ~~IN~~ VIRGINIA.

I HAVE READ THE FOREGOING STATEMENT OR HAVE HAD IT READ TO ME AND IT IS TRUE AND CORRECT TO THE BEST OF
MY KNOWLEDGE. I HAVE GIVEN THIS STATEMENT FREELY AND VOLUNTARILY AND HAVE BEEN PROVIDED A COPY OF MY
STATEMENT.

WITNESS:

Det. J. B. [Signature]

WITNESS:

Det. [Signature]

SIGNATURE:

Brandee A. Kuper [Signature]

PAGE 1 OF 2CASE # 070090

DORCHESTER COUNTY SHERIFF'S OFFICE

STATEMENT

STATEMENT OF Veronica Kitt

HOME ADDRESS _____ HOME PHONE _____

EMPLOYER Student BUSINESS ADDRESS _____BUS. PHONE _____ OCCUPATION Student

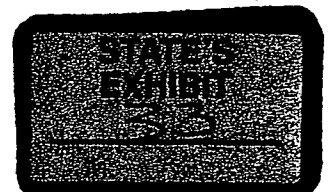
DATE OF BIRTH _____ SOCIAL SECURITY NUMBER _____

THIS STATEMENT IS GIVEN _____ (DATE) AT 12:12 p.m. (TIME)_____Summerville SC. (LOCATION)

I called Mr. Earl for some money. He said he would bring the Money. But he wasn't going to keep bringing me money without getting some. He wanted some in the past but I kept fricking him. I told him to go to Haven Oaks cause I didn't want my momma to know about Mr. Earl bringing me the money. Mr. Earl was bringing me more than \$50.00 cause I asked him for some money. He thought we were going to a motel. I told Trevee Gethers "City" to get the money cause I didn't want to mess with Mr. Earl. I told Trevee that Mr. Earl was in the White Seguaia because that's what Mr. Earl told me he was driving. I didn't tell Trevee to shoot Mr. Earl. I just told Trevee to get the money. I didn't know Trevee shot Mr. Earl.

I called Trevee after to see if he got the money and he said no. Trevee said that Mr. Earl would give him the money. I didn't see Trevee until the next day and he said we had to go cause he got into some stuff. I knew we were running from something. We went to a ladies house in Virginia on the Air base. We went to Dre's Momma's house. Dre and Tam followed us to Virginia. Then we took the bus to New York. I have gotten money from Mr. Earl before that's how I knew I could

I HAVE READ THE FOREGOING STATEMENT OR HAVE HAD IT READ TO ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I HAVE GIVEN THIS STATEMENT FREELY AND VOLUNTARILY AND HAVE BEEN PROVIDED A COPY OF MY STATEMENT.

WITNESS: [Signature]WITNESS: [Signature]SIGNATURE: [Signature]

call him for money. [REDACTED]
[REDACTED]
[REDACTED]

Q. Has Mr. Earl ever been to Haven Oaks before?

A. Yes He has brought me money there behind B. Lo before but
I still had to give him directions.

I HAVE READ THE FOREGOING STATEMENT OR HAVE HAD IT READ TO ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I HAVE GIVEN THIS STATEMENT FREELY AND VOLUNTARILY AND HAVE BEEN PROVIDED A COPY OF MY STATEMENT.

WITNESS:

Det. [Signature]

WITNESS:

[Signature]

SIGNATURE:

[Signature]

WITNESSES

Garrison, John

DCSO

Agency Case #: 07009049

ARREST WARRANT NUMBER

K269291

Arrested: Oct 02, 2007

ACTION OF GRAND JURY

TRUE BILL

DATE

11-29-07

representative of Grand Jury
date: November 29, 2007

VERDICT

representative of Petit Jury
date:

DOCKET NO. 2007GS18-1755

The State of South Carolina

County of

DORCHESTER

COURT OF GENERAL SESSIONS

December 03, 2007 TERM

**THE STATE
vs.**

Trevee J. Gethers

Indictment for

MURDER

SC Code: 16-03-10 / 16-03-20

Class: FEL-X

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and
plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

CLERK OF COURT
DORCHESTER COUNTY

2010 NOV 24 AM 11:08

2007 DEC -3 PM 1:20

RECORDED

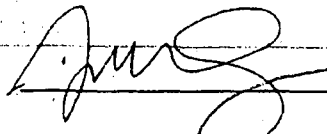
STATE OF SOUTH CAROLINA) 2011 MAR -2 PM 12: 19 INDICTMENT
COUNTY OF DORCHESTER) 2007GS18-1755

At a Court of General Sessions, convened on December 03, 2007 the Grand Jurors of Dorchester County present upon their oath:

MURDER

The defendant, Trevee J. Gethers, did in Dorchester County on or about September 17, 2007, with malice aforethought, kill one Robert Earl Robinson by means of shooting the victim, and the said victim did die as a proximate result thereof, this being in violation of section 16-3-10 of the South Carolina Code of Laws, as amended and the common law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


Donald Sorenson, Solicitor

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

April 27th, 2012

A handwritten signature in black ink, appearing to read 'EAFB', is written over a horizontal line.

Elizabeth A. Franklin-Best
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Dorchester County

Diane Schafer Goodstein, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TREVEE J. GETHERS,

APPELLANT

FINAL BRIEF OF APPELLANT

SUSAN B. HACKETT
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the trial court judge erred when she did not grant appellant's motion for a directed verdict when the evidence adduced at trial did not rise above mere suspicion that he was guilty of murder because the circumstantial evidence merely suggested that he was near the murder scene when the decedent was fatally shot?

STATEMENT OF THE CASE

Treveen Gethers was indicted for murder by the Dorchester County grand jury during its December 3, 2007 term. He was tried before the Honorable Diane Goodstein and a jury between November 15- 19, 2010. He was represented by Sara Jane Rogers, Esquire. The State was represented by Russell D. Hilton and Harrison Bell, Jr., Esquires. He was convicted and sentenced to 45 years incarceration.

This appeal timely follows.

ARGUMENT

The trial court judge abused his discretion when he did not grant appellant's motion for a directed verdict when the evidence adduced at trial did not rise above mere suspicion that he was guilty of murder because the circumstantial evidence merely suggested that he was near the murder scene when the decedent was fatally shot.

Treveen Gethers was convicted of the murder of Earl Robinson which occurred on September 17, 2007. On that date, the decedent had earlier borrowed \$200 from his son, Marcus. The decedent was then found in an apartment complex, and seated in the driver's seat of a white Toyota Sequoia. R. 71, ll. 18-22. He had been shot once in the arm, with the bullet entering his chest and mortally wounding him. R. 221, ll. 5-23.

Neighbors in the apartment complex heard arguing in the parking lot just prior to the gunshots, although no one identified appellant as the one arguing with the decedent. R. 52, l. 12- 53, l. 7. The apartment complex was known as a very high crime area and gunshots were "fairly common." R. 63, l. 7. An officer with the Dorchester County sheriff's office confirmed that there were many fights and drug-related calls that occurred in the Haven Oaks area. R. 72, l. 24- 73, l. 6. As law enforcement conducted their investigation, they took into their custody a number of cigarette butts, a .40-caliber gunshot shell, and a Bluetooth telephone headset. R. 84, ll. 8-23. Law enforcement did not have analyzed the cigarette butts that were located in the immediate area of the car. R. 84, ll. 22-23. The .40 caliber bullet was determined not to be relevant to the crime scene. R. 89, l. 3.

Law enforcement also extracted 34 latent fingerprints from the decedent's car. R. 89, ll. 16-19. Three people were identified based on the presence of the fingerprints found on the car but they were never pursued in connection with this investigation. R. 119, ll. 19-

22. Later in their investigation, law enforcement obtained a buccal swab from appellant and obtained his DNA profile. R. 101, ll. 4-9.

Appellant's DNA was found on the Bluetooth telephone headset that was found in the apartment complex. Significantly, the telephone was not found close to where the decedent's body was located:

A. That was just inside the first crime scene tape that was stretched across the road. It was actually in front of Apartment F. It was not located anywhere around the vehicle. It was between Apartment F and Azalea Park, the apartment complex to the right. It was in that area on the road as you came in.

R. 123, ll. 4-9 (emphasis added).

Brandee Kieffer was appellant's girlfriend and recalled that, around the time of this crime, she and appellant switched cars. R. 144, l. 16-147, l. 19. Veronica Kitt was another friend of appellant's. R. 155, l. 23- 156, l. 2. She testified that on the date the decedent was killed, she was supposed to meet with him. He was expected to bring her money that evening, R. 156, ll. 14 – 25, because he intended to have sex with Ms. Kitt, who was 14 years old at the time. R. 158, l. 1 -- 159, l. 9; R. 176, ll. 10-14. That evening, she was using her friend, Maggie Reid's, telephone. R. 157, ll. 1 -- 2. At some point, after the decedent was killed, Ms. Kitt and the appellant drove to Virginia, and then eventually traveled to New York. R. 164, l. 4 -- 165, l. 2.

During their investigation, law enforcement obtained the telephone that belonged to the decedent, and which was located in his car, and noticed a number of telephone calls that he made to his son and to the telephone that was registered to Reid, Ms. Kitt's friend. R. 188, l. 18- 189, l. 17. Their investigation led them to identify appellant's telephone number. R. 192, ll. 2 -- 25. Law enforcement obtained search warrants based on telephone calls

between Ms. Kitt and the appellant, but those searches did not uncover anything of evidentiary value. Law enforcement also had identified appellant's fingerprints located on the passenger side of the decedent's car. Other fingerprints were also located on the car, but they were not identified by law enforcement. R. 262, ll. 8-12. Law-enforcement never located the murder weapon even after exhaustively searching the area. R. 193, l. 5 – 197, l. 18. Ultimately, Ms. Kitt and the appellant were located in New York City. R. 199, ll. 2 -- 19.

Ms. Kitt gave a statement to law enforcement that suggested that she had appellant meet with the decedent in order to take his money. At trial, she did not testify to these facts, but her statement was found admissible as a prior inconsistent statement. R. 208, l. 2- 209, l. 23; R. 204, ll. 6- 16. In change for cooperation, Ms. Kitt's charge of murder remained in the jurisdiction of Family Court. R. 279, ll. 7-11.

Appellant's DNA was located on the Bluetooth headset that was found in the apartment complex. R. 328, l. 2 -- 330, l. 25. Appellant did not testify at trial. R. 343, ll. 4 - 7.

At the close of the State's case, counsel made a motion for directed verdict, which was renewed at the end of the case. R. 346, ll. 10-18. The trial court judge denied the motions. R. 346, ll. 19 -- 21.

The trial court judge erred when she denied appellant's motion for a directed verdict because the evidence adduced at trial did not rise above the level of providing a "mere suspicion" that appellant was guilty of murder.

A case should be submitted to the jury when the evidence is circumstantial "if there is any substantial evidence which reasonably tends to prove the guilt of the accused or from

which his guilt may be fairly and logically deduced.” State v. Mitchell, 341 S.C. 406, 409, 535 S.E.2d 126, 127 (2000); see also State v. Williams, 321 S.C. 327, 332, 468 S.E.2d 626, 629 (1996). “The jury weighs the evidence but when there is an absence of evidence, it becomes the duty of the trial judge to direct a verdict . . .” State v. Schrock, 283 S.C. 129, 134, 322 S.E.2d 450, 452-53 (1984). Evidence must constitute positive proof of facts and circumstances which reasonably tends to prove guilt. Id. at 133, 322 S.E.2d at 452 (citing State v. Manis, 214 S.C. 99, 51 S.E.2d 370 (194). State v. Bostick, 392 S.C. 134, 139, 708 S.E.2d 774, 776 (2011). The circuit court should not refuse to grant the directed verdict motion when the evidence merely raises a suspicion that the accused is guilty. “Suspicion” implies a belief or opinion as to guilt based upon facts or circumstances which do not amount to proof. State v. Lollis, 343 S.C. 580, 541 S.E.2d 254 (2001). See also State v. Cherry, 361 S.C. 588, 606 S.E.2d 475 (2004). In this case, the evidence presented by the State did not rise above the level of mere suspicion.

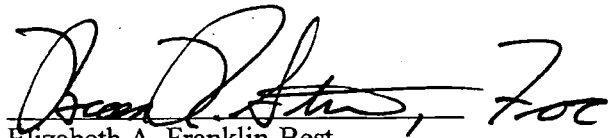
The trial court judge erred by not granting appellant’s motion for a directed verdict because the evidence did constitute positive proof of facts and circumstances which reasonably tended to prove his guilt of murder. At most, the evidence proved that appellant had a relationship with a young woman who had a relationship with the decedent. Her statement tending to implicate appellant merely raised a suspicion that appellant was guilty, since it was made under circumstances militating against its trustworthiness because it was induced by a deal from the state. And, in any event, she did not testify against appellant during trial. All then, that was left to connect appellant to the murder, was appellant’s telephone, found in the apartment complex, and phone calls between Ms. Kitt and appellant. Additionally, appellant’s fingerprints on the *outside* of

the car did not constitute evidence that appellant was guilty of committing murder. For these reasons, the trial court judge erred, and appellant respectfully asks this Court to reverse his conviction and order a directed verdict of acquittal.

CONCLUSION

For the preceding reason, appellant respectfully asks this Court to reverse his conviction and order a directed verdict of acquittal.

Respectfully submitted,

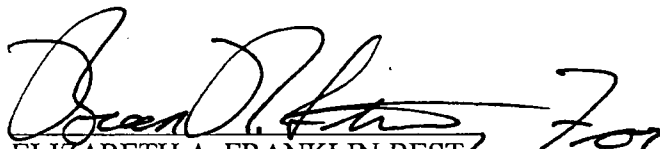

Elizabeth A. Franklin-Best
Appellate Defender

ATTORNEY FOR APPELLANT

This 7th day of May, 2012.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."


ELIZABETH A. FRANKLIN-BEST
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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Dorchester County
Diane Schafer Goodstein, Circuit Court Judge

THE STATE,

RESPONDENT,

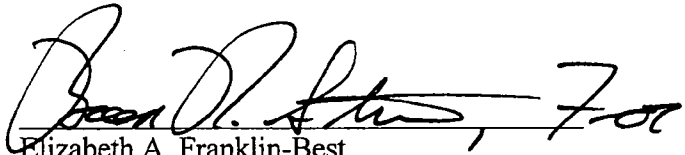
V.

TREVEE J. GETHERS,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant and Designation of Matter in the above referenced case has been served upon William Edgar Salter, III, Esquire, at Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, South Carolina 29201, this 7th day of May, 2012.


Elizabeth A. Franklin-Best
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 7th day of May, 2012.


Notary Public for South Carolina (L.S.)

My Commission Expires: May 16, 2021



SCCID

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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

May 7, 2012

William Edgar Salter, III, Esquire
Senior Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

Re: The State v. Trevee J. Gethers

Dear Mr. Salter:

Enclosed are two copies of the Final Brief of Appellant in the above-entitled case, which I have filed today with the South Carolina Court of Appeals.

Please call me if you have any questions.

Sincerely,

Elizabeth A. Franklin-Best
Appellate Defender

EAF/cms

Enclosure

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Dorchester County
Diane Schafer Goodstein, Circuit Court Judge

THE STATE,

RESPONDENT,

v.

TREVEE J. GETHERS,

APPELLANT.

FINAL BRIEF OF RESPONDENT

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STATEMENT OF CASE

The Dorchester County Grand Jury indicted Appellant, Trevee J. Gethers (Gethers), at the December 3, 2007 term of court for murder (2007-GS-18-1755), for the shooting death of Robert Earl Robertson. **R. pp. 431-32.** On November 15-17, 2010, he received a jury trial before the Honorable Diane Schafer Goodstein. The jury found Gethers guilty of murder and Judge Goodstein sentenced him to forty-five years imprisonment. **R. pp. 425-26.**¹

Dorchester County Assistant Public Defender Sara Jane Rogers represented Gethers at trial. Senior Assistant Solicitor Harrison Bell, Jr., and Russell D. Hilton, of the First Circuit Solicitor's Office, prosecuted him.

A timely notice of appeal was served and filed.

¹She also revoked four years of a probationary sentence on an unrelated gun charge. **R. p. 425.**

ARGUMENT

Gethers' challenge to the trial judge's denial of his directed verdict motion is not preserved for this Court's review because he only made a general motion for a directed verdict at trial and he did not raise the arguments he now presents. Alternatively, the trial judge properly denied Gethers' directed verdict motion because the State presented direct and substantial circumstantial evidence at trial that reasonably tended to prove that he murdered the victim, Robert Earl Robinson, or from which his guilt could be inferred.

Gethers maintains that the trial judge erroneously denied his motion for a directed verdict, claiming that "[a]t most, the evidence proved that appellant had a relationship with a young woman who had a relationship with the decedent." After discounting this co-defendant witness' statement implicating him as untrustworthy, he contends that the only evidence that connected him to the murder was his "telephone, found in the apartment complex, and phone calls between Ms. Kitt and appellant." **Brief of Appellant, p. 8.** Respondent submits that his challenge to the trial judge's trial judge's denial of his motion is not preserved for this Court's review because he only made a general motion for a directed verdict at trial and he did not raise the arguments he presents to this Court. Alternatively, the trial judge properly denied Gethers' motion for a directed verdict because the State presented direct and substantial circumstantial evidence at trial that reasonably tended to prove that he murdered the victim, Robert Earl Robinson, or from which his guilt could be inferred.

A. Proceedings in the trial court.

1. The prosecution's evidence.

The direct and circumstantial evidence presented by the State was that the victim, Earl Robinson, lived in Walterboro, South Carolina in September 2007. On the night of September 17, 2007, the victim called his son, Marcus Brothers, "about 8:30 p.m." and he asked if Marcus had any money that he could borrow. Marcus did have money and agreed to loan some to him. When the

victim called again at 9:24 p.m., he said “he was going away” and needed cash. Marcus again agreed to loan money to him. **R. pp. 127-28; 284.**

The two men met at a Horizon Gas Station that is near Marcus’ residence, a few minutes after 10:00 p.m., and Marcus loaned \$ 200.00 to his father.² The victim and Marcus engaged in some small talk and he purchased a fountain drink before leaving. Although the victim never told Marcus why he need the money, this was not unusual because the men often helped each other financially, when necessary. Also, Marcus and the victim’s wife, Jestine Robinson, testified that Earl would often help out others who needed it. **R. pp. 128-33; 139; 284.**

Jestine Robinson testified that her husband told her on September 17th that he had to go somewhere. Because her SUV blocked his vehicle in their driveway, he took her 2001 Toyota Sequoia (*see State’s Exhibit 4*), which he had washed the preceding Wednesday. Neither Mrs. Robinson nor Marcus knew Gethers or had seen him before court proceedings began in this case. Sometime after the murder, the coroner returned slightly over \$ 199.00 to Mrs. Robinson. **R. pp. 132; 134-139.**

Within an hour after getting the loan from his son, the victim was murdered. Shortly before 11:00 p.m. on the night of September 17, 2007, Kimberly and Michael Ritchey were in the stairway leading to their upstairs apartment at Haven Oaks Apartments in Dorchester County (*see State’s Exhibit 1*), and Michael was smoking a cigarette. They heard what sounded like two men yelling and screaming. Kimberly testified that the argument was about “money.” Both Kimberly and Michael testified that this was not unusual in the apartment complex. So, Kimberly went back

² Their meeting was corroborated by the store’s surveillance video (*State’s Exhibit 30*), which was published to the jury. **R. pp. 129-30.** The victim had also called him again, at 10:02 p.m. **R. p. 302.**

upstairs to check on their small children, while Michael remained on the steps. **R. pp. 52-53; 56-57; 59-60; 63.**

While she was in the children's bedroom, which overlooks the parking lot, she heard at least one gunshot. She then went back outside. By this time, Michael Ritchey was at the bottom of the steps and headed toward the vehicle because it was still running. In fact, the vehicle almost struck him. He yelled at Kimberly to "[c]all the cops and she did so. **R. pp. 53-54; 56-57.**

Michael Ritchey testified that he did not see anyone, but that he heard the two people "yelling and screaming." After Kimberly went to check on the children, Michael heard a gunshot. He immediately ran down the steps and toward a car that had pulled out of a space in the parking lot and appeared to be trying to turn around. As Michael got the license tag number, the vehicle "jumped the curb into the grass and almost hit me because it backed out to the road and stopped in the middle of the road . . . with the motor running." **R. pp. 60-61.**

Michael walked over to the vehicle and put his hands on the glass in the rear of the vehicle to see if any children were in it, but he did not see any. Next, he walked up to the front door of the vehicle and saw someone "slumped over laying with their head against the passenger's seat." When Michael opened up the door to check on this person, he saw "blood everywhere and kind of freaked out." He did not see anyone running either in the direction of a nearby Bi-Lo or toward the Azalea Park Apartments that are located a short distance away from Oak Haven. **R. p. 62. See also State's Exhibit 1.**

Shanika Moon lived in the apartment directly below the Ritcheys in September 2007. On the night of September 17th, she looked out of her window saw two people in an SUV that was "closed, parked forward." She could not identify either person in the vehicle and she could not hear any

argument. She sat back down but soon heard "a 'pop-pop' noise." She looked back out and again saw the SUV. However, she did not call 911 because she often heard shots. **R. pp. 64-68.**

The Dorchester County Sheriff's Department received several 911 calls reporting the shooting, the first of which was received at 10:57 p.m. **R. p. 285, lines 14-21; p. 287, lines 19-20.** Then-Officer Willard Driggers happened to be in front of Oak Haven Apartments when the dispatcher sent out the call, and he arrived on the scene within a minute. He was quickly followed by then-Officer Christopher Freshman, who pulled in behind him. Both officers saw a white Toyota Sequoia SUV. The doors on the vehicle were closed, the windows were up and the vehicle's engine was "revving at high RPMS." There was no one else in the area. **R. pp. 68-70; 72; 74-76.**

Officer Driggers approached the SUV (see **State's Exhibit 2**) and he saw a person in the front seat, who was "slumped over." Wearing latex gloves, he opened the driver's door. There was blood on the seat and it did not appear that the person in the SUV (the victim) was breathing. Also, "the smoke from the gunpowder was still floating inside the vehicle." So, Officer Driggers reached in and turned off the ignition. The officers then secured the scene. **R. pp. 70-73; 75-76.**

Det. Earl Asbell, also with the Dorchester County Sheriff's Department, testified that he was the "lieutenant over the crime scene unit" at the time of the murder. With the assistance of another officer, he processed the crime scene at Oak Haven Apartments on September 17th. He explained that whenever there was a shooting, his unit collects "everything in the proximity," even if it is later determined that the item(s) collected are not involved in the crime. In this case, he first photographed the vehicle and everything around it. Next, he photographed the victim as seated in the vehicle, before removing the victim's wallet and obtaining the victim's driver's license. He also photographed (see **State's Exhibit 3**) and seized the victim's cell phone. **R. pp. 78-80; 82-83.**

Then, he seized a .40 caliber shell casing off of the road, some 40 or 50 feet from the SUV, that was ultimately determined to be irrelevant because the victim was shot by either a .38 or .350 magnum bullet.³ He also seized a Bluetooth and earpiece associated with it. The Bluetooth was still blinking, indicating that it was activated. *See State's Exhibits 23-25*. These were found in the road and near a path between Oak Haven Apartments and Azalea Park Apartments. *See State's Exhibit 1*. Also, the Bluetooth "appeared to have been . . . either run over or it fell apart when it hit the road because the earpiece was separated from it." **R. pp. 84-86; 88-89; 121-23; 125.**

Det. Asbell had the SUV towed to the Sheriff's Department's garage and it was processed for fingerprints the following morning. In all, officers lifted thirty-four latent prints from the vehicle. He also photographed the latent prints that he found, and those lifts were submitted to the Charleston Police Department for analysis. **R. pp. 89-100; 248; 252-55.**

Det. John Garrison testified that he was the Dorchester County Sheriff Department's lead investigator in this case. There was no suspect identified immediately after the murder. He spoke to the victim's family and subpoenaed the phone records for the victim's cell phone. Although the victim had called a number earlier on the day of September 17th, it was determined that the woman with whom he had spoken did not have any involvement in the case. However, there were a series of calls from and to a specific number on the night of the 17th, and it was discovered that the telephone number was for a cell phone owned by a Maggie Reid. **R. pp. 185-89.**

Officers located Ms. Reid at her residence in Azalea Park Apartments and the records for her

³ Det. Asbell saw some cigarette butts that night but e did not seize them because they were located over forty feet from the SUV and "[e]verything took us in a different direction." **R. p. 84, lines 12-23; p. 117, line 17 - p. 118, line 10.** There is absolutely no evidence that these cigarette butts were relevant to this case.

cell phone (**State's Exhibit 42**) were then obtained. They obtained information that the initial results of the fingerprint analysis from AFIS showed that Gethers' prints were on the SUV at roughly the same time that they obtained the cell phone records for Reid's phone. **R. p. 189; 191-92; 242-45; 254-55.**

Ms. Reid testified that she lived in Azalea Park Apartments in September 2007. Veronica K. and Veronica's mother lived in the apartment beneath her. Veronica was dating a man nicknamed "City" at the time. Veronica was with her mother when her mother picked up Reid from work at 4:15 p.m. on September 17th. Veronica borrowed Ms. Reid's phone on the way home and again later that evening. **R. pp. 236-40.**

During the night of September 17th, Ms. Reid had gone to the K.'s apartment to look for her phone but was told that Veronica was not home. At that time, Reid saw City sitting on the back of his car, talking to Veronica. Reid finally got the phone back the next morning. **R. pp. 240-41.**

After learning that Gethers' prints were on the SUV, that Veronica K. had used Reid's phone to call him numerous times and that there was a close relationship between Gethers and Veronica, the Sheriff's Department obtained his cell phone records. **State's Exhibit 43**. Officers also executed search warrants at both Veronica's apartment and Gethers' residence on the morning of September 19th. Unfortunately, they did not find anything relevant to the case. Officers were also unable to locate either of the suspects. **R. pp. 192-93; 195-98.**

However, they spoke to Brandee Kiefer. They learned that Gethers had swapped cars with Kiefer and that he was driving her Kia. **R. pp. 197-98.** Keifer testified that she was romantically involved with Gethers in September 2007. When she got off from work on the night of Tuesday, September 18th, Gethers had taken her Kia Spectra (see **State's Exhibit 31**) and had left his Lincoln

for her to drive. **R. pp. 144-48.**

Keifer told detectives that she kept calling Gethers but he did not answer. Also, when she finally did speak to him, he told her that he would be back in three or four hours. However, he never returned. Also, she had to go to Virginia to pick up her car. Although she claimed that she did not remember telling detectives that “[w]hen I spoke to [Gethers], he said not to tell anyone . . . that they were in Virginia,” she did not dispute that she said this. **R. pp. 148-51; 154.**

Det. Garrison obtained an arrest warrant for Gethers charging him with murder on the morning of September 19th. He entered the warrant information and information that Gethers may be driving Kiefer’s Kia into the N.C.I.C. database. On September 20th, the Sheriff’s Department was notified that the Kia had been found at a truck stop off of the interstate in New Kent, Virginia. No one was in the car and it had been vandalized. **R. pp. 195-99.**

On September 22nd, the Sheriff’s Department received a telephone call from the New York City Police Department informing them that Veronica K. had been apprehended using a fake ID. Also, she was accompanied by a man using the ID of “Dante Hubbard.” It was determined that the man was Gethers. Eventually, both suspects were returned to South Carolina. **R. p. 199.**

Detective Steve Morelli also assisted in the investigation. He testified that the phone records of Gethers’ (**State’s Exhibit 42**), Ms. Reid’s (**State’s Exhibit 43**), and the victim’s cell phones showed the following:

- At 4:33 p.m., there was a call from Ms. Reid's cell phone to the victim's cell phone;
- At 4:34 p.m., there was a call from Ms. Reid's cell phone to Gethers’ cell phone;
- Between 5:11 and 5:12 p.m., there were three calls from Ms. Reid's cell

phone to Gethers' cell phone;

- At 6:55 p.m., Gethers' phone called Ms. Reid's phone;
- At 8:47, 8:48 and 8:55 p.m., there were calls from Ms. Reid's cell phone to Gethers' phone;
- At 8:57 p.m., there was a call from Ms. Reid's cell phone to the victim's cell phone;
- At 9:24 p.m., "[t]he victim called his son;"
- At 9:47 p.m., Ms. "Reid's phone called the victim's phone;"
- At 9:50 p.m., the victim dialed Ms. Reid's cell phone and, then Ms Reid's phone dialed the victim's cell phone;
- At 10:02 p.m., the victim called Ms. Reid's phone;
- At 10:04 p.m., "the victim contacted his son;"
- At 10:34 p.m., Ms. Reid's phone dialed the victim's phone;
- At 10:41 p.m., the victim called Ms Reid's phone;
- At 10:49 p.m. and at 10:51 p.m., Ms. Reid's phone dialed the victim's phone;
- At 10:56 p.m., Ms Reid's phone called Gethers' phone;
- At 10:57 p.m. and at 10:58 p.m., Ms. Reid's phone dialed the victim's phone;⁴
- After 10:58 p.m. on September 17th, Ms. Reid's phone did not call the victim's phone;
- At 11:40 p.m., Gethers' cell phone called Ms. Reid's phone;

R. pp. 283-88; State's Exhibits 42-43. There were also calls from the victim to Ms. Reid's phone on the 17th. **R. pp. 289-90.**

⁴ Again, the 911 calls began at 10:57 p.m. **R. p. 285.**

Although Veronica K. was Gethers' co-defendant, she was called as a prosecution witness.⁵ She testified that she had lived at Azalea Park Apartments and that she was fourteen years old in 2007. She admitted that she knew the victim on September 17th 2007. He had initially been a family friend but he wanted to become romantically involved with her. She admitted that she spoke to the victim about bringing her some money on September 17th, and that she was using the cell phone of Ms. Reid, a friend of Veronica who lived upstairs from her, on the 17th. **R. pp. 155-58; 176.**

According to Veronica, she called the victim earlier that day and asked him for money. However, she was with her mother. The victim told her that he had money, but he did not want her mother to know he was going to give her money because he was planning on having sex with Veronica that night. He also told her to call him back later that night. In their numerous phone conversations, she told him to meet her at Haven Oaks Apartments and to call her before he got there so that she would know when to leave her apartment. **R. pp. 157-58.**

Veronica claimed that she "never got a chance to give" the victim directions to Haven Oaks, but she stated that he did know how to find Azalea Park Apartments. She further claimed that she ultimately stopped calling the victim because she assumed that he had changed his mind about giving her money. Also, she admitted that she had talked to Gethers, a/k/a "City," about the victim on the 17th and that she had asked Gethers to pick up the money for her because she did not want to have sex with the victim. Gethers supposedly told her that "he was going to have to call me back because he wasn't sure if he was going to do that." **R. pp. 158-60.**

Veronica claimed that the victim drove a white Explorer. Although the victim did not know

⁵ The parties stipulated that "the State has entered into an agreement whereby Veronica [K.'s] charge of murder will remain under the jurisdiction of the Family Court provided Ms. [K.] testifies truthfully and cooperates in the prosecution of this defendant, Trevee Gethers." **R. p. 279.**

Gethers, she testified that her plan was to tell the victim that her mother would not let her out of the apartment and that she would send her "friend," Gethers, to pick up the money. **R. p. 160.** Unfortunately, she was not very truthful in her testimony from this point forward. First, she denied telling Gethers what the victim was driving or where to pick up the money from the victim. **R. pp. 160-61.**

Then, she denied telling the police several matters in a March 9, 2009 statement that she had given. (**State's Exhibit 33, R. pp. 429-30**). She only she admitted telling officers that the victim said he would bring her "the money, but he wasn't going to keep bringing [her] the money without getting some," and that "I knew we were running from something." **R. pp. 162-64.**

Veronica did admit that she and Gethers had gone to Virginia in Kiefer's Kia, and that they had left it somewhere. She likewise admitted that she and Gethers had taken a bus to New York; that she was using Tambora Ravenel's ID; that she learned that Gethers was using the ID of a Dante Hubbard; and that State's Exhibit 34 were the ID cards that they had used. She testified that Ravenel was her friend and that Hubbard was someone she knew. However, she claimed that she did not know Hubbard's address. While she admitted that Gethers' was a "[p]retty close friend" and that she did not "want to see anything happen to him," she denied that he was her boyfriend. Also, she claimed that she only used Ravenel's ID so that she could buy cigarettes. **R. pp. 255-58; 266; 268-69.**

In light of Veronica K.'s responses concerning her statement to the Sheriff's Department, which was given in the presence of her attorney and after she had waived her rights under *Miranda v. Arizona*, 384 U.S. 436 (1966) (*see R. pp. 201-02*), the State was permitted to introduce a redacted version of it, as **State's Exhibit 33**, and it was published to the jury through Det. Garrison.⁶ In her

⁶ The trial judge's ruling on this issue is at **R. pp. 202-07.**

statement, she said that:

I called Mr. Earl for some money. He said he would bring the money, but he wasn't going to bring me money without getting some. He wanted some in the past, but I kept tricking him. I told him to go to the Haven Oaks because I didn't want my momma to know about Mr. Earl bringing me the money. Mr. Earl was bringing me more than \$50.00 because I asked him for some money. He thought we were going to a motel. I told Trevee Gethers "City" to get the money because I didn't want to mess with Mr. Earl. I told Trevee that Mr. Earl was in a white Sequoia because that's what Mr. Earl told me he was driving. I didn't tell Trevee to shoot Mr. Earl, I just told Trevee to get the money. I didn't know Trevee shot Mr. Earl. . . . I called Trevee after [(sic)] to see if he got the money, and he said no. Trevee said that Mr. Earl wouldn't give him the money. I didn't see Trevee until the next day and he said we had to go because he got in some stuff. I knew we were running from something. We went to a lady's house in Virginia on the air base. We went to Dro mama's house. [(sic)] Dro and Tam followed us to Virginia. Then we took the bus to New York. I have gotten money from Mr. Earl before and that's how I knew I could call him for money.

Question: Has Mr. Earl ever been to Haven Oaks before?

Answer: Yes, he has brought me money there behind Bi-Lo, but I still had to give him directions.

State's Exhibit 33, R. pp. 429-30. See also R. pp. 207-09.

Despite a diligent search, the murder weapon was not found. Nor did officers locate a shell casing for the bullet that killed the victim. **R. pp. 193-94.** However, SLED Agent Frank Dan DeFreese, an expert in firearms analysis, testified that the bullet that killed the victim was "most consistent with bullets that we have found loaded into .38 special caliber and .357 magnum caliber cartridges," and that the crimping cannellure on the bullet suggested that the gun was a revolver, as opposed to a semi-automatic pistol. **R. pp. 299-02.**

Also, SLED Agent Ila Simmons, who was qualified as an expert in trace evidence and gunshot residue, testified that a gunshot residue test performed on the victims hands early in the morning after the murder (**R. pp. 87-88**) revealed the presence of metals on the palm and the back

of his right hand that "could be associated with gunshot residue."⁷ And on the palm of the left hand there were also metals that were consistent with gunshot residue." Agent Simmons further opined that her findings were "most consistent with someone having or being in the vicinity of the weapon when it was discharged because the concentrations that we found are more consistent with being in front of a gun when it's discharged than handling or firing a gun." **R. pp. 313; 316-21.**

Officer Kalisha Gill testified that she is a forensic latent print examiner for the Charleston Police Department. Det. Asbell submitted the latent prints that he had lifted from the Robinsons' SUV to her for analysis. When she ran these prints through A.F.I.S., she got a "hit." The prints "came back to the fingerprint card bearing the name [of] Trevee Gethers." **R. pp. 248-55.**

However, A.F.I.S. is only a tool used to narrow the list of potential suspects and a conclusive match can only be made after manual comparison of latent prints with known standards. So, she was provided a set of Gethers' major case prints (**State's Exhibit 40**), which she compared with the latent prints that had been submitted.⁸ She also received known prints from Quintavious Dominique Davis, the victim, Veronica K., Michael Amos Ritchey, Jr., and Donsurvi Chisholm. However, she did not receive known prints of either Mrs. Robinson or Marcus Brothers. **R. pp. 255-56; 262-63.**

Using the locations to which Det. Asbell testified that he had lifted prints, State's Exhibit 26, and Officer Gill expert analysis, the State presented the following evidence regarding the latent prints found on the recently-washed SUV:

⁷ The parties stipulated that there was a complete chain of custody for the gunshot residue samples from the time of the collection until they were tested. **R. p. 278.**

⁸ Javon Wright testified that he is employed at the Charleston County Detention Center, where he took a set of Gethers' fingerprints and palm prints (**State's Exhibit 40**) when he booked Gethers, on May 11, 2007. **R. pp. 231-34.**

- **State's Exhibit 20** (latent lift number 10), which was taken from the passenger rear door in the center of the door, was Gethers' left palm;
- **State's Exhibit 22** (latent lift number 8), which was taken from "just above the pinstripes on the passenger's front door, was Gethers' left index finger;
- **State's Exhibit 16** (latent lift number 3), which was taken from the door post on the passenger's side front door, was Gethers' left index finger;
- **State's Exhibit 18** (latent lift number 5), which was taken from the door post on the passenger side rear door, was Gethers' left middle finger and his left palm;
- **State's Exhibit 17** (latent lift number 4), which was taken from the passenger rear door to the center of the door, was Gethers' left thumb;
- **State's Exhibit 19** (latent lift number 11), which was also taken from the passenger rear door in the center of the door, was Gethers' left thumb;
- **State's Exhibit 12** (latent lift number 19), which was taken from the edge of the driver's door, was the left middle and left ring fingers of Michael Ritchey;
- **State's Exhibit 9** (latent lift number 22), which was taken from the glass of the driver's side rear window, was Michael Ritchey's right palm;
- **State's Exhibit 8** (latent lift number 21), which was taken from the rear driver's window close to the front door, was Michael Ritchey's left palm;
- **State's Exhibit 6** (latent lift number 23), which was taken from the diver's side quarter panel between the back door and the window, was the victim's right middle and right ring fingers;
- **State's Exhibit 11** (latent lift number 16); which was taken from the driver's side door to the left of center of the door, was the victim's left middle finger and Michael Ritchey's left palm;
- **State's Exhibit 14** (latent lift number 12), which was taken from the "rear passenger's side edge just above the pinstripe, was the victim's left middle and left ring fingers.

R. pp. 256-62. See also R. pp. 90-101 (Testimony of Earl Asbell); State's Exhibit 26.

Later in the investigation, a Buccal swab of Gethers' DNA was obtained pursuant to a search

warrant.⁹ **R. pp. 100-02.** Also, the Bluetooth headset was submitted to SLED's DNA laboratory for testing. SLED Agent Lilly Gallman, a forensic DNA analyst, testified that she was able to develop a DNA profile off of the Bluetooth headset.¹⁰ She was also able to determine that the profile "was a mixture of at least three individuals. The DNA profile of the major contributor to that particular mixture was from an unknown male individual." **R. pp. 325-29.**

Agent Gallman placed the profile into the Combined DNA Index System (CODAS), which is a DNA database, and this resulted in a "hit:" the DNA of the major contributor to the profile matched Gethers' DNA. Because so many samples are in the CODAS database, she followed protocol and requested a standard of Gethers' DNA to guard against possible error. She thereafter compared the standard obtained from Gethers (**State's Exhibit 48**) to the profile developed from the Bluetooth headset. When she did so, she found that "the major contributor in . . . the swabs that came from the Bluetooth headset[] matched the DNA profile of Trevee Gethers." Also, she opined that "[t]he probability of randomly selecting an unrelated individual having a DNA profile matching the major contributor to this mixture is approximately one in 26 quadrillion." **R. pp. 329-33.**¹¹

Dr. Erin Presnell, a forensic pathologist employed at the Medical University of South Carolina, performed the autopsy on the victim. Dr. Presnell explained that the victim had "one major injury." She described this injury as follows:

He has a single gunshot wound. It actually enters in his right arm. It goes through his right arm just through the soft tissue, exits the right arm and goes into the right chest.

⁹ This was done on September 3, 2010. **R. pp. 101-02.**

¹⁰ The parties stipulated that there was a complete chain of custody for both the Buccal swabs and the Bluetooth headset. **R. pp. 278-79.**

¹¹ There are roughly 6.5 billion people on earth. **R. p. 334.**

It hits the right lung. It goes through the heart as well as the aorta, which is the main blood vessel taking blood to the rest of your body. It goes through the left lung and also hits the left rib and partially exits. So you actually have a hole in the skin where the bullet's exiting, where the bullet's still there and hanging on right there. So this is a partial exit gunshot wound.

R. pp. 216; 220-21.

Dr. Presnell testified that the bullet had traveled "pretty much straight across," but "slightly backwards on him a little bit." **R. p. 221.** She opined that her findings were consistent with the victim's right arm being either raised in a defensive posture or on the steering wheel when the shot was fired. Also, assuming the victim was seated in the driver's seat when shot, she opined that the shot came from the passenger side of the vehicle. She further opined that the gunshot wound was the cause of death; and she explained that, because the wound pierced the heart and aorta, "I can't imagine him being conscious over the seconds range" after the shooting. **R. pp. 227-31.**

The other "defining characteristic" of this wound was that the presence of "a fairly concentrated amount of stippling marks around the entrance wound to his arm." Based upon this finding, Dr. Presnell opined that it was "close-range gunshot wound" that had been fired "within a yard or less from him." Dr. Presnell recovered the bullet from the body. **R. pp. 221-23.**

2. The directed verdict motion and ruling.

At the close of the prosecution's case, Gethers moved for a directed verdict, but he did not make any argument in support of his motion. **R. p. 337, lines 10 - 12.** Without calling upon the State to respond, the trial judge denied his motion. She found that:

it is not for the Court to weigh the evidence, that is for the jury. It's for the Court to determine whether or not there is evidence on each and every element, including any inferences reached, and of course from which the jury can reasonably determine guilt. And I find that there is evidence on each and every element from which the jury could reasonably determine guilt, and I would respectfully deny your motion.

R. p. 337, lines 13-22.

Prior to the defense's closing argument, Gethers renewed his directed verdict motion, and the trial judge again denied it. **R. p. 372, lines 21-25.**

B. Discussion.

The State initially submits that Gethers' argument is not properly before this Court on appeal because, as shown, counsel only made a general motion for a directed verdict, and it is settled that "a general directed verdict motion . . . does not preserve any issue for appeal." *State v. Sterling*, Op. No. 27096, 2012 WL 652455, 7 (S.C.S.Ct, Feb. 19, 2012) (citing *State v. Bailey*, 298 S.C. 1, 377 S.E.2d 581 (1989)). Having failed to present his present arguments to the trial judge, they may not be raised on appeal because "[a] party cannot argue one ground for a directed verdict in trial and then an alternative ground on appeal." *Bailey*, 298 S.C. at 5, 377 S.E.2d at 584.

Even assuming *arguendo* that this Court finds that his argument is not procedurally barred, the trial judge's ruling must be affirmed. In *State v. Odems*, 395 S.C. 582, 586, 720 S.E.2d 48, 50 (2011), the South Carolina Supreme Court recently set forth the applicable law governing the review of directed verdict motions in criminal cases:

On appeal from the denial of a directed verdict, this Court must view the evidence in the light most favorable to the State. *State v. Lollis*, 343 S.C. 580, 583, 541 S.E.2d 254, 256 (2001) (citing *State v. Burdette*, 335 S.C. 34, 46, 515 S.E.2d 525, 531 (1999)). The defendant is entitled to a directed verdict when the State fails to produce evidence of the offense charged. *State v. McHoney*, 344 S.C. 85, 97, 544 S.E.2d 30, 36 (2001). However, if there is any direct or *substantial* circumstantial evidence reasonably tending to prove the guilt of the accused, an appellate court must find the case was properly submitted to the jury. *State v. Pinckney*, 339 S.C. 346, 349, 529 S.E.2d 526, 527 (2000) (emphasis added). A circuit judge should grant a directed verdict motion when the evidence merely raises a suspicion the accused is guilty. *State v. Schrock*, 283 S.C. 129, 132, 322 S.E.2d 450, 451-52 (1984).

(Emphasis in original). See also *State v. Bostick*, 392 S.C. 134, 139, 708 S.E.2d 774, 776-77 (2011)

(setting forth standard where State relies solely on circumstantial evidence).

Applying this standard to the case at bar, the trial judge's ruling must be affirmed because, notwithstanding Gethers' argument to the contrary, the State presented both direct and substantial circumstantial evidence reasonably tending to prove his guilt of murder. First, Mr. and Mrs. Ritchey heard two men arguing in the Haven Oaks parking lot immediately before the shooting. Before Mr. Ritchey could reach the victim's still-running SUV, the assailant had fled. Likewise, the first officer on the scene arrived within moments of the dispatch for the shooting and he did not see anyone running, even though the smoke from the gunpowder was still in the cabin when he opened the SUV. However, a Bluetooth headset, which was still activated and had Gethers' DNA on it, was found between the area of the Haven Oaks parking lot, where the victim's car had been, and Azalea Park Apartments, where Gethers' co-defendant and girlfriend, Veronica K. lived.

Second, the phone records (*see State's Exhibits 42-43*) reflected the calls between Veronica and the victim, and between Veronica and Gethers. She called Gethers up until almost the time of the shooting and, despite numerous calls to the victim's phone before the shooting, she did not call the victim after 10:58 p.m., one minute after the 911 calls had been placed. Also, Ms. Reid testified that Veronica was dating Gethers at the time and that she saw Gethers talking to Veronica on the night of the 17th.

Third, Veronica K.'s statement, **State's Exhibit 33**, also clearly implicates Gethers in the crime. In it, she admitted that she asked Gethers to get money from the victim and she told him what vehicle the victim was driving. She further indicates that he later told her that he did not get the money, which was corroborated by the testimony of the victim's wife that over \$ 199.00 of the \$ 200.00 the victim had borrowed from his son was returned to her.

Her statement also implicates Gethers in the murder, including evidence of flight from the jurisdiction and the use of a car that did not belong to Gethers and fake identification cards to elude capture. In the statement, she stated that "I didn't tell Trevee to shoot Mr. Earl, I just told Trevee to get the money. I didn't know Trevee shot Mr. Earl." Veronica also said that "I didn't see Trevee until the next day and he said we had to go because he got in some stuff. I knew we were running from something." **State's Exhibit 33, R. p. 429-30.**

The evidence of flight was corroborated by both Det. Garrison and Kiefer. Clearly, flight from prosecution is admissible as evidence of guilt in South Carolina. *State v. Pagan*, 357 S.C. 132, 591 S.E.2d 646 (2003); *State v. Al-Amin*, 353 S.C. 405, 578 S.E.2d 32 (Ct.App. 2003). Evidence of flight has been held to constitute evidence of defendant's guilty knowledge and intent. *Pagan*, *supra*; *see also State v. Thompson*, 278 S.C. 1, 292 S.E.2d 581 (1982) (finding that evidence of flight was admissible to show guilty knowledge, intent, and that defendant sought to avoid apprehension), *overruled on other grounds*, *State v. Torrence*, 305 S.C. 45, 406 S.E.2d 315 (1991). Moreover and unlike the factual scenario in *Odems*, the totality of the circumstances in this case created an inference that Gethers had knowledge that law enforcement would look for him and Veronica in connection with the shooting. *Contra Odems*, 395 S.C. at 589-90, 720 S.E.2d at 52. *Accord Pagan*, *supra*; *State v. Beckham*, 334 S.C. 302, 315, 513 S.E.2d 606, 612 (1999).

Further, testimony of prior inconsistent statements may be "used as substantive evidence when the declarant testifies at trial and is subject to cross examination." *State v. Copeland*, 278 S.C. 572, 581, 300 S.E.2d 63, 69 (1982); *see also In re Richard D.*, 388 S.C. 95, 100, 693 S.E.2d 447, 450 (Ct.App. 2010) ("Even if the family court had limited the admissibility of the statement, that does not negate the fact that consideration of the statement as substantive evidence in a directed

verdict analysis would have been proper under *Copeland* and [*State v. Stokes*, 381 S.C. 390, 673 S.E.2d 434 (2009)]”); *State v. Smith*, 309 S.C. 442, 447–48, 424 S.E.2d 496, 499 (1992) (exclusion prior inconsistent statement of defendant's nephew constituted reversible error); *State v. Ferguson*, 300 S.C. 408, 411, 388 S.E.2d 642, 644 (1990) (exclusion of victim's prior inconsistent statement as substantive evidence was harmless error when other evidence was cumulative of statement); *State v. Crawford*, 362 S.C. 627, 634, 608 S.E.2d 886, 890 (Ct.App. 2005) (co-conspirator's later testimony did not obviate the efficacy of the first statement made closer in time to the event in question); *State v. Caulder*, 287 S.C. 507, 513, 339 S.E.2d 876, 880 (Ct.App. 1986) (trial court erroneously instructed jury to disregard witness's prior inconsistent statement for substantive purposes). Gethers’ argument that Veronica K.’s statement was untrustworthy is contrary to well settled authority that, in reviewing an appeal from denial of a directed verdict motion, this Court must view the evidence in the light most favorable to the State.” *E.g., Lollis*, 343 S.C. at 583, 541 S.E.2d at 256; *Burdette*, 335 S.C. at 46, 515 S.E.2d at 531. His argument likewise ignores that “[i]n reviewing a motion for directed verdict, the trial judge is concerned with the existence of evidence, not with its weight.” *State v. Curtis*, 356 S.C. 622, 633, 591 S.E.2d 600, 605 (2004); *State v. Kelsey*, 331 S.C. 50, 62, 502 S.E.2d 63, 69 (1998).

Both Veronica’s statement and her testimony reveal a crystal clear motive in this case: greed for the money that the victim was carrying and, inferably, the killing occurred when Gethers did not get the money as he and Veronica had planned. Additionally, Respondent would note that Gethers’ fingerprints and palm print from his left hand - and only his - were found on the passenger’s side of the recently-washed white Toyota Sequoia SUV that was driven by the victim. Prints belonging to Mr. Ritchey were found elsewhere on the vehicle, and circumstantially corroborated his testimony.

This was important because the pathologist opined that the victim was shot from the passenger's side of the car. There was also no evidence that the victim was armed.

Thus, this case is readily distinguishable from *Odems*, *Bostick* and *Lollis*, cases where the Court held that the State's evidence created only a mere suspicion of guilt. For instance, in *Odems*, the Court found that "[t]he State's case against Petitioner relied primarily on three pieces of circumstantial evidence: (1) the fact that less than ninety minutes after the burglary, police located Petitioner in the getaway car with the burglars and the stolen goods; (2) Petitioner fled from law enforcement; and (3) Petitioner asked an uninvolved person to lie for him." *Odems*, 395 S.C. at 590-91, 720 S.E.2d at 51. Also, in *Bostick*, the State only presented evidence that "(1) investigators found personal items belonging to Polite, including a watch and two sets of car keys, in a burn pile located on the Bostick family property; (2) Bostick's shoes contained a pattern that matched gasoline, and gasoline was the accelerant used to start the house fire; (3) and investigators found blood on the clothes Bostick was wearing the day of the murder, but that evidence could not be matched to Polite's DNA." However, no motive was established. See *Odems*, 395 S.C. at 586-87, 720 S.E.2d at 50 (citing *Bostick*, 392 S.C. at 141-42, 708 S.E.2d at 778).

Here, however, there was an undeniable motive. Moreover, the direct and circumstantial evidence was such that "all of the circumstances proven [were] consistent with each other and taken together, point[ed] conclusively to the guilt of [Gethers] to the exclusion of every other reasonable hypothesis." *Contra Odems*, 395 S.C. at 590, 720 S.E.2d at 52. Therefore, the trial judge's ruling must be affirmed.

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that the judgment of the lower

court and Gethers conviction be affirmed.

Respectfully submitted,

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May 17, 2012.

WES

**STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

**Appeal from Dorchester County
Diane Schafer Goodstein, Circuit Court Judge**

THE STATE,

RESPONDENT,

v.

TREVEE J. GETHERS,

APPELLANT.

CERTIFICATE OF SERVICE

I, William Edgar Salter, III, counsel for the Respondent, certify that I have served the within Final Brief of Respondent and Certificate of Compliance on Appellant by depositing three (3) copies of the same in the United States mail, first class, postage prepaid, addressed to his attorney of record, Elizabeth Franklin-Best, Esq., SCCID/Division of Appellate Defense, 1330 Lady St., Ste. #401, Columbia, South Carolina 29201.

I further certify that all parties required by Rule to be served have been served.

This 17th day of May, 2012.



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ATTORNEY FOR RESPONDENT

STATE OF SOUTH CAROLINA
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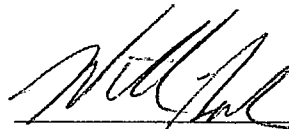
TREVEE J. GETHERS,

APPELLANT.

CERTIFICATE OF COMPLIANCE

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and does not include, or partially redacts, personal data identifiers, Re Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings, 375 S.C. 56, 650 S.E.2d 462 (2007)(requiring redaction of social security numbers, names of minor children, financial account numbers, and home addresses).

This 17th day of May, 2012.



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